United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

Vol. 143 WASHINGTON, WEDNESDAY, MARCH 19, 1997 No. 36

House of Representatives

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. TAYLOR of North Carolina].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 19, 1997.

I hereby designate the Honorable CHARLES H. TAYLOR to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Your word has told us, O God, that You know us individually and by the power of Your creative spirit, You support us all the day long. We place before You our petitions asking that You would hear our prayers and give peace to any troubled soul. We pray specially for healing for those who are ill, for strength for those who are weak, for encouragement for those who face anxiety or fear and for every person we pray for the gift of hope in all the days to come. Grateful for all Your blessings, O God, we offer these words of petition and thanksgiving. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. CHABOT] come forward and lead the House in the Pledge of Allegiance.

Mr. CHABOT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain fifteen 1-minutes on each side.

MEXICO'S PRESIDENT ZEDILLO IS WRONG ON DECERTIFICATION

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, Mexico's President Ernesto Zedillo made some very troubling comments last week following the House vote to decertify his country for its miserable performance in the war against drugs. President Zedillo said, ''This is where we draw the line.'' He had it wrong. This is where we draw the line. Mr. Zedillo went on to say that Mexico's sovereignty and dignity as a nation are not negotiable.

I would point out to Mr. Zedillo that the dignity of his nation was not diminished by the House action last week, but by the failure of his own government to responsibly fight against the scourge of narcotics traffic through Mexico.

Blocks from this Nation's Capitol, one can see the horror of drug abuse. Whether we are talking about cocaine, marijuana, or methamphetamine, there is a pretty good chance it came to this city and other American cities like my community, Cincinnati, from Mexico. Sadly, the demand is here, and as Americans we have an obligation to do something about the demand, but as a neighbor, Mexico has an obligation to become an equal partner in that battle.

Up to now they have failed. That is why this body finally drew the line. It is about time.

APPLYING NEW THINKING TO THE CLEAN AIR DEBATE

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, the clean air debate cannot be reduced to a simple cost-benefit analysis that ignores the effect of pollution on human health and separates the economic from the human.

We should not face the 21st century locked into the old paradigm that gives us the false choice between jobs and clean air. Being proenvironment should not mean one is antibusiness. It is time for new thinking on the issue of pollution, thinking that promotes both economic growth and human health and supports environmental regulations that encourage efficiency and nonpollution.

Nineteenth century thinking focused on pollution control, at the end of the tailpipe or at the end of the chimney. Such an approach requires a great deal of energy and money and is generally insufficient to protect the environment. New thinking looks at pollution prevention, inventing ways to stop pollution from being created. New thinking views pollution as resources that are distributed in the wrong place. Wasted resources mean lost profits. Environmental protection can be equated with fiscal conservatism.

Application of more enlightened environmental management processes can increase profits. Such an approach will require that government and industry leaders work together to further the development of new communities;

Printed on recycled paper containing 100% post consumer waste

new technologies in energy; efficient industrial protection and transportation; new industries; and the unfolding of a new economic order based on profit and human progress.

THE WORKING FAMILIES FLEXIBILITY ACT

(Mr. BURR of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURR of North Carolina. Mr. Speaker, today we take a giant step forward for working families. Today we will vote to give all parents the ability to choose between getting paid for their overtime or to take time off equal to the amount of money in overtime.

I know today's working men and women find it increasingly difficult to balance work and family responsibilities. How many times have we as parents labored to strike a balance between attending a parent-teacher conference and being at our job? Or how many times were we forced to choose between a ball game or recital and our ability to bring home more money?

The Working Families Flexibility Act, which I cosponsored, gives families the ability to strike the balance needed between work and family. Mr. Speaker, I would prefer the title of ''Dad'' to the title of ''Congressman.'' I urge my colleagues to join me and allow every parent to be called dad and mom. Support the Working Families Flexibility Act.

WHY WE NEED CAMPAIGN FINANCE REFORM

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, the front page of today's Washington Post shows why the Republican leadership wants to limit the scope of investigation of alleged campaign finance abuses to the White House while avoiding any action on campaign finance reform.

According to the story in today's Post, the Republican chairman of the committee charged with investigating campaign finance laws pressured lobbyists from the government of Pakistan to contribute money to his campaign in what the lobbyists describe as a shakedown.

I understand the chairman in question has canceled a hearing scheduled today. In light of today's allegations, the gentleman from Indiana should recuse himself from the committee's investigation. He should also open up his committee's probe to a much wider scope than the White House and include both parties in Congress.

The country has been reading and hearing an awful lot about foreign money in campaign committees, and here we have the gentleman charged with leading the probe writing a letter to a foreign government. This same chairman is now looking to spend millions of taxpayer dollars on a one-sided partisan probe of campaign finance, and issuing subpoenas. It is this kind of hypocrisy that makes the American public so jaded about our entire campaign finance system, and it shows why we need campaign finance reform.

PASS THE WORKING FAMILIES FLEXIBILITY ACT

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, Congress today will be voting on the Working Families Flexibility Act. This bill is very simple. It gives workers the right and the flexibility to choose how they wish to be compensated when they work overtime, with more time or more money.

This is not a radical notion. Passing this bill will merely give workers in the private sector the very same choice government workers now enjoy. Who are we in Congress to tell a working mother or father that overtime pay is the only compensation they can get for working overtime? What if a worker prefers getting comp time? Workers now have no choice at all.

The Working Families Flexibility Act will make it easier to balance the demands of work and family. The Working Families Flexibility Act will give workers the freedom to choose whether time or money is more important to them at any given time. Let us put our trust in the American workers. Let us pass the Working Families Flexibility Act.

MAKING CAMPAIGN FINANCE REFORM A TOP PRIORITY OF THIS SESSION OF CONGRESS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, last week the other body voted 99 to 0 to conduct a fair and a thorough investigation of all improper 1996 campaign fundraising activities. We should follow their example.

Today's front page story in the Washington Post may be an indication of why my colleagues on the other side of the aisle have thus far refused to allow an investigation into 1996 Republican fundraising activities. This is also further proof that our current campaign finance laws are not doing their jobs. Our campaign finance system is broken and we need to fix it.

Two things are abundantly clear. First, this House must make campaign finance reform a top priority for this session of Congress; and second, any House investigation into inappropriate fundraising activities must include a thorough examination of Democratic and Republican fundraising practices. To do any less would cast doubt on the integrity of this House and the process.

A PROCLAMATION RECOGNIZING THE VILLAGE OF ZOAR

(Mr. NEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEY. Mr. Speaker, I rise today on behalf of Mayor Larry Bell of the community of Zoar, OH and I rise today to recognize the Zoar Community Association and the citizens of the historic Village of Zoar, OH which I am proud to represent. They are in the midst of Project Pride, an innovative effort to preserve and faithfully restore their town hall in a way that both honors the past and explores the future.

Project Pride will create a year-round tourist information and welcoming center for visitors to Zoar, the Ohio and Erie Canal corridor, and the entire region. The preserved town hall will also provide an interactive technology area linked to the Internet, which will be available to local citizens for research and distance learning.

Mr. Speaker, in conclusion, the efforts in Zoar are an outstanding example of the ways in which local government, business, citizens, and students work together in a positive manner, in a partnership to enhance the quality of life in our small towns and rural areas. Efforts such as these deserve our praise and support.

AMERICA'S NATIONAL SECURITY WITH REGARD TO CHINA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, evidently Chinese money is paying off. A Chinese company is taking over a multimillion dollar naval base in Long Beach, CA. Another Chinese company is getting a $138 million government-backed guaranteed loan in Alabama. Another company with ties to China will operate both ports on each side of the Panama Canal, Mr. Speaker. Another Chinese company was just awarded a $250 million contract by Uncle Sam, even though they had been convicted of smuggling semi-automatic weapons into our country, infiltrating our streets.

Mr. Speaker, I suggest that Congress investigate before the Lincoln bedroom ordeal turns into a Chinese flag flying over the Lincoln monument. Beam me up. If we are going to investigate, let us look at our national security.

URGING COLLEAGUES TO SUPPORT THE WORKING FAMILIES FLEXIBILITY ACT

(Mr. KINGSTON asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, a couple of years ago I made the difficult decision to fly home a little bit early from Washington to return to Savannah, GA, to see my 5-year-old's kindergarten graduation. I got on what can only be described as the flight from hell. I left Washington, flew to Atlanta, and then usually it is about a 30-minute flight to Savannah. We went to Augusta, could not get into Savannah, we ended up trying to get into Jacksonville, could not get into Jacksonville, went to Tampa, spent the night, and the next day went back to Atlanta, then tried again to get into Savannah. We could not.

As a consequence of all this hopping around and so forth and the weather, I missed my son's school event. It broke my heart. But do Members know what? As a Federal employee, at least I had the option of going home to see his play. In the private sector today, the Federal Government laws deny employees that option. They cannot take off work to go see somebody, to take them to the doctor or go see a school play or something.

But with this new legislation we are passing today, employees for the first time in the private sector will be able to work extra and take comptime off. They can go ahead and work the 40-hour workweek, and then take time off needed for those very important and irreplaceable family functions. I hope we can pass comp time today.

SUPPORT THE PARTIAL-BIRTH ABORTION BAN

(Mr. MANZULLO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MANZULLO. Mr. Speaker, tomorrow we will vote to outlaw the practice known as a partial birth abortion. That procedure is both tragic and needless in that there are at least 2,000 such abortions performed annually, far more than advocates have initially claimed; needless in that we now know, thanks to Mr. Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, who has admitted that he and others misled the American people on the frequency and nature of these abortions, that the vast majority of partial-birth abortions are performed on normal, unborn babies carried by healthy moms.

President Clinton vetoed this bill last year. A number of pro-choice Members of Congress, during consideration of the measure over a year ago, voted in support of a ban on the partial birth abortion procedure. Said one Member, I am just not going to vote in such a way that I have to put my conscience on the shelf.

Ronald Reagan said it as he discussed the issue of defending America's liberty: There is no cause more important for preserving that freedom than affirming the transcendent right to life of all human beings, the right without which no other rights have any meaning.

Mr. Speaker, I implore my colleagues to join with me in voting to ban that practice.

□ 1115

RESIGNATION AS MEMBER OF COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina) laid before the House the following resignation as a member of the Committee on Government Reform and Oversight:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 19, 1997.

Hon. NEWT GINGRICH,
Speaker,
Washington, DC.

DEAR MR. SPEAKER: I am writing to confirm I am going to take a leave of absence from the Government Reform and Oversight Committee this session of Congress.

This letter follows my earlier request made on January 23, 1997. Thank you in advance for honoring this request.

Sincerely,

ROBERT L. EHRLICH, Jr.,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

WORKING FAMILIES FLEXIBILITY ACT OF 1997

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 99 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 99

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1) to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. No amendment shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be considered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. An amendment designated to be offered by the chairman of the Committee on Education and the Workforce or his designee may be offered en bloc with one or more other such amendments. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the very distinguished ranking member of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 99 is a fair and balanced rule providing for the consideration of H.R. 1, the Working Families Flexibility Act, also known as the comp time bill. The rule provides for 1 hour of general debate, equally divided between the chairman and ranking minority member of the Committee on Education and the Workforce. The rule makes in order an amendment in the nature of a substitute from the Committee on Education and the Workforce now printed in the bill as original text for amendment purposes.

The rule first makes in order those amendments printed in the Committee on Rules report accompanying this resolution. Briefly, they include a set of amendments to be offered by the gentleman from Pennsylvania [Mr. GOODLING], the chairman, or a designee that would, among other changes, sunset the entire bill after 5 years.

The Goodling amendment would also require an employee to have worked at least 1,000 hours in a period of continuous employment for a specific employer in the 12 months prior to the time when the employee agrees to a comptime arrangement.

Mr. Speaker, this is a very important addition to the bill that I believe carefully addresses concerns that have been voiced by those in the construction and seasonal industries. I strongly urge its support on the floor later today.

There is also an amendment by the gentleman from New York [Mr. OWENS] which would exempt certain lower wage workers from the bill and an amendment in the nature of a substitute to be offered by the gentleman from California [Mr. MILLER]. Under the rule, these amendments shall be considered in the order specified, shall

be considered as read, shall not be subject to further amendment and shall not be subject to a demand for a division of the question.

Debate time for each amendment is also prescribed in the report so that the House can work its will in a timely and responsible manner.

Last week, the chairman of the Committee on Rules [Mr. SOLOMON] sent a ''Dear Colleague'' letter explaining the amendment process for this legislation. Members who wished to offer an amendment to H.R. 1 were to submit their proposals to the Committee on Rules for our review by noon on Monday, a reasonable request given the complexity of the underlying issue. A total of six amendments were filed, and every last one of them has been made in order under this rule.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions which will give the minority one final chance to offer any amendment that complies with the standing rules of the House.

Mr. Speaker, H.R. 1 is probably one of the most family friendly and employee friendly bills to come to the floor of the House in a long, long time. It is timely, commonsense legislation designed to give working families a much-needed option in balancing their busy work and family schedules, and I am pleased that our leadership has made passage of this a high priority.

As our colleagues know, the bill would amend the Fair Labor Standards Act to allow that but not require an employer to offer employees the option of choosing overtime pay in the form of compensatory time off rather than cash wages. Employees of State and local governments have enjoyed this option for more than a decade, and H.R. 1 would simply extend this option to the private sector.

Offering the choice between taking overtime pay or compensatory time off will afford working families the added flexibility they often need to meet the increasingly competing demands of the home and the workplace. For many employees with families, enactment of this legislation will mean a parent can leave work a little earlier to attend a child's school play or a son or daughter can take time off from work to care for an elderly parent.

It does not mean, as some opponents of the bill would have us believe, that employers can legally force workers to choose one option over the other against their will or as a condition of employment. The legislation includes protections to ensure that employees' choice and use of compensatory time off is completely voluntary. Under the legislation an employee may withdraw or cash out from a comptime arrangement at any time. H.R. 1 clearly provides for serious penalties against any employer who attempts to coerce or intimidate an employee into taking or not taking the comptime option.

It is important to note, Mr. Speaker, that the only limitations that the bill places on the use of comptime is that the employee's request be made under provisions that are very similar to the standard already in effect under the Family and Medical Leave Act passed in 1993.

Mr. Speaker, another reason to support H.R. 1 is that it will give the Nation's body of laws a much-needed boost toward the 21st century. When the Fair Labor Standards Act was written way back in 1938, almost 60 years ago, the landscape of the American work force was very, very different. For one thing, at that time legislation was written with an almost all-male work force in mind. Today that landscape is very different, with nearly 70 percent of all women with children under the age of 18 taking part in the work force. This dramatic change in demographics underscores just how important it is for our Nation's labor laws to catch up with the times and to better reflect the changing needs of the modern workplace.

As a working mother myself, I am very pleased to be an original cosponsor of this legislation. As many of my constituents have told me, it is a challenge to be a good worker and still be a good parent. It is not surprising then that a recent public opinion poll found that nearly 75 percent of Americans favor giving workers the choice between receiving paid time off or cash wages for overtime.

Unfortunately, critics of H.R. 1 have chosen to put politics above sound policy. It is a shame because in my view it shows just how out of touch some folks are when it comes to policies that will benefit families, strengthen our economy, and help workers and employers alike.

After decades of progress in labor relations, it is time we stopped automatically thinking of employer/employee relations in such adversarial terms.

The bottom line is that with H.R. 1 employers and employees can work together to meet each other's needs. With H.R. 1 at least the choice will be theirs, not Washington's.

Mr. Speaker, H.R. 1 offers the private sector a reasonable commonsense solution to the ongoing tug of war between families and the workplace. Millions of parents strive hard each day to meet these competing demands. If we can make life a little easier on the working families of this country, then we should take action today to help those families successfully balance work and family responsibilities.

This is not the first time the House has considered a comptime bill. A very similar bill was passed by the House last July after numerous changes were made to it, mostly at the request of the minority. Republicans and many Democrats voted for the bill. I encourage all of my colleagues to give it their full support again today.

In closing I would emphasize that this rule will allow us to have a full and fair debate on this legislation and its implications for the modern workplace. I urge my colleagues to adopt this balanced rule and to pass the Working Families Flexibility Act without any further delay.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume. I thank my colleague and my dear friend, the gentlewoman from Ohio [Ms. PRYCE], for yielding me the customary half hour.

Mr. Speaker, my erstwhile colleague said that this was a family friendly bill. It is, if you are talking about the Ford family and the Rockefeller family and the du Pont family. But, for all other families, it is not a friendly bill. I know my Republican colleagues mean well, and I know my Republican colleagues really want to help; but this was a bad idea last session and it is a bad idea this session.

It helps the big people, but it does not do much for the ordinary worker. In fact, this bill, Mr. Speaker, would force workers to take time off rather than overtime pay. That is not what the American people want. The American people do not want comp time. They want cash. In fact, polling data shows that nearly three out of every four American workers would rather have cash than comp time. And I cannot say that I blame them. These days it is hard enough to get a job in the first place. And once you get one, Mr. Speaker, the last thing you want to do is leave.

Most people want to work as much as they possibly can, but this bill just will not let them do it. It has no guarantee that workers can make that decision themselves. It is very possible that employees will be the ones to decide whether workers get additional pay or get additional time.

Mr. Speaker, that just is not fair. In the real world, if your boss tells you to take time off instead of getting extra pay, you either do what you are told or you start packing your gear.

This bill allows the boss to stop paying overtime and says to employees, sorry, I cannot pay you for overtime you worked; but in return for your long hours, you can take a vacation when it is convenient for me, if I am still in business.

Mr. Speaker, that is simply not good enough. These days there is not guarantee that an employer will be around forever. In fact, 50 percent of new businesses close within the first 3 years. So if your boss forces you to take comp time, then takes your pay and invests it in an investment for himself, pockets the interest and then folds, under this bill you are left holding nothing but a worthless note saying, I owe you a vacation.

That does not put food on the table, Mr. Speaker. This bill eliminates the 40-hour week and replaces it with an 80-hour 2-week block which will hurt hourly workers, especially women.

This bill will pressure low wage, hourly workers to give up their overtime pay. In the women's legal defense

fund said, and I quote, ''this bill gives employees less control over both their time and their paychecks by creating new risks and new problems.''

Meanwhile, some of my Republican colleagues argue that this bill gives women flexibility. It just does not do anything of the sort. But the Family and Medical Leave Act did. And my Republican colleagues spent 5 years trying to kill that family friendly bill.

Mr. Speaker, if we really want to help women, if we really want to help the working American families, we should expand the Family and Medical Leave Act, which has already enabled 12 million workers to go home, to take care of new children or a sick family member.

□ 1130

We should not pass this bill. This bill, Mr. Speaker, gives workers very little choice over their time, very little choice over their paychecks, and even less protection against employers' abuses. I urge my colleagues to oppose this rule.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. BOEHNER], my good friend and colleague.

Mr. BOEHNER. Mr. Speaker, we have a very important bill on the floor today, the Working Families Flexibility Act of 1997.

As the gentlewoman from Ohio, my colleague, pointed out in her opening remarks, the work force today is very different than it was in the 1930's when the law that we are amending was put in place: Mostly males in the workplace, very few mothers in the workplace. Today we find ourselves where working families have an awful lot of demands that are placed on them.

With those demands, workers throughout our country are asking for more flexibility. They are working with their employers, demanding more flexibility to meet their demanding schedule at home, at school, as their children are involved in sports and other activities.

When this law was written in the 1930's, the Congress saw fit to make sure that anyone who worked for a local government had this option of compensatory time off in lieu of overtime, and that is why employees who worked for local city governments, county governments, State governments and the Federal Government have had this option now for almost 60 years, and they enjoy it. They like it because it works.

All we are trying to do here today is to give hourly workers who work in the private sector the same option that public sector employees have had for almost 60 years. Here is how it would work:

First, the employer would have to provide this benefit. They would have to agree that they would allow their employees to do it. If the employer says no, there is no option.

If the employer says yes, which I think most employers around the country, wanting to work with their employees, will say yes, it is an agreement between the employer and the employee on whether the employee wants comp time or overtime. The option is at the discretion of the employee, not the employer.

Why should we not empower American workers to have more flexibility over their schedule? Why should we not empower American workers to make these decisions with their employer? This is an example of the Federal Government getting in the way of helping to empower American workers and giving the freedom and the flexibility to employers and to their employees to work this out in an ever-changing American workplace.

Mr. Speaker, this legislation is long overdue. It will help employers and their employees all across this country. We ought to give them the freedom and the flexibility to work out their schedule, which will benefit American workers in the truest sense.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in opposition to the rule and the bill.

The supporters of H.R. 1 are trying to convince hard-working Americans that this is a flexible pro-family, pro-worker bill. In reality it is none of these things. Instead, the bill gives more power to the employer and limits the employees' ability to determine for themselves what is best for their family, comp time or overtime pay.

H.R. 1 gives the employer the power to determine when and how employees can use their comp time, and it encourages employers to avoid paying overtime wages by allowing them to discriminate against employees who opt for overtime pay instead of comp time.

When real wages are stagnant or dropping for low and middle income Americans, the ability to work overtime is often the difference between paying the rent and putting food on the table or being homeless and hungry.

Equally as important is the fact that this bill will not only impact the lives of American workers now, it will also impact their future retirement income, because current earnings determine future Social Security and pension benefits.

Mr. Speaker, it is the American worker who knows what is best for his or her family. Let us have a bill that truly empowers the employee and preserves basic worker rights. Defeat the bill and this mislabeled family-friendly workplace act.

Ms. PRYCE. Mr. Speaker, I yield 3 minutes to the gentlewoman from North Carolina [Mrs. MYRICK], a gracious lady and new member of the Committee on Rules.

Mrs. MYRICK. Mr. Speaker, the beauty of comp time is that it empowers the employees, the hard-working moms and dads of America, to have the flexibility to meet the responsibility of parenting. This bill allows today's employees to choose whether to take paid time off or to have additional overtime pay. With comp time a working mom will never again be forced to choose between spending time with her child or working long enough to provide food and shelter.

Comp time allows mom and dad to have the flexibility to spend more time with their families, more time to take their child to the doctor, or to care for an elderly family relative, and they will do so without the loss of wages on which they depend.

While both men and women are affected by this dilemma, the burden seems to fall particularly hard on many working women. In fact, recent national polling data indicates 70 to 75 percent of working women support changing labor laws so that employers and employees have the flexibility to decide whether an employee receives cash or personal time for their overtime.

In 1994, the U.S. Department of Labor found the number one concern for 66 percent of working women with children under the age of 18 is the difficulty of balancing work and family. Comp time is pro-family, pro-worker, and when we really think about it, a pro-child approach to provide relief to the hard-working men and women across our Nation who struggle daily to support their families.

As a mother of grown children and a grandmother of seven wonderful grandchildren, I know the considerable time that it takes to raise a family in the 1990's. My children struggle daily with the competing demands of work and the pressures of home. The ability of parents to opt for a voluntary comp time program will prove to be an enormous aid in the battle to meet the everyday requirements of raising a family.

From my professional experience as mayor of Charlotte, I know firsthand comp time works. For the past decade government workers have benefited from comp time. In Charlotte, exempt city employees enjoy the flexibility that comp time allows in their lives, and certainly all workers in America deserve the same rights the Federal, State, and local employees have enjoyed since 1985.

Comp time seeks to provide employees a choice. It will give America's workers flexibility in scheduling the hours that they work. I urge my colleagues to support the rule so that we can provide America's families with this choice.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to oppose the rule because H.R. 1 is nothing but a Trojan horse designed to fool workers into believing the majority has experienced

some kind of pro-worker, gender-friendly epiphany.

This bill is not designed to strengthen the flexibility of workers. Instead, it has been crafted to give those employers who abuse their workers the power to exact unsecured loans from those workers in the form of deferred overtime pay.

H.R. 1 does not provide an employee any new opportunity to take leave. It affords employers, not employees, the right to determine when employees may use the comp time they have earned. Under H.R. 1, employees can be required to work unreasonable hours for no additional pay as a condition for being granted comp time.

Mr. Speaker, rather than considering this flawed bill, this House should be considering legislation to expand the benefits of the Family and Medical Leave Act as proposed by President Clinton. If the Republicans are genuinely interested in flexibility for working families, they would have supported extension of the Family and Medical Leave Act and would not be here today considering this paycheck reduction act.

Mr. Speaker, I urge my colleagues to defeat this rule.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. BALLENGER], who has worked so hard on this initiative.

Mr. BALLENGER. Mr. Speaker, I thank the gentlewoman for yielding me this time.

First of all, Mr. Speaker, I want to correct the RECORD. The gentleman from Massachusetts referred to this bill as allowing an 80-hour, 14-day workweek, and I am sure he misspoke but I want to correct the RECORD. There is no such provision in H.R. 1. It has only to do with the 40-hour workweek and does not change anything.

I want to say something ahead of time, Mr. Speaker, because I think the speeches today will be aimed at the evil employer syndrome that the committee has brought out. The Democrat members of the committee brought out over and over that all employers are basically dishonest and, therefore, will cheat their employees one way or the other.

One of the quotations that has been used over and over again in studying this bill is, already we are losing $19 billion a year in unpaid overtime. This statement has no reason at all to be in this debate. This happens to be involving a thing called pay docking. We all studied this last year. It has to do with salaried workers who possibly may be allowed to have additional pay because of overtime hours. But they are salaried workers.

We are not talking about salaried workers in any way, shape or form. We have only to deal with hourly workers. So the $19 billion they are talking about does not apply in any way, shape, or form.

I want the people to know I have called local governments to find out how they felt about the use of this particular benefit that they already have. Let me just say the county governments, I talked to two county governments in North Carolina, both of whom are using this in varying ways, and let me just say varying ways are possible if the employee and the employer agree. We have checked with several local governments in California that decided not to use this. In other words, the possibility of saying yes or no to this is pretty much evident across the board.

I think people should recognize that this is a permissive law. It allows the employer to offer it if he wants to and it allows the employee to accept it.

Mr. Speaker, I just want to say over and over again, all employers are not evil and I wish everybody would accept that fact.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume to answer the gentleman from North Carolina. He is correct, the statement I made on the 80-hour week was in the Senate version of the bill and not the House version. I thank him for correcting me.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I also rise in opposition to the rule.

Mr. Speaker, the Republican comp time bill is yet another attack on America's workers. This bill puts too much power in the hands of employers to overwork their employees and deny them their legal right to time and a half overtime pay.

The bill provides no penalties to employers who manipulate their workers into accepting compensatory time off when, in fact, that employee would rather have their pay.

Republicans claim comp time legislation will provide workers flexibility to spend time with their families; however, the bill does not allow workers to take comp time when they need it. It forces workers to take comp time when employers want them to take it. This is not family friendly, it is employer friendly. Comp time is simply an excuse to allow employers to avoid paying overtime to workers who deserve it.

The 40-hour workweek has provided workers with a benchmark schedule to which they live their lives. Comp time legislation will destroy the 40-hour workweek and force working men and women to lead lives without normalcy. Children will have to come home from school not knowing if their parents will be home or will be forced to work overtime.

This bill, and I stress, is not family friendly. It is actually more disruptive to the lives of our workers, and I urge my colleagues to vote against it.

(Mr. NETHERCUTT asked and was given permission to speak out of order.)

FREE DIABETES SCREENING TEST OFFERED TODAY IN RAYBURN HOUSE OFFICE BUILDING

Mr. NETHERCUTT. Mr. Speaker, today in the Rayburn House Office Building foyer, for the first time, there is a diabetes screening test that is ongoing for Members, for staff, and for the public to test their blood to see if they have diabetes.

The gentlewoman from Oregon, Ms. ELIZABETH FURSE, and I, were advised by Speaker GINGRICH to come over and make this announcement with the hope that all Members, right now, will go over and have their blood tested between 11 o'clock today and 3 o'clock this afternoon and take this very painless step to see if they have diabetes.

Ms. FURSE. Mr. Speaker, will the gentleman yield?

Mr. NETHERCUTT. I am happy to yield for a very short supporting announcement by the gentlewoman from Oregon [Ms. FURSE].

□ 1145

Ms. FURSE. I thank the gentleman for yielding. I just want to add to the announcement of the gentleman from Washington [Mr. NETHERCUTT]. Anyone who might need to screen their blood for diabetes, and that is everyone, should go down to the Rayburn foyer and get that blood test and screening today. It is free, it is from 1 to 4. We really hope all will come down.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. GOODLING], the chairman of the Committee on Education and the Workforce.

Mr. GOODLING. I thank the gentlewoman for yielding me this time.

Mr. Speaker, first of all, yesterday I did not have in front of me who did the research that the ranking member on the Committee on Rules asked for, and I wanted to report that to him today. Seventy-five percent of the employees surveyed by the polling firm of Penn & Schoen Associates favored allowing employees the option of time off as an alternative to overtime wages. I did not have that before me yesterday. I want to make sure that the ranking member knows who the people are. I do not know them, but those are the names.

Mr. Speaker, since we are on the rule, I thought I would mention three amendments that will be offered that are quite acceptable. These three amendments came about because of discussions we had during the markup in committee.

The first amendment would require that an employee have worked at least 1,000 hours in a period of continuous employment with the employer in a 12-month period. There were those who had concerns about migrant workers, there were those who had concerns about construction workers, and so on. We have taken care of that with the first amendment.

The second amendment would limit the number of hours of compensatory time an employee could accrue to 160 hours, moving it down from 240. Again there was concern that maybe 240 hours were too many. So we reduced that in this amendment.

And the third amendment, which is a sweeping amendment, because it has never ever been a part of any labor law, the third amendment is a sunset provision. That has never happened before. I have no problem with a 5-year sunset provision, because I am positively sure that by the end of 5 years, you try to take away somebody's comp time, there will be bloodshed outside the halls, if not inside the halls, because it will be something that most people want to accept and, as I indicated, 75 percent have indicated that.

If people have watched talk shows and television and read the newspaper, we are getting the same results: three out of four say they want the opportunity to take comp time. So it is obvious that this legislation is something that most of the American people want. We just have to make sure that they have that opportunity. And they want it because, of course, the public sector presently has it and the private sector is saying, well, if the public sector can have this, why can we not have it?

There are those who are going to talk a lot about there is no protection. You are going to hear all sorts of things about no protection. Well, this bill, you see, is only two pages long in this very small print. Two pages long. But let me talk a little about protections in the bill:

An employee may withdraw an agreement described in paragraph (2)(B) at any time. An employee may also request in writing that monetary compensation be provided, at any time, for all compensatory time.

They presently have with just a 30-day notice.

An employer which provides compensatory time under paragraph (1) to employees shall not directly or indirectly intimidate, threaten, or coerce or attempt to intimidate, threaten, or coerce any employee for the purpose of (A) interfering with such employee's right under this subsection to request or not request compensatory time off in lieu of payment of monetary overtime compensation for overtime hours, or (B) requiring any employee to use such compensatory time.

Termination of employment. An employee who has accrued compensatory time and eventually does not have a job, not anything to do with compensatory time but because of downsizing, immediately receives their money.

Private employer actions. An employer which provides compensatory time under paragraph (1) to employees shall not directly or indirectly intimidate, threaten, or coerce or attempt to intimidate, threaten, or coerce any employee.

If compensation is to be paid to an employee for accrued compensatory time off, such compensation shall be paid at a rate of compensation not less than the regular rate received by such employee when the compensatory time was earned or the final regular rate received by such employee, whichever is higher.

Consideration of payment. Any payment owed to an employee under the subsection for unused compensatory time shall be considered unpaid overtime compensation. An employee who has accrued compensatory time off which is authorized to be provided who has requested the use of compensatory time shall be permitted by the employee's employer to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt.

The same words, I remind Members, that are in the Family and Medical Leave Act. So the protections are here, one after the other. All those protections in a little two-page bill. It is the most employee protected legislation that has ever come here in 22 years.

Mr. MOAKLEY. Mr. Speaker, I thank my dear friend the chairman, for the information on his polling data: three out of four people want comp time. Peter Hart, our pollster, says three out of four people want wages. I wish our pollsters could get together.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. GREEN].

(Mr. GREEN asked and was given permission to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, first I would like to thank the Committee on Rules for this partially open rule. I hope we would see such a rule on more bills so that we have the opportunity to make changes. I know my good friend, the chairman of the Committee on Education and the Workforce, talked about some of the amendments that would change H.R. 1, and in Texas we have a saying: ''You can add earrings on a pig, but it's still a pig.'' And so these amendments make it look prettier, but it does not change the bill.

The chairman is also right that we do not pass laws here for the 95 percent of the employers who may treat their employees fairly. We pass it for those 5 percent who are going to take advantage of them. We do not pass laws prohibiting bank robbery for the 99 percent of the people who do not go out and rob banks. We pass laws against it for those 1 percent who decide that is where the money is at and they are going to go take it. That is why we have these laws. That is why the protections have to be there.

I know that we have a duel of polls here that say 75 percent of the people, and I will agree with the chairman that 75 percent of the people do support the concept. But we also know that the national polls say that an overwhelming number of hardworking employees expect to be forced by their employer to accept comptime instead of overtime pay, and that is a major concern.

I have a district where people need to have that overtime pay to make ends meet, particularly for people who are in the lower wage bracket. They have to do it. Workers who are seasonal workers have to depend on that overtime pay for that 6 or 8 months a year they may be able to work because they may not be able to work. So they have to have that overtime pay instead of comptime. They want that decision to be theirs and not their employer.

Under H.R. 1, employers will have complete and unilateral discretion over who will receive comptime and also when they will receive it. That is why some of the amendments may make changes in it and may make it look prettier, but, Mr. Speaker, it will not make the bill that much better. ''You can put earrings on a pig, but it's still a pig.''

In H.R. 1, employers maintain ultimate control of when to grant their worker comptime. Regardless of the amount of notice the worker provides, employers can deny use of comptime if the firm claims they would be unduly disrupted.

What good is it to earn comptime if your employer does not allow you to use it or forces you to use it instead of vacation. This issue is not addressed in the Republican bill.

Instead of this seriously flawed Republican proposal, we should support Mr. MILLER's proposal giving employees real comptime.

The Democratic substitute provides real employee choice and real employee protections.

I urge my colleagues to vote ''no'' on H.R. 1 and ''yes'' on the Miller substitute.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 15 seconds to the gentleman from Pennsylvania [Mr. GOODLING], the chairman.

Mr. GOODLING. Mr. Speaker, I thank the gentlewoman for yielding me this time.

In the legislation, with earrings or without, an employer which violates section 7(r)(4) shall be liable to the employee affected in the amount of the rate of compensation determined in accordance with section 7(r)(6)(A) for each hour of compensatory time accrued by the employee, and in an additional equal amount as liquidated damages reduced by the amount of such rate of compensation for each hour of compensatory time used by such employee.

We make very, very sure that the employee is the protected person in this legislation.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. BONIOR], the distinguished minority whip.

Mr. BONIOR. I thank the gentleman for yielding me this time.

Mr. Speaker, working people do not have much control in the workplace today. They do not have control over their pay. They do not have control over their pensions. They do not have control in most instances over their health insurance. And most of them do not have a say in the day-to-day decisions. But this bill takes away the one thing, the one thing that most people do have control over, and that is control over their time.

Most parents would do anything to spend more time with their children. They would do anything to be there for that soccer game. Those are the most precious moments in raising a child.

And be there when their children come home from school. And if this bill did that, I would support it in a heartbeat.

This bill is not about giving employees more time off. It is about giving employers more control. We do not need this bill to have more comp time. Current law already allows employers to offer comp time. They just cannot force comp time. They cannot force employees to give up their overtime pay for a promise of time off.

This bill changes all of that. This bill changes the law so employers no longer have to pay overtime wages for overtime work. And in doing so, it takes away the one sure path that most people have to earn a better living for their families. If this bill becomes law, an employer could force an employee to work 70 hours one week, 60 hours the next week, 50 hours the week after that, with no overtime pay. And then it also gives the employer control to decide when and if and how employees take time off.

Mr. Speaker, the potential for abuse of this system alone is awesome. We already live in a country where violations in overtime laws are so common that working people are cheated out of $19 billion a year. Do we really want to pass a law that completely takes the overtime cop off the beat? We are all for giving families more flexibility, but this is nothing but a pay cut, pure and simple. If this bill becomes law, a single mom who puts in 47 hours at $5 an hour could lose $50 a week. A factory worker who works the same amount of time for $10 an hour could lose $110 a week.

Mr. Speaker, people do not work overtime because they like to spend time away from their kids. They do not work overtime for those reasons. They work overtime because they need the money, and they work hard for it. If this bill becomes law, workers are going to need comp time to find a second job to make up for the money they lose in overtime pay.

And here is the real kicker. Here is the main reason why this is such a bad idea. For most people, their retirement income depends directly on how much they get paid while they are working. If you cut a person's paycheck, you cut their pension, you cut their Medicare and you cut their Social Security. No comp time promise in the world can make up for that.

And what happens if you build up 240 hours of comp time? You store it, you build it up, and then your company goes bankrupt. It happens every day in the construction industry, in the garment industry, in the building trades. Yet this bill has absolutely no protections against it.

So it is no wonder, as my friend from Texas who just spoke said, 66 percent of the working people, working men and women, fear that employers would use this law to avoid overtime pay. It is no wonder that nearly 7 out of 10 working people prefer overtime pay to forced compensation time. Longer hours, less money, and less control may sound like flexibility to some people, but for America's working families, this is a lose-lose situation.

□ 1200

If we really want to help families, if we really want to give employees, not employers, the full power to decide between comptime and overtime pay, then the substitute of the gentleman from California [Mr. MILLER], which will be before us in a little while, is the vehicle to do that. But make no mistake about it. This bill is a pay cut for American workers. If it gets to the President's desk, he will veto it.

I urge my colleagues oppose this bill, support the Miller substitute, and give our families a fighting chance.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, I thank the gentlewoman for yielding this time to me. I would like to say that let me first of all say taking comp time does not affect your pension.

Now let me say we had several employees that testified before our committee, and I would like for people to hear what they said.

This is from Christine Korzendorfer:

> Overtime pay is important to me; however, the time with my family is more important. If I had a choice, there are times that I would prefer to take comp time in lieu of overtime. What makes the idea appealing is that I would have the choice with the legislation you're considering. Knowing that I could have a choice in how to use my overtime would allow me to better combine my work and my family obligations.

This is Peter Faust from Iowa:

> Time is precious and fleeting. There are always lots of ways to make money in this country and lots of ways to spend it, but there is only one way to spend time with yourself, family or friends; and that's to have time to spend. When I look back on my life, my regret will be and already is that on occasions when I needed to be there for my family or they asked me to be part of their life I couldn't be there because I either didn't have the time saved up or I couldn't afford the time off without pay. Pass this bill into law.

And then Linda Smith from Miami, FL:

> With the implementation of bank comp time program, I could use my overtime hours to create time for pregnancy leave for a second child, for furthering my education, taking care of a debilitated parent or, closest to my heart, creating special days with my daughter. Accrued comp time will also allow me to take time off for doctors appointments and teachers conferences or to take care of a sick child without having to use accrued sick time. Today it's only prudent for individuals to take steps necessary to prepare for their future financial needs. H.R. 1 seemed to be a perfect vehicle to do something with our time.

And then finally quoting President Bill Clinton: ''We should pass flex time so workers can choose to be paid for overtime in income or trade or trading it for time off with their families.''

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, these are tough times for many Americans as they struggle to make ends meet while balancing the challenges of work and family. Families rightly seek greater flexibility and paycheck protection to meet their obligations at home and on the job.

Unfortunately, the Republican comp time bill makes life harder, not easier, for these families. The bill, more accurately named the Paycheck Reduction Act, fails to ensure that employees can use comp time when they need it. Worse, it could take valuable overtime pay out of employees' pockets.

In recent years 80 percent of working families have seen their wages fall behind or just keep pace with inflation. Families have responded by working harder. More mothers are working than ever because their families need the money. Two-thirds of mothers worked in 1993 as opposed to just over a quarter in 1960. Today many working men and women depend on overtime wages to pay the bills each month. One-fourth of all full-time workers spent 49 or more hours a week on the job in 1990, and half of these workers put in 60 or more hours per week.

Mr. Speaker, families depend on overtime wages. Giving employees greater flexibility is a must in these hectic times. But the Republican bill is not the answer.

If we want to give workers greater flexibility, let us start with a proven winner, the Family and Medical Leave Act. Since President Clinton signed that law in 1993, family and medical leave has helped 12 million Americans take off the time that they need for the birth of a child or to care for a sick family member.

The act's unpaid leave has given workers flexibility with virtually no negative effects on employers, according to a bipartisan commission on leave. Broadening the scope of this bill would allow workers to meet their commitments without jeopardizing their overtime wages.

Let us expand family and medical leave. That is the sensible path toward greater flexibility in the workplace. But the Republican leadership refuses to consider such a commonsense approach to help American workers.

For that reason I urge my colleagues to defeat the previous question so that we can bring true workplace flexibility legislation to the floor in the form of an expanded Family and Medical Leave Act.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I realize, if my colleagues have made up their mind that they want to vote against the bill, the best way to do that is just not read the bill. Then they can say anything on the floor of the House. But if they read the bill and it is only a couple little pages, then they will realize that most of what they heard has nothing to do with reality.

Now first of all I mentioned a lot of the protections that are in there. Now the protection is the same as the State and local government law, and that has been going on now since 1985, and it has been defined in the Department of Labor regulations, and it has been further defined by the interpretation, strict interpretations, in court.

We are talking the beauty of this in relationship to what the gentlewoman just said about family and medical leave. This is paid time off. Family and medical leave is unpaid time off which makes it very, very difficult to take.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. VISCLOSKY].

(Mr. VISCLOSKY asked and was given permission to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, I rise in opposition to the rule on H.R. 1.

Mr. Speaker, I rise today to express my strong opposition to H.R. 1, the Paycheck Reduction Act. This bad bill is just one more attempt by the Republican-controlled 105th Congress to weaken the rights of working men and women. I am very concerned that permitting employers to compensate hourly employees' overtime work in time-off, rather than in cash, will in many workplaces, significantly reduce workers' take home wages.

I oppose this bill because it would significantly weaken labor protections for the people who can lease afford to lose them, such as construction workers. It is the carpenters, electricians, pipefitters, and sheet metal workers, in my district, who during the warm spring and summer months, work all the overtime possible so they can accumulate enough money to last them through the cold winter months. They know that in December, January and February they are going to have more time-off than they want. It is this core of the work force that no longer looks at the 40-hour work week as a standard, but rather, as nostalgia.

These are the same people who are the most likely to suffer coercive practices by their employers by being forced to accept compensatory time—which they don't want and can't afford—instead of benefiting from the premium overtime pay they have earned. In a perfect world, all businesses have the financial resources to cash out all employees at the end of every year for their unused compensatory time, as the bill would require. But this is not a perfect world. Many small contractors do not have the cash resources to even-up with their workers, and they would send them into the slow winter months without the money in their bank accounts that they and their families need to survive. My colleagues on the other side of the aisle talk about pay as you go. A pay as you go policy is the only way companies should be able to pay their workers.

But I don't take my word about the true intent of this bad bill. In February, during a Senate hearing on that body's version of this legislation, one of the Republicans' handpicked comp. time advocates urged support for the bill based on the acknowledged fact that building contractors can't afford to pay their employees overtime. She even went far enough to elaborate on a scheme of how an employer could require a construction worker to work over 50 yours a week without having to pay overtime. Although this testimony was subsequently disavowed, the transparent aim of H.R. 1 and its Senate counterpart is to allow businesses to work their employees overtime without time-and-a-half pay.

What the authors of the Paycheck Reduction Act would like you to believe is that this bill offers workers more control over their working lives. What it really does is take away an individual's right to choose. Under H.R. 1, workers don't have the ability to schedule their earned compensatory time when they need it. In fact, employers can schedule compensatory time anytime they choose without ever having to consult the workers. For example, a working mother who puts in 47.5 hours a week at $5 an hour will earn $256.25 for the week. Substitute comp. time for the overtime premium, and she gets $200 a week and the promise of compensatory time off—totally subject to the employers discretion. That equals an almost 22-percent pay cut for that mother. In essence, H.R. 1 gives employers a veto over their workers' use of their own earned hours off.

I further oppose H.R. 1 because of the subtle, but lasting, negative effects that it would have on worker benefits that are indexed to an employee's hours or earnings. Beyond the short term, H.R. 1 contains no provision for crediting overtime hours worked, and it ignores all the long days and late nights that employees have given to their employers. Because of this, whenever employees draw on benefits tied to earnings, from unemployment to a pension, they're going to experience a reduction in those benefits;

Mr. Speaker, when the people back home in my district sit down each month to figure out financially how they are going to make it through the upcoming month, they take into account their expected overtime wages. Employers don't just hand out bonuses any more. Today, you've got to earn them. I'm voting against this misguided bill because without overtime pay, many of my constituents can't afford to send their kids to college, buy a reliable care for work, or provide themselves and their families with adequate care. This bill guts the protections of the Fair Labor Standards Act, and it undermines living standards for workers. H.R. 1 is not designed to give workers more control over their working lives. It is, instead, an attempt to snatch hard won rights out the hands of this country's workers and deny them basic, simple needs, like respect for their hard work, a decent living wage, and a chance to provide for their families. I urge a ''no'' vote on the Paycheck Reduction Act, H.R. 1.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Speaker, I rise in strong opposition to H.R. 1 unless we also pass the Miller amendment.

Today we are considering a bill that would affect the lives and pocketbooks of 60 million workers. Giving workers the choice between overtime pay and comp time is something good, something we should try to achieve. But any comp time bill must provide proper balance between the rights of workers and the needs of employers.

If we are going to pass such a bill, that bill should pass the in-the-real-world test. Instead, H.R. 1 just passes the inside the beltway test, where we never pass legislation that helps people in the way they really live their lives, where they work their jobs, and raise their families.

This bill gives bosses an iron fist and a velvet glove. That is why it flunks the in-the-real-world test. In the real world, hourly workers would be apprehensive to say no when their boss asks them to agree to take comp time instead of overtime at time and a half. In the real world, 85 percent of workers do not have unions to protect them against one-sided employers. In the real world, many employers would force workers to take comp time at a time that is good only for the boss. In the real world, when bankruptcies are still prevalent and factories are moving overseas, workers could simply lose their comp time credits.

Mr. Speaker, let us pass a law that really helps working families make a genuine choice between comp time and overtime pay, not a bill which only works when we are dealing with the Alice in Wonderland world inside the beltway.

Ms. PRYCE of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, may I inquire of my colleague how many speakers the gentlewoman from Ohio has remaining and how much time is remaining?

Ms. PRYCE of Ohio. Mr. Speaker, I believe we have two speakers remaining. I do not know about the time.

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The gentleman from Massachusetts [Mr. MOAKLEY] has 10 minutes remaining, and the gentlewoman from Ohio [Ms. PRYCE] has 6¾ minutes.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. OLVER].

(Mr. OLVER asked and was given permission to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, the Working Families Flexibility Act is a misnomer, but it certainly clearly defines what the majority thinks about the struggle working families face. H.R. 1 does not help workers balance their work and family obligations. Instead, it lets employers dictate how workers will balance their working family. H.R. 1 allows employers to use comp time to deny workers overtime pay and then gives the employers the ultimate control over the use of the comp time. Employers can force workers to take time off when it is convenient for the company rather than for the workers and their families.

H.R. 1, the Republican plan, is masked in profamily and proflexibility rhetoric, but in reality this bill is antiworker and antifamily. It denies access to overtime and thereby reduces the living standards of working families. Families depend on overtime to

put food on the table, clothe the kids, and pay the mortgage. For too many Americans overtime is simply the difference between making ends meet and falling behind.

Now, there is no dispute. Working Americans want and need and deserve more time with their families. But this bill does not provide it. If we are serious about making the workplace favor working Americans, we should enhance family and medical leave and improve wages. We should expand the health care coverage and make pensions portable. But American workers work overtime because they need the money, and we will earn the support and thanks of working Americans when we show them the money.

Ms. PRYCE of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. SMITH].

Mr. SMITH of Washington. Mr. Speaker, I too rise in opposition to H.R. 1. It is basically another blow to the working men and women of our country, and it is important to look at one critical question. As was said by the worker I believe was from Iowa that the majority party cited: If I had the choice.

Well, it has been pointed out numerous times the employee does not have the choice in this bill, and that is the critical factor. The employer controls, as they do far too often, the working conditions that men and women face in this country. But what I really want to get into is why this bill is here today.

To hear from the majority party and supporters of this measure, we would think that a grassroots movement rose up of working people in this country and demanded comp time, that it was from the people, when everyone on this floor knows that this bill came to us from the employer community. They are the ones who wanted it; they are the ones who lobbied for it.

Now, I am not going to say that the employer community never cares about its workers. Certainly they do, but they have another agenda on this bill. That is the agenda that we have heard far too often in the 1990's: reduce labor costs. That is why this bill is here, folks. It is not working men and women who rose up and asked for this. It is the employer community that rose up and asked for this in another effort to reduce labor costs.

Mr. Speaker, I just want to briefly remind my colleagues that labor costs are wages.

I grew up in a working family. My father was a baggage handler at United Airlines and a union man who was paid $16 an hour the year he died. Those were labor costs. Labor costs to me is the house that I grew up in, the clothes that I wore, the food that I ate, and eventually the education that I was able to get because labor costs were made available to average people in this country.

Please do not mistake what this bill is all about. The employers simply want another advantage. Look at the record of the last 15 or 20 years. Do they really need it? Have we not reduced the wages of the working men and women of this country sufficiently? And has not the wages of the upper income brackets in our country gone up sufficiently? Do we need to once again tilt the balance against the working men and women of this country?

I do not believe so.

Please let us protect labor costs and vote down this measure.

Ms. PRYCE of Ohio. Mr. Speaker, I continue to reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. MENENDEZ], the chief deputy whip.

Mr. MENENDEZ. Mr. Speaker, I thank the distinguished gentleman for yielding time.

Mr. Speaker, what are we doing here today? What we are doing is reducing our workers to the status of serfs. Employers do not own employees or their time. The wisdom of the 40-hour work week is not the amount of time, but that time over and above 40 hours is the worker's; and imposition on it must be paid for.

Mr. Speaker, comp time is not giving employees an option as described in this bill. It is taking away rights from workers, taking money from their pockets, and food from their children's mouths. It is the unlawful seizure of the workers' time. The employers are not giving the worker anything in this bill by providing comp time. It is not time the employer is entitled to give.

H.R. 1 is capping wages as a salary limit and giving nothing in return. It masks employers' inefficiencies in managing the work force at the expense of employees. It will be abused.

□ 1215

Do not kid yourself. In the workplace there is not, and never has been, equality in negotiating position. Even the strongest complaint procedure, which is not present in H.R. 1, is practically unavailable to a minimum wage worker or even a middle class worker. Who can afford to await the result of an administrative action against an employer who will have them fired in the interim?

Put yourself in the worker's position. Two hours a day without overtime effectively reduces wages by 25 percent. Returning time that is yours anyway is not compensation. In my view, this is the cruelest form of a tax increase, and the message from workers is thanks for nothing.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. SHADEGG].

Mr. SHADEGG. Mr. Speaker, I thank the gentlewoman for yielding.

Let me begin by addressing a question raised on the other side about why this legislation is here. In his State of the Union address President Clinton declared, and I quote, we should pass flex time so workers can choose to be paid for overtime income or trade in for time to be with their families. It is here because it was in the President's State of the Union speech, among other reasons.

Mr. Speaker, today, I rise to express my strong support for H.R. 1, the Working Families Flexibility Act. The No. 1 concern for two out of three working women with children in America today is the difficulty of balancing work and family. Three out of four of those working women with children believe that having the option to choose either cash wages or paid time off for working overtime would help them substantially balance their work responsibilities and their family responsibilities.

Mr. Speaker, when I have the chance, I spend time with my daughter, Courtney, and my son, Stephen. Making the choice between fulfilling my obligations of my job and watching my daughter's swim meet or my son's little league game is always a difficult trade-off. But unlike many Americans, Mr. Speaker, I have that ability, the ability to make time for my family when needed.

Regrettably, Mr. Speaker, many American working men and women in the private sector do not have that choice. They are tied to their desk by outdated and out-of-touch Federal law. H.R. 1 will solve this problem.

Today, current law makes it illegal for employers to allow employees to choose between overtime pay and compensatory time off. For example, if a worker in America works 45 hours this week and wants to take time off next week to spend time with his or her family instead of getting paid overtime, Federal law says they cannot, even if they and their employer agree that it would be better.

Interestingly, Mr. Speaker, that is not the case for Federal employees. Mr. Speaker, Federal Government employees are exempt from this rule. The policy of forbidding employees and employers from voluntarily agreeing to take time off instead of paid overtime is dead wrong and fundamentally unfair. It hurts working parents and families.

One of our goals in this Congress, Mr. Speaker, ought to be to reduce excessive and irrational governmental interference in our daily lives and our economy. The existing Federal law prohibiting voluntary agreements for compensatory time off is a classic example of excessive Federal governmental interference in our lives. That is why we need to pass the Working Families Flexibility Act and remove this inequity.

Under this bill, employees are given the choice through a voluntary written agreement with their employer, to choose to receive paid time off instead of overtime pay. Just like cash, compensatory time accrues at 1.5 times the regular rate. It simply gives the employee the choice.

Mr. Speaker, I call for the passage of H.R. 1 and urge my colleagues to join us.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY of New York. Mr. Speaker, I rise against the rule on H.R. 1 and the bill. I want to make it very clear that the bill before us today is not the President's proposal. The President's proposal would give workers real time off and expanded time off to go to school functions and medical visits and other activities. This does not.

They call it the Working Families Flexibility Act, but unfortunately, it is neither flexible for workers, nor is it family friendly. Under the guise of giving workers flexibility in the workplace, H.R. 1 gives employers flexibility in deciding whether employees will be able to collect overtime pay and when they can take their accrued comp time.

Many workers rely on overtime pay to make ends meet. This bill allows employers to find ways to intimidate workers who insist on getting paid overtime. That means that a single mother who relies on 5 extra hours of overtime pay each week may not get any overtime assignments, if the employer knows that another worker is willing to do the work for comp time. That does not help the single mother, it robs her of her ability to earn valuable overtime pay.

The people who are affected by H.R. 1 are not usually in a powerful position, and are therefore unlikely to refuse their employers' requests to do them a favor by being paid in comp time instead of their valuable overtime pay. Two-thirds of covered employees make less than $10 an hour. Thirteen percent of workers get overtime pay each week. This money is not always extra. Because women are the majority of low-wage workers, they are more vulnerable to these potential abuses of the law.

Mr. Speaker, this bill is brought to you by the same people who fought against and voted against family and medical leave. Do they care about protecting workers? I do not think so. This is a bill that would threaten women and working people around the country. This bill is not family friendly, it is family fraudulent.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. NADLER].

(Mr. NADLER asked and was given permission to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, in typical fashion, the Republican leadership has given a terrible bill a pretty name and trotted it out as the greatest thing for working families since the invention of the 40-hour work week, which it would undermine.

They say workers will have the choice of how to receive compensation for this work. What could possibly be wrong with giving working Americans more choice and flexibility? What is wrong is that in the real world where Americans work every day, our laws are their only protection from unscrupulous employers who often demand longer hours and try to avoid paying overtime. In the real world, thousands of employers skirt the overtime rules on the books every day, denying workers $19 billion a year in overtime wages. We simply cannot afford to weaken workers' protections.

Here is how the bill works. An employer does not like an employee; no comp time. An employer does not want to give an employee time off; cash-out the comp time. An employer feels employees are exercising their option too frequently; revoke the comp time.

This bill is not about families or flexibility, it is about paying off big business and cheating workers. It is about repealing the 40-hour work week and the 8-hour day. Vote ''no'' on the paycheck reduction act.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, if I may again say, this has nothing to do with changing the 40-hour work week. I do not know where they are coming from.

We have had three hearings on this bill. Every employee that testified, testified in favor of the bill. We had no employee testify against it. Only the Washington union leaders testified against this bill.

Let me read a letter from some of the best companies in the country for employees: ''Working Mother Magazine recently recognized our companies as being among the top 100 with the best employment policies in the United States for working mothers. The article in Working Mother and other publications highlighted some of the creative solutions companies are developing to accommodate the unique needs of working parents.

In our quest to create a family friendly work environment, we have explored a variety of benefits and policies. One of the issues consistently raised by our employees is a need for greater flexibility in scheduling work time. Unfortunately, our ability to provide this flexibility is significantly hampered by the Fair Labor Standards Act. Because of the FLSA, we are not allowed to offer compensatory time off to our hourly employees.

Many companies, like ours, offer an array of benefits to working parents such as child care assistance, extended maternity or paternity leave, and telecommuting. These programs can be expensive and that expense often makes them prohibitive to small employers. This bill allowing for flexible scheduling arrangements certainly represents a way that larger employers can further accommodate their employees. In addition, it represents a way small employers can respond to their employees' needs in a relatively inexpensive way.

This letter was signed by Eastman Kodak, Hewlett-Packard, Hughes Electronics, Johnson & Johnson, Merck & Company, Motorola, Texas Instruments, TRW Space & Electronics.

Let me just say Working Mother said that these were the best employers in the country and they, as well as their employees, want comp time.

Mr. MOAKLEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the word ''family friendly'' has been used here, but unless you are a DuPont or Rockefeller or Ford, this is not friendly to your family.

Also, comp time and paid leave have been used interchangeably. They are not synonymous. There is a great deal of difference between paid leave and comp time, and I wish that people would realize that.

Mr. Speaker, I think all of the arguments have been made. This is a bill that should not pass, and I hope the rule is defeated.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself the balance of my time.

I want to emphasize in closing that this legislation attempts to strike a balance, providing a win-win situation for everyone. It brings labor law up to date after 60 years, and allows decisions to be made by responsible adults and not a paternalistic Washington, DC.

Many women do not have a choice. They have to work to make ends meet. Give them the flexibility to exercise at their option the right to be with their children when it is so very important. Now, Washington says, the boss cannot do this, even if he or she wants to.

Mr. Speaker, give these folks a break. For some families, time is just as important as money. There is one fact in life: There is only so much time. Time is as precious as money. Why would Washington stand in their way?

Mr. Speaker, this legislation is a winner for everyone. I sincerely hope we can move it to the President's desk quickly. I urge a ''yes'' vote on the rule and on H.R. 1.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 229, nays 195, not voting 8, as follows:

[Roll No. 54]

YEAS—229

Aderholt	Ballenger	Bass
Archer	Barr	Bateman
Armey	Barrett (NE)	Bereuter
Bachus	Bartlett	Bilbray
Baker	Barton	Bilirakis

Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—195

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lazio
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Towns
Traficant
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—8

Barcia
Calvert
Kaptur
Sanchez
Shuster
Skaggs
Stark
Torres

☐ 1248

Ms. JACKSON-LEE of Texas, and Messrs. TOWNS, RANGEL, LAZIO of New York, RUSH, DINGELL, and OBEY changed their vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Pursuant to House Resolution 99 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1.

☐ 1252

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself in the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1) to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector, with Mr. COMBEST in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Missouri [Mr. CLAY], each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. BALLENGER], the author of the bill and subcommittee chairman.

Mr. BALLENGER. Mr. Chairman, I thank the gentleman for yielding me the time.

This is a simple bill. It will allow private sector employers and employees, where there is agreement, to have the option of using comp time or paid time off in lieu of overtime pay. It is designed to give hourly employees the opportunity to have more flexibility in their work schedules so that, for example, they can better meet the demands of work and family.

Let me just say that since I first introduced this bill in the 104th Congress, I have tried to address the concerns that others have had with this legislation. There have been changes made to this bill at each step of the process, at least 23, and the majority of these changes were made to give employees greater control over their accrued comp time and to make perfectly clear that the choice of comp time by the employee must be truly voluntary.

Let me review the protections for the employees:

Any agreement to take comp time must be voluntary on the part of the employee and indicated in writing.

Where the employee is represented by a union, the agreement to take comp time must be part of the collective bargaining agreement negotiated between the union and the employer.

An employee can always opt out of a comp time agreement for any reason at any time. The employer then has 30 days to compensate the employee with overtime pay instead of comp time.

The bill protects against coercion and has specific penalties for any employer who coerces an employee into choosing or taking comp time against his or her will.

An employee could use accrued comp time whenever he or she wants to use this time and the only restriction on the employee's use of that time is that it not unduly disrupt the employer's operations. This is the same narrow standard used in the public sector and would not allow the employer to control the employee's use of comp time.

In addition, the bill requires the employer to automatically cash out unused comp time at the end of the year as an added protection for the employee.

There are surveys which show that there is strong support among hourly employees for having this option. Obviously, not every employee would use it.

Mr. CLAY. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise to oppose H.R. 1 because it is another piece of deceptive antiworker legislation that belittles the character of this institution and heaps scorn on the intelligence of the fine men and women who constitute our great labor force.

Mr. Chairman, this bill is merely a warmed-over version of last year's failed comp time legislation that was

part of an undignified agenda designed to undermine labor laws guaranteeing equity for workers. The majority has tried to make it more acceptable by calling it gender friendly and proworker. But fact is fact. The truth is H.R. 1 is just another assault on the rights of working people. Its title is misleading. It should be referred to as the Paycheck Reduction Act.

Mr. Chairman, this bill fails to provide employees with any meaningful choice. Their bosses alone decide whether comp time will be offered, to whom it is offered, when it is offered and when it is used. A recent study by the Department of Labor found that half of all garment contractors still violate the overtime laws. H.R. 1 does nothing to protect these and other vulnerable employees.

Mr. Chairman, this bill is opposed by major representatives and workers and women, including the AFL, the Women's Legal Defense Fund and the American Nurses Association. If we really want to know who H.R. 1 is designed to protect, consider this recent remark made by the lobbyist for the National Federation of Independent Businesses who told a Senate committee that the federation needs the bill because, and I quote, ''Small business cannot afford to pay overtime.''

Mr. Chairman, H.R. 1 is antifamily and antiworker, and I urge its defeat.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield myself 30 seconds. I just want to make sure that what the gentleman just said; he knows and I know she made the statement in the context with what the Senate is doing, not what the House is doing.

Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Chairman, I rise in support of H.R. 1.

Mr. Chairman, the American family is stressed and strained in new ways each and every day, as we well know. Too often in today's economy working parents are forced to choose between their families and their jobs. But this is not a new subject for congressional debate. In the recent past we debated a lot of these issues in the context of family and medical leave. But I believe today that the legislation we are discussing makes the workplace more flexible for working parents and their employers to adjust to the family patterns of today.

The Fair Labor Standards Act was passed in 1938. Times have changed and I believe that under this bill employees are provided an option, a reasonable option to choose compensatory time off in place of the overtime pay of their employers, if they should make that choice. It is now time to face the real world of 1997 and beyond.

I believe that the gentleman from North Carolina [Mr. BALLENGER] and others have already pointed out the explicit needs. I will put it in this context.

□ 1300

I do want to address the attempts by some on the other side to insert an expansion of the Family and Medical Leave Act in the context of this comp time bill.

As many of my colleagues know, I had more than a passing interest in getting the family leave bill passed. I was one of the leading advocates, and I fought my own party to see to it that that landmark legislation was passed. But I believe this comp time legislation is a piece of legislation in and of itself.

The Family and Medical Leave expansion has a legitimate time for debate. It should be debated in this Congress and, by the way, I believe expanding and refining that Family and Medical Leave Act is not only a debate for another time, but I would look forward to being supportive of that effort at the appropriate time, but this is not the bill that is appropriate for it.

Under this bill, employees are provided an option to choose compensatory time off in place of overtime pay if their employer decides to offer this option.

This bill provides an option of offering employees the choice of selecting paid time off instead of overtime wage. Through a written, voluntary agreement, comp time would accrue at the same time-and-a-half rate as overtime wages.

Mr. Chairman, I recognize that some have raised legitimate concerns about employee protections. However, in my opinion this legislation addresses those concerns by including several important employee safeguards, so we will not invite abuses.

First, an employee is permitted to withdraw from a comp time agreement at any time if the agreement is not working for that employee or if circumstances change for that employee.

Along those same lines, the employee can cash out any accrued time with 30 days notice to their employer. Furthermore, the bill makes it illegal to ''intimidate, threaten or coerce'' any employee for the purpose of interfering with the employee's rights under this bill to request or not request comp time. The penalty to the employer who violates this protective right is high—the employee would be able to claim double damages.

In addition to the protections currently in the legislation, there will be two amendments offered today that will add even more protection. The first will only allow employees to take advantage of this option if they have worked for the same employer for 1,000 hours.

This provision will protect seasonal employees who currently work extended hours during the season's high point, and then must sit back during the off season. The second amendment will lower the maximum amount of hours that one can accrue as comp time from 240 hours to 160 hours. Once a person accrues their maximum number of hours then all hours exceeding this total will be paid as overtime wages.

Mr. Chairman, allow me to address the attempts by some on the other side to the Family and Medical Leave Act in the context of this comp time bill. As many on this floor know, I have more than a passing interest in Family Leave as one of the leading advocates—I fought my own party for years to advance this family values and feel strongly that it is landmark legislation that has been a rousing success for American families working so hard to help themselves.

However, this comp time legislation is a logical supplement to Family Leave. However, the debate on expanding the Family and Medical Leave Act is a debate for another day at another time. And I will be supportive of that expansion. This is not the appropriate bill for that expansion.

Mr. Chairman, this is a bill that will provide options for today's working families. I urge support of H.R. 1, the Working Families Flexibility Act.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from California, [Mr. MILLER].

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Chairman, I rise in very strong opposition to H.R. 1, the so-called Family Flexibility Act. Once again we see the Republicans bringing to the floor of the House legislation whose title suggests this is helpful to families but turns out not to be helpful for families.

Why is that so in this case? Because H.R. 1 simply fails to meet the test to provide families the flexibility that they can control in their working schedule. The fact is that under their legislation, the families will not have more flexibility to manage their schedules. Their employers will have more flexibility to manage the schedules, and that is the No. 1 complaint among workers about the loss of control over their schedules so that they can deal with the concerns they have with their family and the time they would like to spend with their family and to meet the needs of that family.

This legislation, as presented, simply does not meet the test. It does not meet the test of freedom of choice because, again, the worker does not have that choice. It is about the employer having the ability to manipulate that choice. Under the Republican bill, it is the employer that gets to decide when the employee can use the comp time.

It makes no sense for an employee to agree to work overtime, to work 20 or 30 hours a week overtime, or 10 hours a week, or a 20-hour day, or whatever it is decided that the employer gets to dictate to that employee to build up comp time, if the employee does not truly have the choice when and how that comp time will, in fact, be used. That is where the Republican bill fails.

The choice about when that comp time can be used by the employee, to meet whatever, for whatever purposes they decide, but let us assume it is to spend more time with the family or to take care of those critical needs, what we see is, in fact, that that remains in the hands of the employer. I think when employees discover that, they will find out that this is not some nice

option because they can be forced into working overtime, somehow believing that they are going to get comp time off, but throughout the work year they can find out that it can be denied time and again because of the low threshold that is put in the bill.

We must also understand that this has serious financial ramifications for working families, which we will discuss later.

Mr. BALDACCI. Mr. Chairman, I yield 5 minutes to the gentlewoman from Texas [Ms. GRANGER].

(Ms. GRANGER asked and was given permission to revise and extend her remarks.)

Ms. GRANGER. Mr. Chairman, I rise today in strong support of H.R. 1, the Working Families Flexibility Act.

I want to tell a story that personifies and exemplifies why American families need the Working Families Flexibility Act. It is a story of a very special woman, her struggle and her triumph; a woman whose life was devoted to her family, her faith and her friends.

Alliene Mullendore, who was raised in Fort Worth, TX, lived what some would call a hard life. She believed in old-fashioned values like hard work, honest living and responsibility. When she found herself alone one day with a family to raise and feed, she knew that the rest of her life would be spent trying to balance the twin goals of raising her children emotionally and spiritually while providing for them financially and materially.

She was a schoolteacher, and she was also a student. She spent her summers and her nights getting her master's degree so she could advance her career. And she did, eventually becoming the first female principal of an elementary school in the Birdville school district.

Although she was crippled by polio in the epidemic of the 1950's, and lived in almost constant pain and fatigue, she still found the strength to teach her classes on crutches as she learned to walk again. Somehow, miraculously, she found the time and energy to raise her two daughters into self-reliant, headstrong women.

The years of work and worry left their mark. The long hours at her school and the enormous pressure of being the sole provider for the family took a very heavy toll on this special woman. In her later years she suffered a severe stroke and was confined to her home for the last 11 years of her life.

Her days of active living were over. But her life had already touched so many, not just the children who experienced her warm smile and gentle humor as a teacher, but most profoundly she touched the lives of her two daughters, who today carry the memory of their mother with them every single day, knowing all the while how proud she would be. I know, because I am one of those daughters. I can honestly say that I stand here today by the grace of God and the sacrifice of my mother.

Martin Luther King once said that the measure of a person is not what they do in times of comfort and convenience but what they do in times of crisis and challenge. According to that standard, my mother was not only a personal success, she was a true American hero.

Throughout her life, even in illness, my mother always taught my sister and me that true success in life is measured not by what you get but what you give. My mother gave me everything. So I am very thankful I was able to be there with her during her last years, to give something back to her. I was able to move her into my home, where I could talk to her and care for her and just be with her.

I look across America today and I wonder how many daughters could share time with their parents during difficult days like I was able to. I was able to take care of my mother during her final years because I owned my own business and I arranged my own schedule. Tragically, there are millions of men and women each day in America who simply cannot do that.

This legislation today is about putting families at the top of our national priority list, giving hourly employees the option to take time off instead of overtime pay, saying thank you to a mother or a father after a lifetime of love and sacrifice.

So as a small business owner and a mother and a daughter, I strongly support H.R. 1, and I urge my colleagues from both sides of the aisle to put political considerations and partisan calculations aside. With this bill we can take one small yet very significant step toward the way America should be.

Mr. Chairman, comp time will allow working mothers to take time off and go to their child's or daughter's school play, because that is the way America should be.

Comp time will allow working fathers to take time off and go to their son's camp. That is the way America should be.

And comp time will allow working families the benefits of choice without imposing new Government rules on our businesses. And, Mr. Chairman, I think we all know that is the way America should be. I sure know it, because I would not trade the final moments I had with my mother for anything in the world.

Mr. Chairman, our most endangered species in America today is the family. This bill acknowledges that time spent with the family is time well spent.

I believe America is a nation built on the memories of yesterday as well as the promise of tomorrow. Today we have a chance with this bill to make sure that the promise of tomorrow is one of hope and happiness for our families, and that is the way America should be.

Mr. Chairman, comp time is the right issue at the right time and the right place, and let us pass this legislation because we owe it to our families.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from New York, [Mr. OWENS].

(Mr. OWENS asked and was given permission to revise and extend his remarks.)

Mr. OWENS. Mr. Chairman, our most endangered species in America is the family, and we do not want to be guilty of taking cash away from families which is used to put bread on the table, to buy shoes, and to pay the rent.

This is a revolutionary and reckless change in labor law. The Fair Labor Standards Act has existed since 1938 as part of Franklin Roosevelt's New Deal. This experiment need not be so radical and so extreme as it is constructed in this legislation. We could provide adjustments and relief for comfortable middle class wage earners who want time off at the same time that we protect low income workers who need cash payments of overtime in order to meet their basic necessities of food, clothing and shelter.

This law is not enforceable. That is the problem. It will not be enforceable. There will be no choice for the people who want the cash to put food on their tables.

In fiscal year 1996, the Department of Labor found overtime violations among employers involving 170,000 workers. The lowest wage workers are the most common victims of this abuse. In other words, under the present law, they are not being paid their overtime. They are being swindled out of overtime.

The Employer Policy Foundation, this is an employer-supported think tank in Washington, they reveal that workers lose approximately $19 billion a year. $19 billion is swindled under the present law. This loose law here, which proposes to give choice to people, will be even worse.

A Wall Street Journal analysis of 74,514 cases brought by the Department from October 1991 to June 1995 found that industries such as construction and apparel were cited for illegally denying overtime to 1 in every 50 workers during this period. Overall, nearly 8 out of every 1,000 workers, or 695,280 employees, were covered by settlements which were necessary to get their overtime pay because it was not being given to them.

If Congress is going to tamper with the FLSA, at a minimum, two-thirds of the work force that makes less than $10 an hour ought to be protected. Here is a win-win situation. We could be less extreme and less radical and take care of everybody's needs.

Mr. BALLENGER. Mr. Chairman, I yield 2½ minutes to the gentleman from California, [Mr. RIGGS], a subcommittee chairman.

Mr. RIGGS. Mr. Chairman, I appreciate the opportunity to speak on this very important legislation, House Resolution 1, the first bill introduced in the House of Representatives in this session of Congress. That designation, H.R. 1, is supposed to indicate the importance that we Republicans, in the majority in the House, place on this legislation.

First, I think it is important that we clarify some misperceptions about the

bill. First of all, it does not affect or change the 40-hour workweek. It does not include a flex-time provision, as does similar legislation in the other body. It does, however, give hourly employees the opportunity to have more flexibility in their schedule so that they can do a better job, so they can better meet the demands of work and family.

That is why this legislation is so strongly and overwhelmingly supported by the American people, especially the 63 percent of American families where both the mother and the father work outside the home and the 76 percent of all American mothers who work and who have school aged children.

I just want to conclude my comments by appealing to my good friends on the other side of the aisle, our proeducation Democrats, to support this legislation. I want to introduce into the RECORD a letter from Sheldon Steinbach, the vice president and general counsel of the American Council on Education.

He writes:

Dear Congressman: On behalf of the American Council on Education, representing 1,689 2- and 4-year public and private colleges and research universities across the country, and the National Association of Independent Colleges and Universities, representing 900 private institutions of higher learning nationwide, we wish to express our strong support for H.R. 1, the Working Families Flexibility Act.

Colleges and universities constitute some of the largest employers in many communities, and in some instances the largest employer within a State.

Mr. Steinbach goes on to write:

Federal employees have enjoyed flexible schedules since 1978. Public employees of higher education have had the ability to choose either compensatory time off or overtime pay for overtime situations since 1985. As a matter of elementary fairness, the workplace flexibility that has been provided to Federal and public employees should now be extended to private employers, including private colleges and universities.

This is truly an idea, this legislation, whose time has come. H.R. 1 is good pro-worker, pro-family legislation with ample employee protections. I ask my colleagues to support H.R. 1.

Mr. Chairman, I include for the RECORD the letter I referred to earlier:

AMERICAN COUNCIL ON EDUCATION,
OFFICE OF VICE PRESIDENT AND
GENERAL COUNSEL,
Washington, DC, March 14, 1997.

DEAR CONGRESSMAN: On behalf of the American Council on Education, representing 1,689 two- and four-year public and private colleges and research universities and national and regional education associations, and the National Association of Independent Colleges and Universities, representing nearly 900 private institutions nationwide, we wish to express our strong support for the Compensatory Time Off (comp time) provisions of H.R. 1, The Working Families Flexibility Act.

Colleges and universities constitute some of the largest employers in many communities, and in some instances, the largest employer within a state. As employers, colleges and universities have long been at the forefront of offering welfare and health-care benefits to employees and, over the last 10 to 15 years, work-family/life programs. Educational institutions offer these work-family/life policies and benefits as a way to recruit and retain a highly skilled, quality workforce. These benefits provide one of our competitive edges over the for-profit sector for salaried employees, since higher education institutions typically offer a lower compensation package than for-profit organizations. Institutions of higher education have realized that flexibility in the workplace is fundamental in trying to meet the needs of the employees and mission of their schools. This is especially true as more and more employees try to balance the competing pressures of work, family, and personal needs.

Federal employees have enjoyed flexible schedules since 1978. Public employees of higher education have had the ability to choose either compensatory time off or overtime pay for overtime situations since 1985. Allowing independent college and university employees a similar flexibility in scheduling would help them deal with personal interests and family concerns; it also would improve employee recruitment, retention, and productivity. Workplace stress is alleviated for parents when work schedules which conflict with school hours or, day care arrangements, or when flexibility is provided.

We fully support the Working Families Flexibility Act provisions under which an employee may choose either to take time-and-a-half off or time-and-a-half pay for any overtime hours worked. The proposed legislation also provides that an employee may bank up to 240 hours of comp time annually and requires the cashing out of any comp time hours which have not been used by the employee at the end of a year.

These flexible workplace options are completely voluntary. No employer can be forced to offer a flexible workplace option and no employee can be forced to participate in one. In addition, flexible workplace options must be arranged through agreement, and such an agreement cannot be a condition of employment. Lastly, if an employer directly or indirectly intimidates, threatens, or coerces any employee to participate in a flexible workplace option, they will be subject to the full range of penalties under the Fair Labor Standards Act penalties.

As a matter of elementary fairness, the workplace flexibility that has pervaded federal and public employment should be extended to private employers, including private colleges and universities. With the essential employee safeguards incorporated in the proposed legislation, that flexible scheduling arrangements, including the innovative use of comp time will meet the needs of both workers and institutions in the 21st Century.

Sincerely,
SHELDON ELLIOT STEINBACH,
Vice President and
General Counsel.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK].

(Mrs. MINK of Hawaii asked and was given permission to revise and extend her remarks.)

Mrs. MINK of Hawaii. Mr. Chairman, I thank the ranking member of our committee for yielding me this time.

This bill is misnamed. It is called flexibility time, but it affords employees and the families absolutely no flexibility. Employers today have flexibility. They have flex-time. They could give their workers time off to do those essential things in health care or to attend to school affairs. They have that flexibility now. Why enact a law that will require people, workers, to work overtime without compensation?

One of the best family friendly things that was done by the Congress over 60 years ago was the enactment of the Fair Labor Standards Act, and what it did was to guarantee 40-hour weeks. It liberated families to be able to go home Saturdays and Sundays and be with their families, to be there for dinner so that they could have a family relationship.

□ 1315

This bill is going to actually repeal Saturdays and Sundays. It is going to force workers to work on Saturdays and Sundays and be away from their families. How could that possibly be family friendly? The only flexibility that I can see in H.R. 1 is to give flexibility to the employers. They would go to their workers and say, ''I have to get this job out. The contract is coming up this weekend. We have to have overtime work by all of you.'' I cannot imagine the workers being able to turn down such an employer. And so they would work for no compensation, they would be away from their families, they might have to give up Saturdays and Sundays for no compensation, for how long? For 12 months these employers would not be required under this bill to give any time to the employees so that they could be with their families.

This is not family friendly, this is not flexible. Workers in my district, in my State, hold two jobs, three jobs, just to put food on their table. They work overtime because they need the money. Do not take the paychecks away from our workers.

Mr. GOODLING. Mr. Chairman, I yield myself 15 seconds just to say to the gentlewoman, please read the bill. It has nothing to do with what you just heard. It does nothing with the 40-hour workweek. It does nothing to force anybody to work on Saturday and Sunday. It does nothing to force anybody to take comp time. None of that is in the bill. Please read the bill.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN. Mr. Chairman, this issue is very important to me. Balancing work and family responsibilities is a very tough challenge. I have in fact lived the challenge that is facing today's working mothers, having raised two sons on my own as a single mother who tried to balance the time with my children with a full-time job. Let me assure my colleagues it was not easy, but it does not have to be so difficult. That is why we need the Working Families Flexibility Act.

Just as a mention in response to the gentlewoman from Hawaii's comments, the Fair Labor Standards Act was passed in 1938, Mr. Chairman. This was a time nearly 60 years ago in our country's history when the workplace was

filled mostly with fathers and also it was a manufacturing base. Things have changed now and many mothers are now in the workplace because they are required to have two parents working just to make ends meet.

Mr. Chairman, for too long parents have had to choose between work and spending time with their children. That is a tragedy. The 1994 U.S. Department of Labor found that the No. 1 concern for two out of three working women with children under the age of 18 is the difficulty of balancing work with family. Two recent surveys show us that three out of four parents indicate that having the option to choose either cash wages or paid time off for working overtime hours would enable them to better balance their work and their family responsibilities. This is all we are asking for, that they have the choice.

A working mother, for example, might prefer to see her daughter in a school play than have time and a half on the job. She should have that choice. Under current law, too many working mothers lie awake at night worrying about whether they are giving their children their time. We can do something to help those mothers. This bill addresses that problem. It is a sensible, balanced solution to the problem facing the hardworking parents of our country who are caught in the difficult quandary of simultaneously trying to provide for their families while still looking to spend time with them. I urge my colleagues to look at this piece of legislation to see its good and to vote for it.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. PAYNE].

(Mr. PAYNE asked and was given permission to revise and extend his remarks.)

Mr. PAYNE. Mr. Chairman, I rise in strong opposition to H.R. 1, which has been appropriately identified as the paycheck reduction act. It is disgraceful that Congress is taking action to threaten the financial security of America's working men and women when three out of four of U.S. workers have lost ground economically during the last two decades, while CEO's reap salaries that are 212 times that of the average worker.

Congress is now attempting to further tilt the balance in favor of management by allowing companies to withhold overtime pay and to substitute comp time. From my conversations with working people, I can tell you that most workers need the overtime pay in order for them to earn a salary in order to make ends meet.

I heard my colleagues talk about the fact that this is great so that a father can visit his son at camp. The people I am worried about cannot afford to send their children to camp. They cannot afford to buy the equipment needed to go to camp. And so we are talking about two different people. People on the clock look forward to overtime. I recall when I worked the clock and I worked with low wages, I used to wait in line to seek overtime. And so to say you now must work overtime but you will not be able to be paid it will continually erode the ability of working people to earn a decent wage.

As I indicated from my conversation with working people, I can tell you that most workers need the overtime pay so that they are able to make ends meet. The bill will hurt America's most vulnerable workers, those who rely on overtime pay to make ends meet.

I offered an amendment during the consideration of this bill to exempt workers most vulnerable to employer abuse, such as seasonal workers and those in the garment industry. My effort to protect these workers was rejected by the majority. I think this is unfortunate. I think we should reject this bill.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. ANDREWS].

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. I would like to thank my friend from Missouri for yielding me this time.

Mr. Chairman, this bill is a wolf in sheep's clothing. We are asked to conjure up happy images of parents going to parent-teacher conferences and picnics with their children and camp visitations. When you read this bill, it paints a very different picture of what it will do to the American family and the American worker.

Picture this: An employee who always chooses cash overtime and never chooses comp time will not get offered overtime any more by many, many employers. That employee will not get overtime. They will get the right to sue their boss at their expense and have to carry the burden of proof in the trial.

Picture this: An employee who has built up a lot of comp time over the years and then gets a layoff notice or sees that his or her employer is going into bankruptcy. They do not get comp time converted into cash. They get left holding the bag because their employer is long gone and the cash is long gone and the income that they counted on is long gone.

Picture this: An employee who goes in and says, I want to use my comp time next Thursday because I just found out that is when my parent-teacher conference is, and here is the answer: No.

Mr. Chairman, you do not get the right to go to the parent-teacher conference. You get the right to sue your boss. That really is not worth very much to the American worker.

If you really want to help people that are in so much turmoil and trouble, why do we not bring a health insurance bill to the floor that makes sure that every American worker gets health insurance when they go to work? Why do we not expand on the Family and Medical Leave Act so people can get paid when they have to deal with a family medical health or other kind of emergency?

Mr. Chairman, this bill is a wolf in sheep's clothing. I am going to vote against the bill and slay the wolf and defeat the bill today.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. TIERNEY].

Mr. TIERNEY. Mr. Chairman, I rise in opposition to H.R. 1 as it is now constituted and proposed. It appears clearly to be an exercise in semantics. This bill is touted as the Employee Flexibility Act when in fact it would enable those few employers who would act unmindfully of their employees' interests to do just that.

Throughout my district, Mr. Chairman, good employers do not clamor for a bill that would enable them to discriminate against their work force. Favoring some who opt for comp time over paid time is not prohibited in the bill as constituted. Also, the bill is ambiguous at best with regard to benefit contributions. If you work and get paid for overtime, your employer contributes to benefits or pensions for the hours paid. However, under this bill if you take comp time instead of wages, an employer avoids making those contributions.

Good employers already have the ability to give time off to employees for family matters. Many find a way to do just that. The Family and Medical Leave Act gives employees the right to take time off under fair circumstances. It could be expanded to cover more instances if the majority truly had family concerns in mind.

Let us be straight with the American public. This bill would allow some employers to avoid paying overtime and avoid making contributions to benefits. The majority on the committee rejected amendments that would have clarified that an employee should decide whether to take time off rather than be paid for overtime. The amendments would have required the employee to give 2 weeks' notice. If less notice was given, the employee could only take the time off if the employer's business would not be unduly disrupted.

The amendments would have clarified that an employer would be prohibited from discriminating against employees while punishing those opting against the employer's wishes. Our provision stated with certainty the recourse and the penalty for violators.

The amendment would have clarified a means for protecting moneys owed to employees for accumulated time if the employer went bankrupt. In short, the amendment sought to help the majority reach their stated supposed objective. The truth of the matter is that calling the bill something that it is not will not make it acceptable.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the distinguished

gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. I thank the gentleman for yielding time.

Mr. Chairman, I rise today in strong support of H.R. 1. This bill will finally give our country's hardworking parents the kind of choice they so desperately need and the opportunity they deserve. As a working mom myself, I find the pressures of balancing work and family extremely demanding. My husband and I savor every second we spend with our daughter. Too often both of us or one of us come home and she is asleep and leave the next morning before she gets up. We are heartbroken because the only quality time sometimes that we seem to spend with her is when she wakes up crying.

As crazy as our schedules are, we realize we have it easier than most Americans across this country. As Members of Congress, we are fortunate to have a lot more scheduling options than other parents. In 1994, a Clinton administration Department of Labor report found that the No. 1 concern for 66 percent of working women with children under the age of 18 is the difficulty of balancing work and family. Today we say to those women, you make that choice to make your life a little bit easier.

The opponents of this bill feel that employees should not have that choice, the Government will make that choice for them, because we know what is better for the American family than the working mother and father. We do not trust them to make the right decisions for what is right for them.

That is the difference here between the opponents and supporters of this bill. Employees instigate the option to choose comp time as opposed to overtime pay. There is nothing coercive about it. And if the employer tries to be coercive about it, he is going to stand greater penalties than under the National Labor Relations Act, similar to the penalties in the Family and Medical Leave Act. And yet no one from the other side had any complaints about the ability to redress under those two pieces of legislation.

Come on. It is now time for us to finally say to people throughout this country, particularly the lower income workers that people seem to think cannot make the appropriate decisions for themselves, go ahead. If you would prefer to take time and a half to spend time with your families rather than that paycheck, do it. If the paycheck is what is important to your family at that point, you have that option. It is all about empowering the family again.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. WOOLSEY].

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Chairman, supporters of H.R. 1 are pitching it as comp time, a bill to give workers more time with their families. Well, we all need to spend more time with our families. But H.R. 1 does not ensure workers can do that. H.R. 1 is not cover time. H.R. 1 is chump time. It is chump time for the employee, because the boss, not employee, makes all the decisions. The employer decides whether to offer comp time in the first place, who gets it, and when the employee can take it.

□ 1330

Comp time does no good if one cannot plan for it. Under H.R. 1, a mom who works overtime in March cannot count on using earned comp time to take her kids to the doctor in April. Her employer can deny scheduled comp time just by claiming that it would be unduly disruptive to the business. That is not comp time; that is chump time. And American workers, Mr. Chairman, are not chumps.

Vote against H.R. 1, the chump time bill.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MCKEON] a subcommittee chairman.

Mr. MCKEON. Mr. Chairman, I rise today in support of H.R. 1 which is pro-worker and pro-family legislation. I commend the leadership and our chairman for bringing such an important bill to the floor.

H.R. 1 will allow employees more flexibility in balancing the demands of their jobs and families without compromising their worker rights. To vote against this bill is to deny private sector workers an option that their public sector counterparts now enjoy with great success. Over 75 percent of employees surveyed said they would like the option of choosing comp time or cash.

Mr. Chairman, this bill is about options for employees. They can take their pay in cash or time. When they work overtime they get time and a half, or if they decide to take it in time they still get time and a half.

At the bipartisan retreat a couple of weeks ago, I had the opportunity to discuss this issue with a member of the Capitol Hill police force who does have the opportunity of choosing comp or cash. He told me that at this point in his life, time is very often more important to him now than money. He is fortunate enough to have already had the option of comp time over cash wages, and it is a choice that he greatly values. Were he to fall on hard times or need the cash more, he could fall back and take the cash instead of the comp time. H.R. 1 would provide this same option for private sector employees.

Mr. Chairman, this bill is about giving employees and employers more flexibility. Frankly, my experience tells me that this decision should be made in the workplace between the employer and the employee rather than here in Washington by politicians.

Finally, I commend the gentleman from North Carolina [Mr. BALLENGER] for insuring there are adequate protections in the legislation to insure that no employee can be coerced or forced into a particular option. It is a decision that they discuss and work out with the employer.

Mr. Chairman, H.R. 1 is about family flexibility and choice for employees which we should be giving to all Americans. Vote in favor of H.R. 1.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. KUCINICH].

(Mr. KUCINICH asked and was given permission to revise and extend his remarks.)

Mr. KUCINICH. Mr. Chairman, workers of the United States have a right to say show me the money, not in comp time but in overtime payment. H.R. 1 is not about flexibility or families or constructive reform of labor law. H.R. 1 is about undermining and ultimately destroying the Fair Labor Standards Act on behalf of those who wish to avoid their legal obligations to their workers.

Mr. Chairman, this bill would open the door to employers to coerce their workers to accept comp time instead of receiving overtime in a timely manner. This bill would turn back the clock to the days of 16 tons. My colleagues remember Tennessee Ernie Ford: ''You load 16 tons, and what do you get? Another day older and deeper in debt. St. Peter, don't you call me because I can't go. I owe my soul to the company store.''

American workers will not accept owing their soul to the company store in terms of comp time.

This bill exchanges an economic right, a legal right that workers now possess, the right to obtain time and a half payment for overtime work for an IOU, an IOU issued by their employer to maybe give comp time in the future. H.R. 1 would encourage companies to schedule more overtime because companies would not have to pay their workers for it. More overtime means fewer jobs.

In this era of labor saving technology and falling real wages, when working families are struggling with two jobs, the 40-hour work week plus overtime is already too long. We need to be discussing public policies that promote more jobs, higher wages, and a shorter work week. I urge the defeat of H.R. 1.

Mr. GOODLING. Mr. Chairman I yield myself 3 minutes.

Mr. Chairman, as I said earlier, ''When you get your marching orders, if you want to really impress the public and act as if you really mean what you're saying don't read the legislation. Then you can be very impressive out here.'' And that is what we are seeing over and over again, and I point out again it is less than two little pages. That is all it would have taken, time to read two little pages, and then my colleagues would not come down here and be so demeaning to the American workers.

I ask my colleagues, ''Can you imagine people in this well saying over and

over again these people can't make a decision, we have to make the decision for them? They don't know how to think.'' These are the American workers they are talking about.

This legislation tells the worker, ''You make the decision. You don't ask anybody else to make the decision, you don't ask government to make the decision. You make the decision.''

And I will guarantee my colleagues every American worker out there can make that decision. They do not need our help to make that decision. They can make it themselves.

So it is totally demeaning to be talking as if American workers cannot make choices, and everyone who stood up there, if they read the legislation, know that every worker is protected more than any other legislation that has ever passed in the House of Representatives, and the employer would be a fool if they tried to intimidate an employee, if they tried to determine that they will take that overtime in time off rather than wages, whether that employees wants it or not. That employee is protected more than any other employee has ever been protected.

And is not it interesting? Were we this demeaning to the public employees in 1985? Did we tell them they could not think for themselves? Of course we did not. We gave them the opportunity to think. And is not it also interesting in a recent study by the International Personnel Management Association, they found that 98 percent of public employees with a unionized work force offered a significant percentage of their work force flex benefits? What that proves is that the pressure of the employee will cause unions to negotiate for comp time, and we are giving them that opportunity which they now do not have in the private sector.

So I would hope that people would read and would read all the protections that are in this legislation because I do not know of any other legislation that is so employee-friendly as this legislation is.

Mr. Chairman, I reserve the balance of my time.

Mr. CLAY. Mr. Chairman, I yield myself 5 seconds.

The point about making it only two pages can be countered by saying, If you wanted to repeal the first amendment, it's only one sentence.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Chairman, let me start off by saying this is not about flexibility. There are many of us that are for flexibility. That is why we will vote for the substitute of the gentleman from California [Mr. MILLER] because his substitute understands one thing that this bill does not understand, that that time worked for belongs to the employee, not the employer. But my good chairman says that this bill gives the employees the right. It does not because the bottom line is that the employee may provide monetary compensation for an employee in unused compensatory time in excess of 80 hours, which means he determines whether you reach the full allotted time or not. The employer again makes the decision. It further goes on to say that the employee can only take the time if it does not unduly disrupt the operation of the employer. That gives the employer a wide open door to say, ''Hey, this is unduly disrupting my production; you can't take the time.''

So the employees do not control the time. If we are giving flexibility to employees, if we really want them to spend time with their families, then give them the options, not the employer. That is the problem here.

The bill of the gentleman from California [Mr. MILLER], which is a derivative of the President's bill, is something that gives the employee that option. This bill does not.

Vote against this bill. Vote for the Miller substitute.

Mr. GOODLING. Mr. Chairman, I yield myself 15 seconds.

Somebody on the committee should know exactly what they are talking about and, of course, disrupt unduly and unduly disrupt are the same words that are in the Family Medical Leave Act that we had. They just reversed the way the two words are written, so anybody should be able to know that if they read the legislation.

Mr. CLAY. Mr. Chairman, the sponsors of this ''Paycheck Reduction Act'' keep claiming that H.R. 1 uses the same ''unduly disrupt'' standard found in the Family and Medical Leave Act. Their claim is flat, dead wrong.

Let's set the record straight. Under the FMLA, the ''unduly disrupt'' standard is extremely limited and specifically protects the power of employees to decide for themselves when to take family leave. Under the FMLA, the ''unduly disrupt'' exception only applies when the need for leave is for forseeable medical reasons. In that case, the FMLA says, ''The employee shall make a reasonable effort to schedule the leave so as not to disrupt unduly the employer's operation.'' Even then, the leave can only be delayed if the employee's doctor agrees that delay will not harm the health of the employee, or his or her family member.

That distinction lies at the heart of the difference between the Republican bill and the Democratic substitute. We protect the employees' power over their own time and pay. H.R. 1, on the other hand, gives more power to the employees.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida [Mrs. FOWLER].

(Mrs. FOWLER asked and was given permission to revise and extend her remarks.)

Mrs. FOWLER. Mr. Chairman, as a working mother I learned one lesson early on. No matter how much we may want to, we human beings cannot be in two places at one time. The conflict between responsibilities at work and at home is a huge cause of stress for working parents, and the only cure for that stress is added flexibility in scheduling without loss of pay.

Fortunately for America's working families help is on the way in the form of H.R. 1, Congressman BALLENGER's Working Families Flexibility Act. This legislation would update existing labor law which was passed in the 1930's to reflect current reality by allowing employers to offer the option of comp time to workers as an alternative to overtime.

Now this bill will not force anyone to do anything. It will not make employers offer comp time, it will not make employees take comp time, and it provides employees with the option of cashing out their comp time at any time if they desire to do so. In other words, all this bill does is provide employers and workers with more choice, making people's lives a little bit easier and giving working people a chance to balance work and family in a better way.

Numerous protections have been included in the bill to ensure that employees cannot be pressured into one choice or another and that it does not change or eliminate the payment of overtime or the traditional 40-hour work week. Under this, whether one takes comp time or overtime pay, they still receive time and a half.

I want to ask all of my colleagues to support this bill, especially those who are parents. We all know what it is like to need some more flexibility in our lives. Let us bring labor law into the present and give working parents a break.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. FORD].

Mr. FORD. Mr. Chairman, today I rise in support of children, in support of families and in support of business. I rise in support of workers who want real flexibility, real protection, and real choice. Today I rise in support, Mr. Chairman, of workers who are struggling to pay bills, who are struggling to make ends meet, and who are struggling to put food on the table. I rise in support today of this Nation's most vulnerable workers who want to ensure that they too will have real choice, real flexibility, and real protection.

That is why I am urging my colleagues on both sides of the aisle to oppose H.R. 1 and support the Miller substitute. Business in this Nation, as well as workers in this Nation, want to ensure that both have choice, opportunity, flexibility, and protection. H.R. 1 does not provide that.

Let us stop demagoging this issue and work this issue out on behalf of children, working families, and business in America.

Mr. GOODLING. Mr. Chairman, I reserve the balance of my time.

Mr. CLAY. Mr. Chairman, I ask unanimous consent to insert behind the last words of the gentleman from Pennsylvania [Mr. GOODLING] who said that the unduly was the same as in the family and medical records, Family

and Medical Leave Act, I want to insert behind that statement an explanation explaining the difference.

The CHAIRMAN. The gentleman can insert that information as a revision in extension of those remarks.

The gentleman from Pennsylvania is recognized.

Mr. GOODLING. Mr. Chairman, I said that the words were reversed. If we look in the one, it says unduly first, and then look in the other, it says unduly second. So I said the words are reversed.

Mr. CLAY. Mr. Chairman, I am not disputing what he said. I am asking to insert this in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BECERRA].

(Mr. BECERRA asked and was given permission to revise and extend his remarks.)

□ 1345

Mr. BECERRA. Mr. Chairman, the proponents of this bill, H.R. 1, argue that employees have choice, and that is why we should pass this bill. We are further admonished that we should read this 2-page bill.

Mr. Chairman, I read the bill. An employee has an opportunity to earn comp time; an employee is given flexibility in the workplace if, if, the employer chooses; if the employer chooses, not the employee.

Page 3, paragraph 2, conditions: Employer decides who gets comp time, not the employee. An employer can offer one employee comp time and an employee that lives and works under the same circumstances can be denied comp time. An employee can be offered comp time 1 day, and on another occasion under the same circumstances can be denied comp time. The employer chooses.

Page 4, paragraph B, compensation date: An employer has the right to hold an employee's accrued comp time for up to 1 full year before disbursing it to that employee.

Page 5, line 11, the policy: An employer may withdraw his agreement in writing with an employee to offer comp time when he chooses to do so.

So you could start off with some comp time, but if the employer decides, no, I wish to change my mind, the employer has the right to do that.

Page 7, paragraph A, general rule, listen to this. I do not know if it was meant to be this way, but an employee cannot cash out his or her money if he or she leaves.

Under the way the bill is written, the language, it appears to say that the employer can actually give you comp time at the same rate that you have earned that time. So if you earn $10 an hour and you have 200 hours of earned comp time, that is about 25 days of paid comp time, it could take up to 25 days for you to collect your money that you earned, that is in comp time, even after you have left that employer. That is the way the bill reads. It seems to say that.

Mr. Chairman, I read the bill. It is not a good bill. Please defeat this bill.

Mr. GOODLING. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, the gentleman from California [Mr. BECERRA] should have gone on and read section E, which says, an employee may withdraw an agreement described in paragraph 2(b) at any time, an employee.

Also, I say to my colleague, in the public sector at the present time the same language applies to an employer offering time. Why does somebody not ask to have an amendment to eliminate public employees from comp time? If this law is so bad, let us not make public employees suffer any longer.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Chairman, I thank the ranking member for yielding me this time.

Mr. Chairman, the key issue here in reality is that private employees are not on an equal footing with private employers. That is why they call the employer the boss. The fact of the matter is that secretaries, construction workers, textile workers are vulnerable to the employer's decision regarding comp time. Whether they want comp time or not, it becomes abundantly clear that if you want your job, you better take the comp time.

Studies have indicated that as much as 64 percent of the working population prefers overtime pay to comp time, because overtime pay sends kids to college and overtime pay helps you buy a house.

Employees in the first instance cannot decide whether they want comp time because the employer will make that decision and make it clear.

Second, they cannot decide whether they want to use the comp time, because the employer can decide, well, you will unduly disrupt my business. So all of those stories you heard about how people can go to their school plays and they can have time with their children and their sick relatives really does not apply if the employer says you cannot have it. We prefer real time.

The fact of the matter is that overtime pay is in your hands. You can spend it or not spend it. Comp time is in the boss's hands. He can tell you whether you can spend it and when you can spend it, and that is the fundamental problem. They go on to say, we have all of these employer protections. Well, you do not really have protections, because the Labor Department is already overburdened trying to enforce the minimum wage and fair labor standards. Who is going to go out and enforce all of these new laws? I do not think that that is a realistic proposal.

The fact of the matter is many of these companies are undercapitalized. When they go under, your comp time goes under. Many of these companies are fly-by-night. When they leave, your comp time leaves. The problem is that the employee cannot be adequately protected. The Labor Department does not have the adequate resources to take on these additional responsibilities.

We have a good system now that works, that protects employees and provides them with the thing they need, and that is a paycheck so that moderate income families can have additional resources. We should not compromise this with this radical comp time proposal.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

The SPEAKER pro tempore (Mr. GIBBONS) assumed the chair.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 924. An act to amend title 18, United States Code, to give further assurance to the right of victims of crime to attend and observe the trials of those accused of the crime.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested.

S.J. Res. 22. Joint resolution to express the sense of the Congress concerning the application by the Attorney General for the appointment of an independent counsel to investigate allegations of illegal fundraising in the 1996 Presidential election campaign.

The message also announced that pursuant to Public Law 104–264, the Chair, on behalf of the majority leader, appoints the following individuals to the National Civil Aviation Review Commission:

The Honorable LARRY PRESSLER, of Washington, DC; and Richard E. Smith, Jr., of Mississippi.

The message also announced that pursuant to Public Law 93–415, as amended by Public Law 102–586, the Chair, on behalf of the Democratic leader, announces the appointment of Dr. Larry K. Brendtro, of South Dakota, to serve a 2-year term on the Coordinating Council on Juvenile Justice and Delinquency Prevention.

The SPEAKER pro tempore. The Committee will resume its sitting.

WORKING FAMILIES FLEXIBILITY ACT OF 1997

The Committee resumed its sitting.

Mr. GOODLING. Mr. Chairman, I yield myself 5 seconds just to merely say that even under the worst circumstances, the employee can cash out and walk away.

Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DOOLEY].

(Mr. DOOLEY of California asked and was given permission to revise and extend his remarks.)

Mr. DOOLEY of California. Mr. Chairman, I rise today to express my support for H.R. 1, the Working Families Flexibility Act. I believe that this bill addresses an important issue facing families all over the country, the need to balance work and family.

As more and more families have two working parents, the need for flexible work schedules has become more important. However, under current law a private sector employer is not allowed to offer an employee compensatory time off in lieu of overtime pay. The availability of compensatory time for overtime work would address a real need for many working parents.

I have listened to a lot of the debate today, and I have listened to a lot of the opposition to this bill. One of my greatest frustrations is that most of this criticism is based upon an assumption that employers are evil, that they are mean-spirited people who will use any means to take advantage of their employees. I am a private sector employer, and I take personal offense and find it insulting that so many of my colleagues would contend that we are going to take advantage of the people that work for us.

I totally reject that premise and strongly believe that employers would be able to use the availability of compensatory time to help their employees voluntarily create a work schedule that meets their needs.

I also find it extremely ironic that in my congressional office with my public sector employees, I can allow a person who is working on my staff to take time off to visit or to go to a teacher's training education day or a student conference day; I can allow them that flexibility in utilizing comp time. But yet we are trying to impose a double standard on myself as an employer in the private sector, that I cannot offer that same benefit that I can offer to members of my congressional staff to have the same benefits to attend something that is very important to their families and to their children's futures.

I know that there will be a substitute amendment that will be introduced today that many of my Democratic colleagues will be supporting. But I caution them. I do not think this is the answer. While it has some modifications that are worthy, the bottom line is that we are trying to impose another mandate on employers by requiring them to provide the family medical leave another 24 hours.

This provision does not make a whole lot of sense, because if you have an employer that is offering comp time, there is no employee out there that is going to make a decision in which they are going to take unpaid family medical leave time off in lieu of the comp time.

It also is not appropriate and it is not fair for us, under the Miller substitute, to require private sector employees that are offering comp time to have to fully cash out accumulated overtime in the pay period in which they ask for it. As a private sector employer I could be facing a situation where I have an employee who might have acquired 80 hours overtime who might come into my office on a Friday and want to be cashed out and I would have to pay them that day. That is unfair. Please support H.R. 1.

Mr. CLAY. Mr. Chairman, I yield myself 20 seconds just to correct the gentleman. It would be unlawful for the gentleman from California [Mr. DOOLEY] to give overtime to his employees here on the Hill.

Also, there are no mandates in the Miller substitute, Mr. Chairman, as the previous speaker has stated.

Mr. Chairman, I yield 3 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, when I was a full-time law professor at Georgetown, one of the subjects I taught was labor law. I never thought I would live to see a debate on the House floor where we would be debating the dismemberment of the symmetry between the employer and the employee represented by the Fair Labor Standards Act.

My friends, this is one of the great statutes of the 20th century. It ranks right up there with the civil rights laws of the 1960's.

We have lost our way if the only way we can think of to bring updated benefits to workers is to trade off historic protections. This is a one-sided tradeoff. Yes, the worker can make a decision. The worker can make a decision if the worker is willing to confront the greater power of the employer, and therein lies the problem with this bill.

This bill is being proffered in the name of women, yet working women would be the last to benefit from this bill. Why? Because America's low-wage workers most in need of overtime pay are women. They are the low-wage hourly workers, because half of the workers who moonlight in America today are women, because almost all the single parents who are struggling with little or no child support are women, yet the need for flexibility is overwhelming, and it is great, and it is felt by women as well as men. There are many alternatives.

Why do we not spread some of the innovative leave benefits that Federal workers have? Leave banks where employees bank their leave for others to use when they are in need; leave transfer, a one-on-one transfer, one worker to another; the Family Friendly Leave Act, a bill I wrote, where a worker can use her own sick leave to care for a sick family member; and there are many more. We can find them together, but only if we are willing to abandon the zero-sum-game approach represented by H.R. 1. Let us do that and sit down, and write a bipartisan bill.

Mr. GOODLING. Mr. Chairman, I yield myself 10 seconds just to say in relationship to the last statement, these protections are virtually the same procedures and remedies as for violations of the Fair Labor Standards Act under the Family Medical Leave Act, signed into law, much praised by the President, and under the Age Discrimination in Employment Act are greater, greater than the National Labor Relations Act, which the lady spoke so reverently about.

□ 1400

Mr. CLAY. Mr. Chairman, I yield the balance of my time to the gentleman from Missouri [Mr. GEPHARDT], the distinguished minority leader.

The CHAIRMAN. The gentleman from Missouri [Mr. GEPHARDT] is recognized for 1 minute and 30 seconds.

(Mr. GEPHARDT asked and was given permission to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Chairman, I rise to oppose this bill today. The title of the bill or the phrase that is used to describe the bill makes it sound like a very appealing idea, the idea that workers should have the ability to have flex time to be able to change hours, to be able to have more time with their families. But when we examine the bill closely, we realize what is really happening here is a shift of power from workers to some employers; and I would never, ever say all employers, because there are many employers today, who as a matter of policy in their own business, allow flex time and work with employees to work out a way that they can spend more time with their families, but what is happening in this bill is a shift in power to those employers who want to use this as a way to get pay levels down through not paying overtime pay.

The biggest shift that has happened in our society in probably 100 years is not the television, it is not even the airplane or the computer, it is the lack of time that adults have to raise their children. So this bill could have been a bill that would be very positive in moving us in the right direction. It does not do that. I am sorry it does not do that. I wish it did do that. If it did that, I would be for it.

But it moves us in a direction that we ought not to be going. It moves us in the direction of allowing some employers who would want to use it in that way to reduce the amount of overtime pay going to employees, and not letting employees have any say in that decision.

Mr. Chairman, I urge Members to vote against this bill. I think we can do much better than this. The Family Leave Act should be amended. We should be moving in that direction. That is a very positive way to go. That leaves it within the power of employees to make those decisions. But this bill would move us in exactly the wrong direction in, again, an area that is probably more important to people than

anything I can think of. Adults spend one-third less time with children today than they did 20 years ago. We have to do something about it. This bill is not the best way to do it. I urge Members to oppose this bill.

Mr. Chairman, I rise to oppose this bill today—because it is a betrayal of the hard-working American families who endeavor daily to earn enough to feed and care for their children and keep a decent roof over their heads. Working families, because of this bill, will find that their everyday struggles will soon be repaid with time off, no pay, all at the convenience of their employers. Where I come from they call that a furlough.

I would caution everyone listening to this debate today, not to get caught up in the well-meaning, well-intentioned rhetoric of providing flexibility to hard-pressed workers who need time off to care for their families. This bill sounds like a remedy for working families, but is in fact an ill-advised panacea that will have the effect of denying workers a fair day's pay for a fair day's work.

We already know that there is a problem in the American work force of employees getting shortchanged by their employers. One business group, the Employment Policy Foundation, estimates that workers are currently being cheated out of $19 billion a year in overtime pay. One in ten of every American workers who is entitled to overtime pay do not get what they earned. And now we are asked to pass a bill that will empower businesses to make their workers work longer hours, with even less pay and have less flexibility than they have now to take time off. How can we say this helps working families?

Our Republican colleagues have already missed one opportunity today to truly help working families by denying our efforts to consider the Democratic family leave bill which makes available to parents federally protected leave for family concerns like routine doctor visits and parent-teacher conferences. If you are truly sincere in your pledge to help working families you will set aside this raid on working Americans' paychecks and reconsider your opposition to expanded family medical leave. This is a proven, successful policy enacted by Democratic votes, opposed by Republican voices, which has already helped 12 million Americans to lessen the pain and anguish in the face of a family crisis. Now let us give those families the comfort of knowing they can go to their child's school to check on his or her progress with their teachers or to the family doctor when their children or elderly parents need attention even if it is not life-threatening.

I have talked with working mothers who have to fib to their bosses to get time off just to pick their children up when they get out of school early. Others tell me they actually have to take their sick children with them to the workplace when they are too ill to go to school because there is no one to stay home and care for them. These families need to be given options to deal with their daily problems.

This bill does not offer these families a real choice. Instead of giving flexibility to workers, it gives new flexibility to employers. It does not allow employees to use comp time when the employee needs it. Where, in a proposal that would imposes new pressures on low-wage hourly workers—most of whom are women—to give up overtime pay upon which they rely to make ends meet, is there compassion for those mothers who have to make day-by-day decisions as they balance choices between caring for their a families and providing a decent standard of living for them?

Today, we need to make the compassionate and sensible choice by rejecting this bill, the Republican Paycheck Reduction Act, and work to produce an agenda that puts the working family before the corporate personnel officer who is looking at the bottom line.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Missouri [Mr. GEPHARDT] yields back 1 minute.

Mr. CLAY. Mr. Chairman, I yield back the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield the balance of my time to the gentleman from Texas [Mr. STENHOLM].

The CHAIRMAN. The gentleman from Texas [Mr. STENHOLM] is recognized for 3 minutes and 30 seconds.

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Chairman, this shows how reasonable people can have differing opinions on the same legislation. I rise in strong support of the Working Families Flexibility Act. I commend the chairman, the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from North Carolina [Mr. BALLENGER] for their work on this bill, and particularly for reaching across the aisle to address many of the concerns that have been raised about this legislation. The willingness of Chairman BALLENGER to incorporate suggestions from Members of both parties has produced a bill that I believe is deserving of strong bipartisan support.

Mr. Chairman, I fail to understand the adamant opposition to this bill here in Washington, because I do not believe that same opposition exists across the rank and file workers of our country.

This bill represents a commonsense philosophy that giving employers and employees flexibility to work together in developing work schedules benefits both the employers and employees. All of us who are concerned about the demands of balancing work and family responsibilities should make it possible for employers to offer their employees options such as comptime to deal with these demands. One of the most positive trends in the workplace embraced by employers and employees has been the growth of creative work force policies and flexible benefit plans. We should be encouraging this trend, not punishing it through inflexible labor laws.

This bill would update our 60-year-old labor laws to provide another choice in the workplace, the ability of employees to accept compensatory time off instead of overtime pay. It is important to keep in mind this bill provides for compensatory time as an option that can be chosen but is not demanded or mandated. The decision to offer or accept compensatory time arrangements is voluntary for both the employer and employee.

I have opposed and will continue to oppose all mandated leave proposals because a federally-mandated benefit can never be flexible enough to adapt to the diverse needs of employers and employees across the country. This bill provides the flexibility that will allow employers to work with their employees to develop work arrangements that allow individuals to balance their family and personal responsibilities against the demands of their jobs.

I am troubled by the argument made by some opponents of this bill that we should not pass this legislation that would provide increased flexibility for all workplaces because a few employers may abuse this option. As has already been pointed out, the bill contains several provisions protecting employees from abuse by unscrupulous employers. More importantly, I encourage my colleagues to think carefully before making a decision that will reduce the flexibility of all employers based on the example of a few bad apples.

I know many of my colleagues share my concern about the efforts of some of the media and elsewhere to exploit the misdeeds of a few public officials to attack this institution and undermine the credibility of all of us in public life. I would urge my colleagues to resist the temptation to apply this same type of unfair, broad-brush approach to businessmen and women.

I urge my colleagues to support workplace flexibility and family-friendly practices by voting for this bill.

Mr. McGOVERN. Mr. Chairman, proponents of H.R. 1, the Paycheck Reduction Act, claim that it is designed to give workers more flexibility in their lives. But this bill is not about flexibility for employees, it's about flexibility for employers. No matter how many hours of compensatory time that an employee accumulates, this bill would give their employer full control over when that time could be used, or whether that time could be used at all. Under this bill, unscrupulous employers could coerce workers into taking accumulated comptime instead of hard-earned overtime, effectively stripping workers of much-needed time-and-a-half pay.

Mr. Speaker, H.R. 1 offers no real safeguards for employees in danger of being exploited by their bosses. Employers who file for bankruptcy could leave their employees with many unused hours of comptime. Unpaid, unsolicited vacation time doesn't exactly pay the rent or feed the kids.

Working families need real flexibility, such as that offered by the Family and Medical Leave Act. Expanding this landmark piece of legislation would give 15 million more workers the flexibility they need to balance work and family—with no loss of income or control over their work schedules.

Mr. Speaker, I ask my colleagues to ask themselves a very simple question: Do we really want to eliminate the 40-hour work week? This bill is a first step toward doing just that. Let's face it: If workers get so much from this bill, why do so many oppose it? Surveys have shown that the people who really matter

in this debate—the working men and women whom this bill would affect—oppose the substitution of comptime for overtime by a margin of 3 to 1.

Mr. Speaker, this comptime bill is bad news for American workers, and I strongly urge my colleagues to reject it.

Mr. FAZIO of California. Mr. Chairman, I rise in strong opposition to H.R. 1 and encourage my colleagues to support the Democratic substitute being offered by Mr. MILLER of California.

We are all for worker and employer choice on the issue of comptime. Clearly, comptime can be a useful tool for those who would rather use the extra time to spend with their families than receive the overtime money. But that decision should be left to the employee and not be made as a unilateral decision to be made by the employer.

The President has already voiced his concern that H.R. 1 doesn't meet his standard for how comptime ought to be administered and his top advisors have recommended that he veto this bill.

This bill is a good example of how if the Republican leadership would have worked with the White House and the Democratic members on the committee on crafting bipartisan solution, we could have had unanimous support for a true comptime bill.

I am concerned that the way this legislation is drafted will allow those employers who are not inclined to pay overtime to coerce their employees either directly or indirectly by forcing them to take comptime. Further, this bill does not give or guarantee workers who do choose to take comptime the right to use it when they want or need to use it. Employers maintain control over when they want to grant comptime. Moreover, they are free to eliminate or modify comptime plans at any time without giving prior notice.

Perhaps the most egregious component of this bill is that H.R. 1 does not contain protections for workers whose employers go bankrupt or out of business, leaving them with worthless comptime. The garment, building services, construction and seasonal industries are particularly subject to thinly capitalized employers who go in and out of business quickly. Rather than dealing with this issue in a reasonable manner such as exempting such workers, H.R. 1 does nothing to address the very practical request.

I support the concept of comptime; however, in the reality of the workplace, most workers will not feel free to reject an employer's request that they take comptime in lieu of overtime pay.

Therefore, I ask my colleagues to reject H.R. 1 and send it back to committee and rework this bill so that it addresses the rights of America's working men and women.

Ms. LOFGREN. Mr. Chairman, the issue of comptime and flexible work schedules is extremely important among the workers and employers in my district, and I believe most Silicon Valley workplaces would benefit from changes in current requirements. Therefore, I would very much like to support legislation that would provide flexibility to employees and businesses, while protecting workers everywhere.

Unfortunately, H.R. 1 falls short of these objectives.

If we were certain that all employers in America would never try to be unfair to employees, then H.R. 1 would probably be a sound proposal. However, in that case, most of our labor laws would be unnecessary. Unfortunately, history has shown us that Federal labor protections such as the minimum wage, fair labor standards, workplace safety, and family and medical leave are necessary to protect many American workers.

While H.R. 1 might benefit both employees and employers in many work settings, it fails to protect many unrepresented, private sector workers in our country who are concerned about their job security, and are wary of taking actions against their employer to defend their rights. Amendments were offered in committee to improve worker protections, but unfortunately these were all defeated on party line votes. The Democratic substitute offered by Congressman MILLER includes specific provisions to ensure that comptime is voluntary, uniformly available, and more flexible for employees, and I support the Miller substitute.

I cannot support H.R. 1 as it is now written, but I am hopeful that after it is defeated, Congress will work toward useful reforms similar to Congressman MILLER's proposal. I, for one, am eager to sort through the controversial issues surrounding H.R. 1, because I would very much like to see a sound comptime bill become law in the 105th Congress.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 1, the Working Families Flexibility Act. Contrary to the title of this bill, the Working Families Flexibility Act would harm the lives of millions of America's working families.

H.R. 1 would amend the Fair Labor Standards Act to permit private sector employees to receive compensatory time off from work for work performed in excess of 40 hours. Under existing overtime laws, employees are required to receive cash wages at the rate of 1½ hours for each hour of overtime.

I oppose this bill because it fails to provide adequate safeguards to protect employees from being forced to accept compensatory time from unscupulous employers. H.R. 1 permits employers who wish to save money at the expense of their workers to coerce employees into accepting compensatory time in place of overtime pay. As a result of their unequal bargaining positions, most employees would not feel free to reject an employer's request that they take compensatory time instead of cash overtime pay.

This bill has failed to incorporate reasonable safeguards to prevent employer abuses. Furthermore, the legislation's penalties are markedly inferior to those already provided in current law. Therefore, the proponents of this bill have failed to take any substantial steps to deter employers from forcing compensatory time instead of receiving a cash payment.

Even more alarming is language contained in H.R. 1 which permits an employer the authority to cancel an offer of compensatory time if the employer decides that the worker's time off would unduly disrupt the operations of the employer. Therefore, employers would have complete discretion over when compensatory time may be used.

In addition, this legislation does not safeguard workers who prefer to receive overtime pay from discrimination by management when future overtime work is available. This would enable an employer to only offer overtime work to employees who had previously accepted compensatory time. This is extremely unjust, and would have a particularly harmful effect on unskilled, low-wage workers.

In fact, millions of workers depend on overtime pay just to maintain a decent standard of living. Although these workers may need to receive overtime pay, they may feel threatened by employers to receive compensatory time instead. Moreover, those employees who openly elect to receive overtime pay may be blackballed by employers so as to no longer receive overtime work. Employers may then elect to give overtime work to those individuals requesting compensatory time.

The administration has threatened to veto H.R. 1 because it weakens employees' rights and provides no protection against employer abuse. Fair and reasonable compensatory time legislation must provide real choices for employees and preserve basic worker rights. This bill does neither.

Mr. Speaker, H.R. 1, the Working Families Flexibility Act will hurt America's families. I urge my colleagues to join me in opposing this unjust legislation.

Mr. WELDON of Florida. Mr. Chairman, we have heard a lot of emotional rhetoric today that quite frankly has added little to the discussion of the real issues before us. I want to return the attention of the debate to the bill.

What is the Working Families Flexibility Act, and how would it impact regular Americans who go to work every day, pay taxes, and are torn between work and family? There are two questions that must be asked: Will this bill give employees flexibility to spend more time with their families? Does the bill ensure that the decision over whether to take compensatory time or overtime pay rests with the employee?

What we are about today is giving private sector employees the same right to work flexible hours that Federal, State, and local government workers have enjoyed for more than a decade. Most Government workers I have talked to like and want this type of flexibility, and it is wrong to deny private sector employees these same rights.

Specifically, the bill before us states that employers are allowed to offer their employee a choice of receiving overtime compensation—for every hour worked over 40 hours in a 7-day period—in the form of 1½ hours of paid time off or 1½ hours of cash wages.

Back in 1938, a Federal labor law was put in place that requires employers to pay overtime pay with no option for giving flexible compensatory time instead. When this was put in place—59 years ago—most families had a parent who worked away from home and another who stayed at home. Today, in 60 percent of homes, both spouses work away from home. This is up by over 36 percent in just the past 25 years.

With more and more parents working outside of the home, survey after survey of American workers shows that Americans are increasingly torn between work and home and a more flexible work schedule is their top priority.

Why should we continue to deny private sector workers the flexibility they want and need? The Working Families Flexibility Act is about allowing parents to choose to spend more time with their children.

Too often our society places too much value on money and too little on relationships with a spouse and children. Too many families around us are falling apart. Too many families

want to spend more time with their children, but are denied this right because of a 60-year-old outdated law.

Opponents of the bill have raised the question of whether the decision on whether or not to take compensatory time or overtime pay rests with the employee. I agree fully that this decision must rest with the employee.

The bill before us has many provisions that guarantee that this decision rests with the employee alone, not the employer. In fact, the Working Families Flexibility Act offers private sector employees more protections than Government workers have today.

The bill makes it illegal for an employer to pressure employees to take compensatory time rather than overtime pay. Any employer who coerces, requires, or even attempts to pressure an employee to take compensatory time rather than overtime pay is subject to penalties which include double the amount in wages owed plus attorneys fees and cost. Also, civil and criminal penalties apply. The fact that civil and criminal penalties apply is guarantee enough to ensure that employees are the ones making this decision.

Finally, I must say that I am disappointed that the loudest opposition to this bill has come from Washington labor leaders. I'm afraid that in their attempt to stir anti-Republican sentiment and scare the American worker, it is the American worker who is struggling to balance time between work and family that will suffer without passage of this bill. Additionally, I would point out that the bill before us specifically protects collective bargaining agreements. Those governed by such agreements are free to set their own collective bargaining arrangements.

Clearly the Working Families Flexibility Act provides employees with the type of flexibility they want and it is clear that there are plenty of protections to ensure that this decision rests with the employee alone.

Mr. RUSH. Mr. Chairman, I speak today in strong opposition to H.R. 1, a bill to amend the Fair Labor Standards Act of 1938 to provide compensatory time for workers in the private sector.

This bill represents a draconian piece of legislation. It is aimed at dismantling basic protections for hourly workers—protections that were won nearly 60 years ago by organized labor. H.R. 1 poses a serious threat to the basic concept of the 40-hour workweek and requirements that hourly workers are paid overtime.

Unfortunately, many of my colleagues and the media are trying to portray this initiative as being prowomen, profamily, and proflexibility. In reality, H.R. 1 is extremely antiworker and antifamily.

H.R. 1 is dangerous because it opens the doors for employers to avoid paying hourly workers overtime. Therefore, H.R. 1 threatens to reduce the income and standard of living for working families. Millions of hourly workers, predominantly women, people of color, and people with disabilities, depend on overtime pay to maintain a decent standard of living of their families. H.R. 1 would allow employers to avoid paying overtime.

H.R. 1 is particularly onerous because of mounting evidence that privatization is plunging hourly workers and their families closer to the edge of poverty. A recent study by the Chicago Institute on Urban Poverty examined the impact of contracting out the work performed by entry-level employees in 12 job categories. After privatization, wages and benefits fell 25 to nearly 50 percent, and half of the job titles studied each lost $10,000 or more in annual wages.

H.R. 1 is anything but family friendly. Under the proposed law, employers have the power to constantly change a person's work schedule—60 hours 1 week, 20 the next—without any requirement to pay overtime. Can you imagine how difficult it would be for a parent or other caretaker to arrange child care to plan time with their families under these conditions?

Under the Republican bill, management, not workers, hold the power to decide when it is most convenient for workers to take their comptime.

Instead of considering H.R. 1, I urge my colleagues on both sides of the aisle, to pass legislation that expands the Family and Medical Leave Act. That is why I am a cosponsor of H.R. 234, the Family and Medical Leave Enhancement Act, introduced by my colleague from New York, Congresswoman CAROLYN MALONEY. H.R. 234 will allow workers to take unpaid leave to seek medical care for their children or elderly parents, or to participate in their children's education. And more important, it allows workers to have a voice in decisions about when they can take time off from work without risking their overtime pay.

The 104th Congress is already remembered for turning back the clock for working people when it passed welfare reform—abandoning a 60-year Federal commitment to helping those in need. Let us make sure that the 105th Congress does not go down in history for overturning another Federal guarantee to working people that has been in place nearly 60 years—the right to overtime pay.

Mr. KLECZKA. Mr. Chairman, I rise today in strong opposition to H.R. 1, the so-called Working Families Flexibility Act. this title could not be more untrue. A more appropriate title for this family unfriendly legislation is the Paycheck Reduction Act, because that is exactly what will happen to families if this bill passes.

H.R. 1 will allow employers to give their workers 1½ hours of compensatory time for every hour worked, instead of paying them time and a half. Employees stand to lost a great deal of money if this bill becomes law. They will not only lose their overtime pay, but also the money that would have otherwise been paid for their Social Security and unemployment benefits. While it is important that working fathers and mothers be allowed time off to go to their child's soccer game or see them in the school play, it is equally important to see that this is accomplished in a way that benefits the working parents, and not just their bosses.

Employers already have a great deal of flexibility under the Fair Labor Standards Act to accommodate their workers' requests for time off for family or personal matters. In addition, workers today already have the opportunity to take unpaid leave under the Family and Medical Leave Act. This bill does not even guarantee that employers will grant time off for workers who choose to earn comptime instead of overtime pay. Only employers will have more flexibility under this act. When it comes time to decide which employees to give overtime work to, employers will always choose those who just want comptime over those that rightly want time and a half pay.

Last year, the U.S. Department of Labor handled over 60,000 cases that dealt with the loss of overtime pay. These workers were cheated out of millions of dollars. We should not validate this unfair, illegal practice by changing the law to allow employers to deny overtime pay. Last month, during a Senate hearing on comptime legislation, a lobbyist for the National Federation of Independent Business stated that small business ''can't afford to pay their employees overtime. This flextime is something they can offer in exchange that gives them a benefit.'' this lobbyist conformed that employers have no intention of paying their workers time and a half when they can require them to work without pay instead.

Our working men and women deserve better. They deserve pay for the overtime that they earn, instead of comptime that they can use only when their employer allows them to take it. I hope that my colleagues will join me in voting against this bill, which is an outright attack on the pocket books of American workers.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in opposition to H.R. 1 the Paycheck Reduction Act of 1997, any proposed change in the workplace rules regarding overtime pay or compensatory time that does not take into consideration the rights of working Americans to equal and fair pay should not become the law of this Nation.

H.R. 1 is a pay cut for America's workers. A working mother, for example, who puts in 47.5 hours per week at $6 an hour will earn $307.50. Substituting comptime for overtime pay, however, will leave her with just $240 per week—a 22 percent pay cut.

Any offers of what some would describe as voluntary compensatory time for workers should include protections which ensure that it is indeed voluntary.

In fiscal year 1996, the same year this body passed the first increase in the minimum wage in nearly a decade, the Department of Labor had 13,687 compliance actions of disclosed overtime violations. These represented nearly 50 percent of those in which FLSA minimum wage overtime monetary violations were found. The Wage and Hour Division found just over $100 million in backwages due to overtime violations owning to nearly 170,000 workers.

Unfortunately, all too often when the debate on the floor of this body shifts, it cuts harshest into the American worker's ability to earn a livable wage, against his or her right to a safe work environment, or into the necessity of receiving just compensation for the work that they perform.

If we as Representatives of working Americans are going to talk about how best to help the working families of this country, we must make it our first priority to ensure that they receive fair compensation for their work. H.R. 1 as it is currently written will not ensure that workers who depend on overtime pay receive it if they do not wish to receive compensatory time.

Those wage and hour violations involved a little more than one-half of 1 percent of all 6.5 million employers in the United States. For the sake of the 170,000 known workers who were affected by criminal overtime policies, we should not act without providing insurance that they will not fall victim again due to anything we might accomplish today.

We should keep in mind the need to ensure that employers are barred from denying a reasonable request for time off, that workers do not lose money because compensatory time is not credited for unemployment, pension, or Social Security. We must have absolute certainty that the most vulnerable to overtime violations—temporary, seasonal, part-time, and construction workers—are protected, and that employees have a direct remedy if an employer without just cause denies a request for compensatory time. The employer must be required to notify employees of their rights under any new law dealing with compensatory time. Finally, there must be penalties for noncompliance with any compensatory time law by employers who may attempt to take advantage of employees who have worked in good faith in expectation of comptime.

Ms. VELÁZQUEZ. Mr. Chairman, my colleagues, I am amazed at how far the Republican majority will go to keep hardworking American families in poverty. The Paycheck Reduction Act is their latest in a string of anti-family and anti-child proposals. The Miller substitute protects pay, benefits and time for working families. I urge all of you to support the Miller substitute and oppose H.R. 1.

This bill—on top of last year's welfare reform—will only make the difficult lives of working mothers a nightmare. The reality is that they already have a huge struggle. Many work two or three jobs just to make ends meet and keep their families together.

Consider a mom who puts in a 47 hour work week at $6 an hour. She will earn $308.00. By substituting comp time for overtime, she will only bring home $240.00—a 22 percent pay cut. This is simply a price most families cannot afford. Faced with less money in their pay check, they will have to scrimp for even the most basic necessities.

Worse of all, comp time will not be voluntary. Do you truly believe a parent will be allowed to use the time when they need it most? Clearly, the majority cares more about making sweet heart deals with the privileged than helping hard working employees.

My colleagues, overtime is important to so many working families and their children. We, here in Congress, should not be undermining their standard of living. Support the Miller Substitute. Vote No on the Pay Check Reduction Act.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, H.R. 1 is bad for working women!

Families need flexibility! However, H.R. 1 is not the way to reach employee flexibility. Flexibility would allow employees to decide when to take comp time off. H.R. 1, on the other hand, extends that flexibility to the employer.

The truth is, under H.R. 1, an employer has no obligation to grant a request for a specific time off. Further, the unduly disrupts language takes away even more flexibility from the employee. Employers may use this provision to the disadvantage of the employees when there is no serious injury to the work environment. Therefore, employers may actually punish employees with the selective use of comp time.

H.R. 1 is not the answer. What is the answer? The Family and Medical Leave Act should be expanded to give working families basic protection.

Families also need paycheck protection! Two-thirds of American workers oppose substituting comp time for overtime pay.

This bill will affect wage hour earners. 70 percent of those make $10 an hour and under. The reality is that families in this income bracket do not have much discretionary income and may find it extremely difficult to postpone receipt of their paychecks.

Under H.R. 1 if an employee requests comptime and later chooses overtime pay, the employer may retain his earnings for 30 days. In addition, the use of comptime is not counted as hours worked.

Employees will lose money that would have otherwise been contributed toward Social Security and unemployment benefits.

I support employee flexibility. I even support comptime as long as workers rights are not infringed upon. However, in the interest of the hundreds of thousands of working constituents in my district, I cannot support H.R. 1.

Mr. PACKARD. Mr. Chairman, imagine not being able to attend your son's graduation or your daughter's parent-teacher conference because you could not get the time off of work. Graduations, birthday parties and family reunions are the moments that we live for. If we let these priceless moments slip away, they will be forever lost.

I know that families are working harder than ever before. Parents today put in many more hours than they did just a few decades ago to purchase the basic necessities. In addition, Moms and Dads are finding it increasingly difficult to balance work and family responsibilities. Between getting the kids off to school, making sure that dinner is on the table, paying the bills and walking the dog, there are but a precious few moments for family time.

Mr. Speaker, I understand the trade-off between time at home and time spent at work which many couples must endure. As a father of seven, I know that we want the best and the most for our children. This is why I am supporting legislation to amend outdated federal law to provide more work schedule flexibility. This will allow families more time to take their children to the doctor, to drive them to soccer practice and to attend the school play.

H.R. 1, the Working Families Flexibility Act, will allow employers the option of offering their employees the choice of paid time off in lieu of cash wages for overtime hours worked. As with cash overtime pay, compensatory time would accrue at a rate of one-and-one-half times the employee's regular rate of pay for each hour worked over 40 within a 7-day period.

I believe that the Working Families Flexibility Act offers a workable solution for both employers and employees who are attempting to achieve this balance. It will strive to improve the quality of life for our citizens while working to provide them with the precious time and opportunity to spend with their families.

Mr. CUNNINGHAM. Mr. Chairman, I rise in support of the Working Families Flexibility Act (H.R. 1). I am a proud original cosponsor of this measure, which I believe is one of the most profamily, proemployee bills ever to come before Congress.

In San Diego County, families work hard to make ends meet. They have some of the country's longest commutes. They struggle to make time with their children. According to a Yankelovich poll cited in the June 16, 1996, Wall Street Journal, 62 percent of parents believed their families had been hurt by changes they had experienced at work, such as more stress or longer hours. And the Department of Labor finds that 70 percent of working women with children cite balancing work and family responsibilities as their No. 1 concern.

Families want more flexibility in their work schedules, to help accommodate soccer games, school awards, or just time with the children.

That's why the Working Families Flexibility Act is so important. Given the fact that many employees are working overtime, the Working Families Flexibility Act brings the Fair Labor Standards Act into the 1990's. It gives employees a choice: get paid time and a half, or take time and a half off with the family. All that's needed is a mutual agreement between the employer and the employee. As amended, workers can accumulate up to 160 hours of comptime. Any comptime that is not taken must be paid at time and a half. And all comptime must be cashed-out once a year into time-and-a-half pay, or when the employer requests it.

This is the right thing to do. Three out of five workers working overtime would like to take comptime instead of time-and-a-half pay.

Interestingly enough, Congress granted similar flexibility to public sector employers in 1985. But the private sector and small businesses are prohibited by the FLSA from offering this kind of family friendly flexibility to their own employees. If this kind of flexibility is good enough for government employees, it's good enough for the rest of America.

During the previous Congress, President Clinton joined the bandwagon in support of more flexibility in family work schedules. His proposal is represented by the substitute being offered by my colleague from California, Mr. MILLER. But the Clinton-Miller proposal does not do the job for America's working families. It creates unnecessary bureaucratic paperwork for employers. And it does not allow employees to bank any sizeable amount of their comptime, as the Working Families Flexibility Act does. Nevertheless, we appreciate the President's interest, and look forward to eventually having his support for this popular and bipartisan legislation.

The Working Families Flexibility Act gives working families a better chance to get what they want and what they need: Time with their children, with their family, friends, and loved ones. It includes important protections for employees and employers. It is a balanced, reasonable approach to the work and family environment of the 1990's. I urge all Members to support it, because families support it, too.

Mr. LUTHER. Mr. Chairman, I strongly support the Paperwork Elimination Act. This legislation has again passed the House Small Business Committee with unanimous bipartisan support. It was one of the top recommendations of the 1995 White House Conference on Small Business and builds on the success the 104th Congress had in reducing Federal paperwork demands on our Nation's small businesses.

I think members of both parties can agree that Federal paperwork demands on small businesses have become too expensive, time consuming, and burdensome. It is estimated that business owners and ordinary citizens spend 6 billion hours per year responding to Federal reporting requirements ranging from employment forms from the Bureau of Labor

Statistics to Internal Revenue Service returns. This time could be better spent developing new business initiatives that would lead to increased economic activity and job growth.

Having worked in and with small businesses for years, I have come to appreciate the frustrations small business owners feel when it comes to dealing with excessive Federal regulations. As I travel throughout Minnesota's sixth district, one of the most common complaints I hear from small business owners is how paperwork costs associated with complying with Federal regulations are hurting their ability to compete. We must recognize that small businesses often do not have the resources to keep pace with new and rapidly changing regulations.

H.R. 852 provides businesses with the option of electronically submitting information required to comply with Federal regulations. Small businesses and individuals can now send and receive mail, complete their financial transactions, and read magazines and newspapers from their own personal computers. There is no reason why businesses should not have the option of completing Federal Government forms by computer, so that interaction with the Federal Government becomes a more positive experience for business owners.

As a member of the Small Business Committee, I urge support for this legislation to reduce the paperwork burden on small businesses as they attempt to meet the Federal Government's information demands. Thank you.

Mrs. LOWEY. Mr. Chairman, I rise in strong opposition to H.R. 1, the so-called comptime legislation and in support of the Miller substitute. America's workers need to know that this bill is a sham. It would effectively eliminate workers' fundamental guarantee of overtime pay—without providing any genuine flexibility in return.

I think every Member in this Chamber supports greater flexibility for working men and women. I raised three kids while working. I know how important it is for working parents to be there for their family.

Some working parents out there may be learning about this legislation for the first time, and may be saying to themselves, ''This bill means I could attend my child's first school play, or high school basketball championship.'' Unfortunately, it is not that simple.

Under this bill, it would be too easy for an employer to coerce employees to take comptime instead of the overtime pay so many families depend upon. And under this bill, a worker who agrees to comptime instead of overtime pay—whether by choice or by force—has no guarantee they can use the time they earned when they need it most. Mr. Chairman, where is the flexibility?

My colleagues and I who oppose this bill want to make clear how a genuinely family friendly law would work. A profamily law, unlike this one, would give the employee—not the employer—the choice between time off and overtime pay. It would allow the employee—not the boss—to choose when to use comptime. Unfortunately, this bill fails to meet this fundamental standard.

Frankly, this bill is a step backward for working parents. It takes away important worker protections and could mean a paycut for too many families. I urge my colleagues to vote against H.R. 1, and vote for the Miller substitute.

Ms. BROWN of Florida. Mr. Chairman, H.R. 1, the Working Families Flexibility Act of 1997 is also known as the Pay Reduction Act.

Today, millions of workers depend on overtime pay—just to feed their families and keep a roof over their heads. How cruel to consider this overtime pay as optional. Today too many people depend on overtime pay to survive. Their survival is not optional.

It is employers—not employees—who get grater flexibility from this bill. The bill does not contain necessary safeguards to assure that the employee's decision to accept comptime is truly voluntary

The overtime provisions in the Fair Labor Standards Act both protect workers from excessive demands for overtime work, and, by requiring premium pay for overtime, provide an incentive for businesses to create additional jobs.

There is no doubt that American workers prefer pay for their overtime work—instead of comptime. Unfortunately, too many do not get paid. The Employment Policy Foundation, a think tank supported by employers, estimates that workers lose $19 billion a year in overtime pay due to violations of the Fair Labor Standards Act.

Mr. KOLBE. Mr. Chairman, I rise in strong support of H.R. 1, the Working Families Flexibility Act of 1997. It is time that we grant private sector employees one of the benefits that many public sector employees have enjoyed for a long time. I congratulate the gentleman from North Carolina for bringing this bill to the floor for our consideration.

Mr. Chairman, one of the concerns I hear most often, in this era of the dual income family, is being able to balance children's needs with those of the job. For too long, employers who want to be flexible have been hamstrung by rules made for a bygone era. Finally, we are about to offer the tools to make life better for those families.

This bill would allow a working mother to bank sufficient overtime hours in a compensatory time account to accompany the Girl Scout troop on their weekend camping trip which leaves immediately after school on Friday. She could bank enough hours to take time off to meet with the teacher about her daughter's progress. And certainly there could be hours to use to take care of the inevitable orthodontist appointments and doctors' appointments. She wouldn't have to take time off from work without pay to attend to these needs.

But for those men and women who would benefit more from additional cash, receiving overtime pay at the rate of 1½ hours for every hour worked would remain the standard. No one would be forced to take time off instead of taking overtime pay. Compensatory time is a modification to the overtime for pay rule that must be agreeable to both employee and employer. Employers don't have to offer compensatory time and employees don't have to accept compensatory time instead of overtime pay.

Mr. Chairman, I cannot imagine why some people try to make this sound like a bad deal for employees. The Acting Secretary of Labor states: ''Any comp time legislation must effectively and satisfactorily address three fundamental principles: real choice for employees; real protection against employer abuse; and preservation of basic worker rights including the 40-hour workweek.'' And this bill meets all of those criteria. Obviously, it offers real choice for employees, because employees may choose whether or not to accept compensatory time if it is offered. Currently, there is no choice. The bill clearly protects against abuse. It states specifically that an employer may not intimidate, threaten or coerce any employee for the purpose of interfering with the right to choose compensatory time or payment of monetary overtime and it sets out penalties, payable to the employee. And finally it preserves, and enhances, basic worker rights including the 40-hour workweek. It actually allows private sector employees the same rights available to those represented by unions or who work in the public sector. It does not affect, in any way, the 40-hour workweek.

Further, it does not infringe on union powers because it does not apply to those workplaces represented by a union. All those benefits are covered by a collective bargaining agreement. Incidentally, compensatory time is one of the most commonly negotiated benefits for union employees.

I urge my colleagues to join me in voting for H.R. 1. This is a bill for our working families. To again quote the Acting Secretary of Labor: ''Workers—not employers—must be able to decide how best to meet the current needs of their families.'' It is a bill I am proud to support.

Mr. SMITH of Texas. Mr. Chairman, if you want to make the workplace more family friendly, vote for the Working Families Flexibility Act.

This bill provides working mothers and fathers with more choice and flexibility. It provides workers with the choice of comptime pay or overtime. This option allows employees to balance family needs and career needs.

There are some things that money can't buy—time with your children, your parents, or your spouse. Comptime allows workers to buy more of all of these things.

If you want to free working families from the shackles of big government, vote for the Working Families Flexibility Act. This bill will make workplaces more flexible in the 21st century.

If you believe that Congress should live under the same laws that govern the private sector, vote for the Working Families Flexibility Act. Since 1985, Federal, State, and local governments have been able to offer their employees comp time. Shouldn't private-sector employees have this same option? This bill says yes.

Vote for our families. Vote for flexibility. Support the Working Families Flexibility Act—for our families, our workers, and our children.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule, and shall be considered as having been read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Working Families Flexibility Act of 1997''.

SEC. 2. COMPENSATORY TIME.

Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:

''(r) COMPENSATORY TIME OFF FOR PRIVATE EMPLOYEES.—

''(1) GENERAL RULE.—

''(A) COMPENSATORY TIME OFF.—An employee may receive, in accordance with this subsection and in lieu of monetary overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which overtime compensation is required by this section.

''(B) DEFINITION.—For purposes of this subsection, the term 'employee' does not include an employee of a public agency.

''(2) CONDITIONS.—An employer may provide compensatory time to employees under paragraph (1)(A) only if such time is provided in accordance with—

''(A) applicable provisions of a collective bargaining agreement between the employer and the labor organization which has been certified or recognized as the representative of the employees under applicable law, or

''(B) in the case of employees who are not represented by a labor organization which has been certified as recognized as the representative of such employees under applicable law, an agreement arrived at between the employer and employee before the performance of the work and affirmed by a written or otherwise verifiable record maintained in accordance with section 11(c)—

''(i) in which the employer has offered and the employee has chosen to receive compensatory time in lieu of monetary overtime compensation; and

''(ii) entered into knowingly and voluntarily by such employees and not as a condition of employment.

''(3) HOUR LIMIT.—

''(A) MAXIMUM HOURS.—An employee may accrue not more than 240 hours of compensatory time.

''(B) COMPENSATION DATE.—Not later than January 31 of each calendar year, the employee's employer shall provide monetary compensation for any unused compensatory time off accrued during the preceding calendar year which was not used prior to December 31 of the preceding year at the rate prescribed by paragraph (6). An employer may designate and communicate to the employer's employees a 12-month period other than the calendar year, in which case such compensation shall be provided not later than 31 days after the end of such 12-month period.

''(C) EXCESS OF 80 HOURS.—The employer may provide monetary compensation for an employee's unused compensatory time in excess of 80 hours at any time after giving the employee at least 30 days notice. Such compensation shall be provided at the rate prescribed by paragraph (6).

''(D) POLICY.—Except where a collective bargaining agreement provides otherwise, an employer which has adopted a policy offering compensatory time to employees may discontinue such policy upon giving employees 30 days notice.

''(E) WRITTEN REQUEST.—An employee may withdraw an agreement described in paragraph (2)(B) at any time. An employee may also request in writing that monetary compensation be provided, at any time, for all compensatory time accrued which has not yet been used. Within 30 days of receiving the written request, the employer shall provide the employee the monetary compensation due in accordance with paragraph (6).

''(4) PRIVATE EMPLOYER ACTIONS.—An employer which provides compensatory time under paragraph (1) to employees shall not directly or indirectly intimidate, threaten, or coerce or attempt to intimidate, threaten, or coerce any employee for the purpose of—

''(A) interfering with such employee's rights under this subsection to request or not request compensatory time off in lieu of payment of monetary overtime compensation for overtime hours; or

''(B) requiring any employee to use such compensatory time.

''(5) TERMINATION OF EMPLOYMENT.—An employee who has accrued compensatory time off authorized to be provided under paragraph (1) shall, upon the voluntary or involuntary termination of employment, be paid for the unused compensatory time in accordance with paragraph (6).

''(6) RATE OF COMPENSATION.—

''(A) GENERAL RULE.—If compensation is to be paid to an employee for accrued compensatory time off, such compensation shall be paid at a rate of compensation not less than—

''(i) the regular rate received by such employee when the compensatory time was earned, or

''(ii) the final regular rate received by such employee,

whichever is higher.

''(B) CONSIDERATION OF PAYMENT.—Any payment owed to an employee under this subsection for unused compensatory time shall be considered unpaid overtime compensation.

''(7) USE OF TIME.—An employee—

''(A) who has accrued compensatory time off authorized to be provided under paragraph (1), and

''(B) who has requested the use of such compensatory time,

shall be permitted by the employee's employer to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the employer.

''(8) DEFINITIONS.—The terms 'overtime compensation' and 'compensatory time' shall have the meanings given such terms by subsection (o)(7).''.

SEC. 3. REMEDIES.

Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended—

(1) in subsection (b), by striking ''(b) Any employer'' and inserting ''(b) Except as provided in subsection (f), any employer''; and

(2) by adding at the end the following:

''(f) An employer which violates section 7(r)(4) shall be liable to the employee affected in the amount of the rate of compensation (determined in accordance with section 7(r)(6)(A)) for each hour of compensatory time accrued by the employee and in an additional equal amount as liquidated damages reduced by the amount of such rate of compensation for each hour of compensatory time used by such employee.''.

SEC. 4. NOTICE TO EMPLOYEES.

Not later than 30 days after the date of the enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations published at 29 C.F.R. 516.4, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 to employees so that such notice reflects the amendments made to such Act by this Act.

The CHAIRMAN. No amendments shall be in order except those printed in House Report 105–31, which may be considered only in the order specified, may be offered only by a Member designated in the report, shall be considered as having been read, shall be debated for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

An amendment designated to be offered by the gentleman from Pennsylvania [Mr. GOODLING] or his designee may be offered en bloc with one or more other such amendments.

It is now in order to consider amendment No. 1 printed in House Report 105–31.

AMENDMENTS EN BLOC OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, pursuant to the rule, I offer amendments en bloc numbered 1 and 2.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. GOODLING:

Page 4, insert after line 10 the following:

No employee may receive or agree to receive compensatory time off under this subsection unless the employee has worked at least 1000 hours for the employee's employer during a period of continuous employment with the employer in the 12 month period before the date of agreement or receipt of compensatory time off.

Page 4, line 13, strike ''240'' and insert ''160''.

The CHAIRMAN. Without objection, the time for debate will be combined.

There was no objection.

Pursuant to House Resolution 99, the gentleman from Pennsylvania [Mr. GOODLING] and a Member opposed each will be recognized to control 10 minutes.

Does the gentleman from Missouri [Mr. CLAY] rise in opposition?

Mr. CLAY. No, Mr. Chairman, I do not, but I ask unanimous consent to claim the time allocated in opposition to the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. The gentleman from Missouri [Mr. CLAY] will be recognized to control 10 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the first amendment would require that an employee have worked at least 1,000 hours in a period of continuous employment with the employer in the 12-month period preceding the date the employee agrees to receive or receives compensatorytime off. For example, an employee would be eligible to receive comptime if he or she worked 40 hours a week for about 6 months with one employer or 20 hours a week for 12 months with one employer.

The second amendment would limit the number of hours' comp time that an employee could accrue to 160 hours. The bill reported from the committee had allowed an employee to accrue a maximum of 240 hours. Again, this amendment is designed to address some of the concerns, both of these amendments, that were registered during our markup.

Mr. Chairman, I reserve the balance of my time.

Mr. CLAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment makes very minor improvements in a very bad bill. H.R. 1 fails to protect vulnerable workers. It fails to safeguard employee wages. It encourages the abandonment of existing paid leave policies, and it invites further violations of the overtime law. The amendments before us exempt some part-time and seasonal workers. Many other workers who are not exempted remain subject to abuse.

H.R. 1 holds out the very real potential that a worker will be cheated out of 6 weeks of wages. The amendment before us limits that amount to 4 weeks of wages. Mr. Chairman, H.R. 1, with or without this amendment, is fatally flawed. It deserves to be defeated. However, I will accept the amendment because it provides very minor improvements in the underlying bill.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. PETRI], a member of the Committee.

Mr. PETRI. Mr. Chairman, I thank my colleague for yielding time to me.

Mr. Chairman, I rise in support of this amendment. As Members know, there has been a long debate over exempting certain industries from provisions of this bill. Construction workers and other seasonal employees, for example, often work on short-term projects and frequently change employers. As they move from job to job, it is unlikely these workers will ever be able to use comptime.

It has been pointed out that violations of overtime requirements typically are more likely to occur in these types of employment situations as well. Making comptime an option in industries where the relationship between the employer and the employee is transitory may in fact make it easier for unscrupulous employers to avoid paying overtime wages.

It is much better for both employers and employees to require, as this amendment does, that workers put in at least 1,000 hours over a 12-month period of continuous employment to be eligible for comp time. This amendment does that, and thus would ensure that an employee has a substantial relationship with an employer before the option of earning paid compensatory time in lieu of overtime wages can be made available.

This requirement will also help ensure that any agreement to receive compensatory time instead of overtime wages is made on equal terms. By adding this important provision, I believe that this amendment would substantially enhance the protections of this bill, and I would urge all of my colleagues to support it.

Mr. GOODLING. Mr. Chairman, I yield myself 1 minute.

In the first amendment, Mr. Chairman, we are dealing with the issue some raised that migrant workers could be hurt, construction workers perhaps, so we are dealing with that issue.

In the second there were those who were concerned that if you accrued too many hours and somebody went belly up, you would have all these accrued hours. Of course, we are reducing that, but nevertheless in bankruptcy, of course, wages and benefits are always one of that very top level that you deal with when you start going through the bankruptcy procedure. So I think we have accomplished in both instances what people were concerned about.

Mr. CLAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to say this bill does not apply to any bankruptcy cases. Once again, I would say that I will accept the amendment. Of course, I will oppose the final passage.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLING. I yield back the balance of my time Mr. Chairman.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Pennsylvania [Mr. GOODLING].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GOODLING. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 408, noes 19, not voting 5, as follows:

[Roll No. 55]

AYES—408

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeFazio
DeGette
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schiff
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stark
Stearns
Stenholm
Stokes
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Upton
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOES—19

Campbell	Klink	Schaffer, Bob
Davis (IL)	Kucinich	Strickland
Delahunt	McKinney	Towns
Forbes	Neal	Velazquez
Hefley	Owens	Watt (NC)
Herger	Paul	
Hunter	Rush	

NOT VOTING—5

Carson	Rogan	Taylor (NC)
Kaptur	Spratt	

□ 1430

Mr. HERGER changed his vote from ''aye'' to ''no.''

Messrs. METCALF, SANDERS, ALLEN, CONYERS, and UPTON changed their vote from ''no'' to ''aye.''

So the amendments en bloc were agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 105–31.

PERSONAL EXPLANATION

Mr. ROGAN. Mr. Chairman, on rollcall No. 55, had I been present, I would have voted ''yes.''

AMENDMENT OFFERED BY MR. BOYD

Mr. BOYD. Mr. Chairman, pursuant to the rule, as the Chairman's designee, I offer amendment No. 3.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. BOYD:

Page 9, add after line 2 the following:

SEC. 2. SUNSET.

This Act and the amendments made by this Act shall expire 5 years after the date of the enactment of this Act.

The CHAIRMAN. Pursuant to House Resolution 99, the gentleman from Florida [Mr. BOYD] and a Member opposed will each control 5 minutes.

Mr. CLAY. Mr. Chairman, I am not opposed to the amendment, but I ask unanimous consent to claim the time allocated in opposition to the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. The gentleman from Missouri [Mr. CLAY] will be recognized to control the 5 minutes.

The Chair now recognizes the gentleman from Florida [Mr. BOYD].

Mr. BOYD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment simply puts in place a 5-year sunset, which at the end of that time will cause us, as a Congress, to review this act.

I have listened to the arguments over the last few weeks and read a lot about the arguments, and I think that in a perfect world, and if this bill works like it is supposed to, it will be a great piece of legislation to strengthen the relationship between employers and employees. Certainly, in its ideal form, H.R. 1 will allow workers and employees the flexibility to make decisions that will both strengthen families and build a better workplace.

By putting in place a 5-year sunset provision, the amendment ensures future congressional review of this act. We are sending a message, a positive message, to employers that we are serious about making this act work. We are placing a great deal of trust in our employees and employers to come together in this act.

The changing workplace and the changing dynamics that exist in two-income families make it essential that workers and employers forge an alliance. By ensuring congressional review of this act, those who remain concerned about protecting workers can assess the success of this act and make future adjustments, if necessary.

The changing workplace demands that we seek new solutions to problems. I believe that compensatory time flexibility will prove to be something that is valued by both workers and employers. If it does not work like it is supposed to, this sunset act will certainly give us the opportunity in the future to review that and make the necessary changes.

Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in support of this amendment.

In the spirit of the debate on both sides of the question, if this is as bad as some of my colleagues say it is, then we sunset it in 5 years. If it is not, then this Congress can, in fact, make other reasonable adjustments to the subject at hand.

I continue to fail to understand why anybody would object to this legislation in its current form, but this amendment, we think, addresses many of the concerns by saying we are not going to do it forever if it turns out to be bad. We will, in 5 years, sunset it, and then we will not do the irreparable harm that we hear from so many who have been against this bill today.

Mr. Chairman, I rise in support of the Boyd amendment, and want to compliment him for his constructive proposal.

Many concerns have been raised about how employers may abuse the flexibility they are granted under this bill. I disagree with the views held by the opponents of this bill, but I respect their opinion. I readily admit that none of us can know for certain exactly what impact this bill will have. The Boyd amendment strikes a reasonable balance that allows us to let this good idea go forward for a test period. If the bill has half as many problems as the opponents claim it will have, and employers abuse it half as much as we have been led to believe, Congress will never reauthorize it. However, I believe that this bill will work to give employers and employees increased flexibility and that after it has been in effect for 5 years it will have earned even stronger support from employers and employees than it has today.

The significance of this amendment should not be underestimated. This amendment will require Congress to come back and review this act in 5 years. Those of us who support this legislation will have the burden to demonstrate that the law has worked as we anticipated. I believe that this approach of sunsetting legislation and requiring Congress to review how the laws we pass actually work in the real world would serve us well in other areas as well.

I urge support of the Boyd amendment.

Mr. BOYD. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota, [Mr. PETERSON].

Mr. PETERSON of Minnesota. Mr. Chairman, I, too, want to rise in support of this amendment because I also think that some of the rhetoric on this piece of legislation has been overblown.

I think that the other side of the aisle is to be commended, in that they have moved in our direction and included some amendments and some ideas that we have suggested. I think we have a workable piece of legislation. If the problems that some people see are there, I think it will be solved by this amendment. We will have a chance to come back and take a look at it.

I think this bill will work pretty close to the way it is put together, and I strongly support this amendment.

Mr. BOYD. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee, [Mr. GORDON].

Mr. GORDON. Mr. Chairman, I want to commend my friend from Florida for bringing this amendment before us. I support this amendment. I think most folks here today also support the general concept of providing comptime for employees to spend emergency time with their family, or whatever else might need be done.

The real question is how can we craft this legislation in a way that both employees and employers are protected. I think the amendment of the gentleman from Florida is a good way to move forward in that. Certainly we want to get a good bill, but if there are problems, we should have it sunsetted, and I support this legislation.

Mr. BOYD. Mr. Chairman, I yield myself the balance of my time to close by giving my thanks to the gentleman from Pennsylvania, Chairman GOODLING, and also to my leader, the gentleman from Missouri, Mr. CLAY, for allowing me to present this amendment.

Mr. CLAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, sunsetting this bill is not the problem or the answer. Enacting H.R. 1 would be a terrible mistake. This bill does not provide employees with paid leave, it only allows employers to defer overtime pay. It does not provide a single employee the right to earn comptime, does not protect the right of workers to use comptime, and provides no protection where employers are unable to pay for comptime.

H.R. 1 increases employer control, not employee flexibility. Even more seriously, this bill, by reducing overtime costs, increases overtime work at the same time it undermines pay.

I oppose the bill because of the damage it will cause. However, I will accept the amendment because, at least, it places some time limit on the amount of that damage.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. BOYD].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GOODLING. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 390, noes 36, not voting 6, as follows:

[Roll No. 56]

AYES—390

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Filner
Flake
Foglietta
Foley
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hayworth
Hefner
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Jones
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Schiff
Schumer
Scott
Serrano
Sessions
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stark
Stearns
Stenholm
Stokes
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOES—36

Barr
Bartlett
Bliley
Boehner
Bonilla
Brady
Campbell
Davis (VA)
DeLay
Ehlers
Forbes
Gilchrest
Granger
Hastings (WA)
Hefley
Herger
Hostettler
Johnson, Sam
Kingston
Kucinich
McDermott
McIntosh
Northup
Paul
Pease
Petri
Rohrabacher
Royce
Salmon
Scarborough
Sensenbrenner
Shadegg
Shays
Smith (TX)
Strickland
Thornberry

NOT VOTING—6

Fazio
Gephardt
Kanjorski
Kaptur
Kasich
Spratt

□ 1500

Mr. SHAYS and Mr. GILCHREST changed their vote from ''aye'' to ''no.''

Mr. GEJDENSON changed his vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FAZIO of California. Mr. Speaker, I was unavoidably detained on my way to the House floor and missed rollcall vote No. 56. Had I been present, I would have voted ''aye'' on the amendment.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 105–31.

AMENDMENT OFFERED BY MR. OWENS

Mr. OWENS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OWENS:

Page 3, line 10, insert before the period the following: ''or an employee whose rate of pay is less than 2.5 times the minimum wage rate in effect under section 6(a)(1)''.

The CHAIRMAN. Pursuant to House Resolution 99, the gentleman from New York [Mr. OWENS] and a Member opposed will each control 5 minutes.

Does the gentleman from North Carolina [Mr. BALLENGER] rise in opposition?

Mr. BALLENGER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from North Carolina [Mr. BALLENGER] will control 5 minutes in opposition..

The Chair recognizes the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in the wee hours of this morning I was informed that my first grandchild was born, and I assure my colleagues I pursue my concern with the future of America with a renewed fervor. As a result of that, I would like to see an America that is for everybody, liberty and justice for all, and we share the prosperity.

I want to make it quite clear that we can have a comp time bill that serves everybody's need. We do not have to grab for it all. We can have a bill which allows the upper middle class people who want this to have it, and the same time let us exempt three-quarters of the work force who earn $10 or less, three-quarters of the work force earn $10 or less. This amendment says we should exempt them.

We just voted on a sunset provision. We can come back in 5 years and examine what happened and maybe add them then, but let us exempt them from this radical experiment in labor law. We do not need to do this. We can have a win/win situation by letting the two-thirds of the work force earning $10 an hour or less not be a part of this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. BALLENGER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the amendment prohibits, the amendment of the gentleman from New York [Mr. OWENS] prohibits, workers earning 2½ times the minimum wage, currently $11.88, or about $23,700 for the full-time worker, from accepting compensatory time. Many of these workers would like to have that option. In fact one of the individuals who testified at our subcommittee hearing, Peter Faust, in support of compensatory time told us that he makes about $20,000 per year.

Why should he and everybody else who makes less than $23,000 be barred by the law from making this choice? Do the sponsors of this amendment not trust these workers to know what they want and what is best for them?

The Owens amendment is premised on the argument that lower income

workers are inevitably at the mercy of their employers and so cannot make a free and voluntary choice about compensatory time. The bill addresses the issue of employers' voluntary choice for employees including those who make less than $23,000 with numerous employee protections.

Let me read what Mr. Faust said in his testimony. He said time is precious and fleeting. There are lots of ways to make money in this country and lots of ways to spend it. But there is only one way to spend time with yourself, family, or friends, and that is to have time to spend. When I look back on my life, I regret and always will that already those occasions when I needed to be there for my family and they asked me to be part of their life and I could not because I did not have time.

I say to my colleagues that this man begged us on bended knee not to exclude him from this bill, and I think almost anybody would recognize that he can make a rational decision as can all other people in that wage scale.

Mr. Chairman, I reserve the balance of my time.

Mr. OWENS. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from New York for yielding this time to me, and I rise in support of working Americans. Clearly I believe that working Americans trust us to do the right thing. The right thing is to support the Owens amendment that ensures that the legislation does not work to the detriment of the most vulnerable.

I wonder if the witness who testified making under $20,000 realized that workers can lose money because comp time is not credited for unemployment. The bill bars employers from terminating or reducing, fails to bar employees from terminating or reducing vacation and sick leave, substituting them for comp time. The bill fails to protect employees who are most vulnerable to the overtime laws.

We can make this the kind of bill that supports working Americans by supporting the Owens bill that recognizes those who make under $20,000 a year should, yes, have the option of taking comp time but not denying them the benefits that they so much need and giving them the flexibility that they can take the comp time that they do need.

Mr. Chairman, I think it is important that we recognize that, if we do this, let us do it right. Let us utilize the truths the American people have given us. They do not read between the lines, we do. Let us support the Owens bill and ensure it for the most vulnerable of those.

Mr. BALLENGER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GREENWOOD], a member of the committee.

Mr. GREENWOOD. Mr. Chairman, I oppose the Owens amendment, as I did when this amendment was raised in our committee, and I do it in all due respect to the gentleman who offers it. But I consider this proposal to be insulting, patronizing, and discriminating to young people particularly, like my son.

My son works, and he does not make 2½ times the minimum wage. He is working his way up the ladder, and he is working a heck of a lot of overtime. He is working that overtime because he is buying a car and insuring it, and he is taking all of his overtime in cash, and that is fine. Under this bill he would still have the right to take all of his overtime in cash.

But one of these days he might say, I want to go to my friend's wedding, and I need to take Friday and Monday off to do that, and my son is as entitled to make that decision on his account based on his needs as someone who makes twice as much money as he does. For that reason I think that the gentleman's amendment is discriminatory and should be rejected, and I yield back.

Mr. OWENS. Mr. Chairman, I yield 1 minute to the gentlewoman from Hawaii [Mrs. MINK].

(Mrs. MINK of Hawaii asked and was given permission to revise and extend her remarks.)

Mrs. MINK of Hawaii. Mr. Chairman, I rise in support of the Owens amendment. The bill without the amendment would be a terrible blow to millions of American workers who work overtime for compensation.

What the Owens amendment is at least trying to do is to make it possible for the low wage worker not to be put under this pressure of having to work overtime for no compensation at all, for that promise of time off sometime in the future. The employer could require the worker to work overtime 160 hours with no promise as to when that compensatory time would be afforded the worker, not when they want to do something or they have to take care of a family problem or they want to go off on a vacation.

There is absolutely nothing in H.R. 1 which gives the employee the choice, the free choice, or the decision to take this time when they need it. It is an entirely employer based bill. Therefore without the Owens amendment it seems to me that, if we are concerned about the workers earning a living, we have to support the Owens amendment.

Mr. BALLENGER. Mr. Chairman, I only have one speaker left, and I reserve the balance of my time.

The CHAIRMAN. The gentleman from North Carolina has 2 minutes 15 seconds remaining, the gentleman from New York has 2 minutes remaining. The gentleman from North Carolina has the right to close.

Mr. BALLENGER. I have one speaker who will close.

Mr. OWENS. Mr. Chairman, as the person offering the amendment, do I not have the right to close?

The CHAIRMAN. The gentleman from North Carolina, representing the committee position, has the right to close.

Mr. OWENS. Mr. Chairman. I yield 1 minute to the gentleman from New Jersey [Mr. ANDREWS].

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

□ 1515

Mr. ANDREWS. Mr. Chairman, I thank my friend from New York for yielding me this time.

The issue raised by the amendment of the gentleman from New York [Mr. OWENS], which I strongly support, is how much leverage does the janitor who cleans the building have over the person who owns the building and pays his or her paycheck?

The way this bill is set up is it says that the employer will, I believe, have functional control over whether you choose cash or comp time. If you do not like what the employer chooses, you have the right to sue your boss. If you make less than $10 an hour, I do not think you will get very far doing that.

The Owens amendment is pointed in the right direction. I strongly support it on behalf of all of the people out there who have no leverage, no leverage over that choice whatsoever. I commend the gentleman for offering it, and I support it.

Mr. OWENS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the AFL–CIO says there are no aspects of this bill that are truly protective of employee rights. Vote against this employer-driven attempt to rob employees of their pay and benefits in the name of family flexibility.

I have a number of union organizations representing workers who say the workers do not want this revolutionary change in the Fair Labor Standards Act. We can have a less revolutionary change by adopting my amendment and giving the 20 percent of the work force that has clamored for this, let them have it, and at the same time we protect the people at the very bottom who do not want to be deprived of their right to have cash to put food on their tables, to buy clothing. They need the money. They would like to have more time with their families, but they need the money most of all.

That is two-thirds of the work force out there making approximately $10 an hour or less. We can protect them. This is a win-win situation. In the name of bipartisan cooperation, let us go forward. Let us not bully the people on the bottom.

That is what we are doing here. We are taking our power and we are using it as a hammer against the people on the bottom. Employers will take this cash in large amounts and invest it. They want cash. Why should they give somebody cash when they can give them comp time?

We can go forward in the name of bipartisan cooperation, break the logjam and move to show America that we care about everybody, the people on the very bottom as well as those on the top.

Mr. Chairman, I rise in vehement opposition to this mutilation of the Fair Labor Standards Act [FLSA]—the Working Families Flexibility Act—H.R. 1. At a time when there is overwhelming evidence to suggest that individuals are already being exploited, oppressed, and hoodwinked in the workplace, Congress is considering a bill that would eviscerate the protective armor of FLSA. As currently drafted, the bill does nothing more than offer employers many opportunities and temptations for deregulated exploitation. Simply put H.R. 1 is a bad bill that misleads workers and the general public into believing that they will be given a greater degree of choice. H.R. 1 is an affront to the American worker; and the only way to restore some preservation of employee rights to this haphazardly drafted, antiworker bill is to protect that segment of the work force that would stand to suffer the most under this bill—low-wage workers. My amendment would accomplish just this.

This amendment would exempt workers who earn less than 2.5 times the minimum wage. This is equivalent to slightly more than $10 an hour—or approximately $24,000 a year for a full-time worker. In effect, the amendment would exclude the lowest paid and most vulnerable Americans in the work force. Tying the exemption to the minimum wage indexes the exemption to future increases in the minimum wage. Lower wage workers deserve and need the protection of this amendment for two very fundamental reasons: They are more likely to need the cash for overtime worked instead of compensatory time and they are more likely to be subjected to abuse by their employers as a result of this legislation. They should not be covered by H.R. 1.

First, families struggling to make ends meet cannot pay the bills and buy food and other necessities with comptime. I challenge my colleagues to deny that most workers, earning approximately $10 an hour, need all the money they can earn more than they need time off. Public opinion polls show that families with two wage earners and comfortable incomes are in favor of more compensatory time. At the same time, the available evidence also shows that workers earning less than $10 an hour, or its equivalent, prefer and need more take-home pay. In the real world, employers would naturally reward those employees who accept comptime over cash by giving them more overtime. It is painfully clear: The employee who demands to be paid in cash will face repercussions. He or she will not be asked to work overtime.

Second, lower wage workers are likely to be abused more than higher wage workers. Most employers do not intentionally violate the law; however, reports suggest that too many do.

In fiscal year 1996, the Department of Labor found overtime violations involving 170,000 workers. Low-wage workers are the most common victims of this abuse.

The Employer Policy Foundation, an employer-supported think tank in Washington, revealed that workers lose approximately $19 billion in overtime pay each year.

A Wall Street Journal analysis of 74,514 cases brought by the Department from October 1991 to June 1995, found that industries such as construction and apparel were cited for illegally denying overtime to 1 in every 50 workers during this period. Overall, nearly 8 out of every 1,000 workers, or 695,280 employees, were covered by settlements, even though enforcement was limited.

If Congress is going to tamper with FLSA, at a minimum the two-thirds of the work force making nearly $10 an hour must not be forsaken. I urge my colleagues to support this endeavor to exempt the most vulnerable workers.

The opposition to H.R. 1 is fierce. The administration, labor unions, and employee associations are not the least bit receptive to this Republican notion of worker flexibility.

In a letter to Congress, March 18, the Sheet Metal and Air Conditioning Contractor's National Association [SMACNA] and the Mechanical Electrical Sheet Metal Alliance state the following:

Currently one of the most abused and violated federal employment laws by irresponsible employers, the FLSA would be even less of an effective federal employment protection if H.R. 1 is allowed to become law.

They insist that "H.R. 1 invites greater FLSA fraud, lowers employee pay/benefit contributions and undermines employee work time discretion."

In a letter to Congress, March 18, the AFL–CIO emphatically states:

There are no aspects of this bill that are truly protective of employee rights. * * * Vote against this employer-driven attempt to rob employees of their pay and benefits in the name of family flexibility.

In a letter to Congress, March 13, the Union of Needletrades, Industrial and Textile Employees [UNITE] explains that:

The bill will encourage greater use of mandatory overtime—because instead of having to pay a premium for overtime when it is worked, companies can stall payment and hope workers forget they have money coming to them.

In a letter to Congress, March 3, the International Brotherhood of Teamsters argues that:

The FLSA established the 40-hour work week, the benchmark schedule working men and women use to maintain time for their families and normalcy in their lives * * * hours worked in excess of 40 must be paid at a premium rate. * * * The overtime premium requirement also provides an incentive for businesses to create additional jobs to the extent more work exists than can be accomplished within the normal work week. that helps reduce unemployment.

In a letter to Congress, February 4, the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America [UAW] states:

It [H.R. 1] would enable employers to avoid paying overtime, thereby reducing the income and living standard of working families.

H.R. 1 does nothing more than permit an employee to make an unsecured loan to his or her employer. The poorest workers should be saved from the privilege of having to loan their hardearned money to their employers. The exemption for workers who make less than 2.5 times the minimum wage must be accepted. Today, we are here to turn back the clock on worker protections in this country. At the very least, I challenge my colleagues to stand up for the two-thirds of the work force making approximately $10 an hour. They stand to suffer the most under H.R. 1. Vote "yes" on this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. BALLENGER. Mr. Chairman, I yield the balance of my time to the gentleman from Pennsylvania [Mr. GOODLING], the chairman of our committee.

Mr. GOODLING. Mr. Chairman, again, I ask my colleagues, how demeaning can we be in the Congress of the United States? As I indicated earlier in the debate, we somehow or other believe that employees cannot make decisions. Only we in the Congress of the United States can make decisions for them. That is demeaning. Any employee can make a decision, any employee should make a decision.

Now, this is even more demeaning. This is even more demeaning, because what we are now saying is that the lower your income, the less likely you will be able to make a decision. How demeaning can we really get?

I do not care whether they are making 10 cents an hour. They can make every decision they want to make, because they have that opportunity to make that decision. And in this legislation, only, only the employee makes the decision. If the employee, after they make a decision, decides "I do not like that decision," the employee can immediately say "I want to reject that contract I made and I want to cash out," and the employer has to cash out.

Please, please, give our employees much more benefit of the doubt than you are giving them. I have wonderful friends in every business and industry there is at every level and every one are very, very capable to make all of their decisions without any help from the U.S. Government.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in strong support of Congressman OWENS' amendment to H.R. 1.

Congressman OWENS' amendment would exclude people who make 2.5 times the minimum wage, which is $11.88 an hour or less, from any change in the overtime pay rules.

On behalf of the 125,000 households in the city of Houston with incomes of less than or equal to $25,000, I am supporting this amendment to this compensatory time legislation.

Any offers of what some would describe as voluntary compensatory time for workers should include protections which ensure that it is indeed voluntary.

In fiscal year 1996, the same year this body passed the first increase in the minimum wage in nearly a decade, the Department of Labor had 13,687 compliance actions of disclosed overtime violations. These represented nearly 50 percent of those in which Fair Labor Standards Act minimum wage overtime monetary violations were found. The Wage and Hour Division found just over $100 million in back wages due to overtime violations owing to nearly 170,000 workers.

Unfortunately, all too often when the debate on the floor of this body shifts, it cuts harshest into the American worker's ability to earn a liveable wage, against his or her right to a

safe work environment, or into the necessity of receiving just compensation for the work that they perform.

If we as Representatives of working Americans are going to talk about how best to help the working families of this country, we must make it our first priority to insure that they receive fair compensation for their work. H.R. 1 as it is currently written will not insure that workers who depend on overtime pay receive it if they do not wish to receive compensatory time.

Those Wage and Hour violations involved a little more than one-half of 1 percent of all 6.5 million employers in the United States. For the sake of the 170,000 known workers who were affected by criminal overtime policies, we should not act without providing insurance that they will not fall victim again due to anything we might accomplish today.

We should keep in mind the need to insure that employers are barred from denying a request for reasonable time off, that workers do not lose money because compensatory time is not credited for unemployment, pension, or social security. We must have absolute certainty that the most vulnerable to overtime violations—temporary, seasonal, part-time, and construction workers—are protected.

According to the Employer Policy Foundation, an employer-supported think tank in Washington, workers lose approximately $19 billion in overtime each year.

I want to thank and commend the commitment of my colleague from New York on the issue of fair and equal treatment for all of our Nation's workers.

Mr. GOODLING. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. OWENS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OWENS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 182, noes 237, not voting 13, as follows:

[Roll No. 57]

AYES—182

Abercrombie
Ackerman
Allen
Andrews
Bachus
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Carson
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kleczka
Klink
Kucinich
Lampson
Lantos
Largent
Lazio
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Murtha
Nadler
Neal
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Poshard
Rahall
Reyes
Rivers
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Skelton
Slaughter
Snyder
Stabenow
Stark
Stokes
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—237

Aderholt
Archer
Armey
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
Kind (WI)
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Mica
Miller (FL)
Molinari
Mollohan
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Strickland
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—13

Clement
Dingell
English
Gephardt
Gilchrest
Kaptur
Kasich
LaFalce
Matsui
Oberstar
Price (NC)
Spratt
Stump

□ 1534

Mr. SOLOMON changed his vote from ''aye'' to ''no.''

Mr. VENTO changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GILCREST. Mr. Chairman, on rollcall No. 57, I was unavoidably detained. Had I been present, I would have voted ''no.''

The CHAIRMAN. The Committee will rise informally to receive a message.

The SPEAKER pro tempore (Mr. LAHOOD) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

WORKING FAMILIES FLEXIBILITY ACT OF 1997

The Committee resumed its sitting.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 105–31.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. MILLER of California:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Paycheck Protection and Family Flexibility Act of 1997''.

SEC. 2. IN GENERAL.

Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended to add at the end the following:

''(r)(1) An employee may receive, in accordance with this subsection and in lieu of

monetary overtime compensation, compensatory time off at a rate not less than 1½ hours for each hour of employment for which overtime is required by subsection (a).

''(2) An employer may provide compensatory time to an eligible employee under paragraph (1) only—

''(A) pursuant to—

''(i) applicable provisions of a collective bargaining agreement between the employer and the labor organization which has been certified or recognized as the representative of the employees under applicable law, or

''(ii) in the case of employees who are not represented by a collective bargaining agent or other representative designated by the employee, a plan adopted by the employer and provided in writing to the employer's employees which provides employees with a voluntary, informed option to receive compensatory time off for overtime work where there is an express, voluntary written request by an individual employee for compensatory time off in lieu of overtime pay provided to the employer prior to the performance of any overtime assignment;

''(B) if the employee has not earned compensatory time in excess of the applicable limit prescribed by paragraph (4)(A) or in regulations issued by the Secretary pursuant to paragraph (13);

''(C) if the employee is not required as a condition of employment to accept or request compensatory time;

''(D) if the agreement or plan complies with the requirements of this subsection and the regulations issued by the Secretary under paragraph (13), including the availability of compensatory time to similarly situated employees on an equal basis; and

''(E) if, for purposes of a plan established under subparagraph (A)(ii), the employer, in providing compensatory time, does not modify a leave policy so as to reduce any paid or unpaid leave or does not reduce any other type of benefit or compensation an employee would otherwise be entitled to receive.

''(3) An employee may, at any time, withdraw a request for compensatory time made under a plan under paragraph (2)(A)(ii).

''(4)(A) An employee may earn not more than a total of 80 hours of compensatory time in any year or alternative 12-month period designated pursuant to subparagraph (C). The employer shall regularly report to the employee on the number of compensatory hours earned by the employee and the total amount of the employee's earned-and-unused compensatory time, in accordance with regulations issued by the Secretary.

''(B) Upon the request of an employee who has earned compensatory time, the employer shall on the payday of the pay period during which the request is received provide monetary compensation for any such compensatory time at a rate not less than the regular rate earned by the employee at the time the employee performed the overtime work or the employee's regular rate at the time such monetary compensation is paid, whichever is higher.

''(C) Not later than January 31 of each calendar year, each employer shall provide monetary compensation to each employee for any compensatory time earned during the preceding calendar year for which the employee has not already received monetary compensation (either through paid time off or cash payment) at a rate not less than the regular rate earned by the employee at the time the employee performed the overtime work or the employee's regular rate at the time such monetary compensation is paid, whichever is higher. An agreement or plan under paragraph (2) may designate a 12-month period other than the calendar year, in which case such compensation shall be provided not later than 31 days after the end of such 12-month period. An employee may voluntarily, at the employee's own initiative, request in writing that such end-of-year payment of monetary compensation for earned compensatory time be delayed for a period not to exceed 3 months. This subparagraph shall have no effect on the limit on earned compensatory time set forth in subparagraph (A) or in regulations issued by the Secretary pursuant to paragraph (13).

''(5) An employee who has earned compensatory time authorized to be provided under paragraph (1) shall, upon the voluntary or involuntary termination of employment or upon expiration of this subsection, be paid for unused compensatory time at a rate of compensation not less than the regular rate earned by the employee at the time the employee performed the overtime work or the employee's regular rate at the time such monetary compensation is paid, whichever is higher.

''(6) An employee shall be permitted to use, at the time the employee has requested, any compensatory time earned pursuant to paragraph (1)—

''(A) for any reason which would qualify for leave under section 102(a) of the Family and Medical Leave Act (29 U.S.C. 2612(a)) or any comparable State law; or

''(B) for any other purpose—

''(i) upon notice to the employer at least 2 weeks prior to the date on which the time off is to be used, unless use of the compensatory time at that time will cause substantial and grievous injury to the employer's operations; or

''(ii) upon notice to the employer within the 2 weeks prior to the date on which the time off is to be used unless use of the compensatory time at that time will unduly disrupt the operations of the employer.

''(7) An employee shall not be required by the employer to use any compensatory time earned pursuant to paragraph (1).

''(8) Except where there is a collective bargaining agreement, an employer may modify or terminate a compensatory time plan upon not less than 60 days notice to employees. When a plan is terminated, an employer may not, except as provided in paragraph (4)(C), require that an employee who has earned compensatory time receive monetary compensation in lieu of such time.

''(9) An employer may not pay monetary compensation in lieu of earned compensatory time except as expressly prescribed in this subsection. Any payment owed to an employee under this subsection for unused compensatory time shall be considered unpaid overtime compensation.

''(10) It shall be an unlawful act of discrimination, within the meaning of section 15(a)(3), for an employer—

''(A) to discharge or in any other manner penalize, discriminate against, or otherwise interfere with any employee—

''(i) because such employee may refuse or has refused to request or accept compensatory time off in lieu of overtime pay, or

''(ii) because such employee may request to use or has used compensatory time off in lieu of overtime pay;

''(B) to request, directly or indirectly, that an employee accept compensatory time off in lieu of overtime pay, to require an employee to request or to refuse to request such compensatory time as a condition of employment or as a condition of employment rights or benefits or to qualify the availability of work for which overtime compensation is required upon an employee's request for or acceptance of compensatory time off in lieu of overtime compensation; or

''(C) to deny an employee the right to use or force an employee to use earned compensatory time in violation of this subsection.

''(11) An employer who violates any provision of this subsection shall be liable, in an action brought pursuant to section 16(b) or 16(c), in the amount of overtime compensation that would have been paid for the overtime hours worked or overtime hours that would have been worked, plus such other legal or equitable relief as may be appropriate to effectuate the purpose of this section, as well as an additional equal amount as liquidated damages, costs, and, in the case of an action filed under section 16(b), reasonable attorney's fees. Where an employee has used compensatory time off or received monetary compensation for earned compensatory time for such overtime hours worked, the amount of such time used or monetary compensation paid to the employee shall be offset against the employer's liability under this paragraph.

''(12) For the purpose of protecting overtime compensation wages of employees, the Secretary may by regulation require employers who provide compensatory time to their employees under this subsection to secure a payment bond with a surety satisfactory for protection of the overtime compensation of such employees.

''(13) (A) The Secretary may issue regulations as necessary and appropriate to implement this subsection including regulations implementing recordkeeping requirements and prescribing the content of plans and employee notification.

''(B) The Secretary may issue regulations regarding classes of employees, including all employees in particular occupations or industries, to—

''(i) exempt such employees from the provisions of this subsection,

''(ii) limit the number of compensatory hours that such employees may earn to less than the number provided in paragraph (4)(A), or

''(iii) require employers to provide such employees with monetary compensation for earned compensatory time at more frequent intervals than specified in paragraph (4)(C),

where the Secretary has determined that such regulations are necessary or appropriate to protect vulnerable employees, that a pattern of violations of the Act may exist, or that such regulations are necessary or appropriate to assure that employees receive the compensation due them.

''(C) The Secretary shall issue regulations—

''(i) which bar employers with a pattern or practice of violations of this Act from offering compensatory time under this subsection;

''(ii) prescribing the content of plans described in paragraph (2)(A)(ii) and employee notification, including the provision of information regarding who is eligible for compensatory time and under what circumstances it may be earned and used and information regarding the impact, if any, that choosing compensatory time may have on the eligibility, accrual, and receipt of other compensation and benefits; and

''(iii) requiring employers to keep records in accordance with section 11(c) of compensatory time earned and overtime worked.

''(14) When an employee uses earned compensatory time off, the employee shall be paid for the time off at the employee's regular rate at the time the employee performed the overtime work or at the employee's regular rate when the time off is taken, whichever is higher.

''(15) For purposes of this subsection—

''(A) the terms 'compensatory time' and 'compensatory time off' mean hours during which an employee is not working and for which the employee is compensated at the employee's regular rate in accordance with this subsection;

''(B) the term 'elderly relative' means an individual of at least 60 years of age who is

related by blood or marriage to the employee, including a parent;

''(C) the term 'employee' does not include—

''(i) a part-time, temporary, or seasonal employee;

''(ii) an employee of a public agency;

''(iii) an employee in the garment industry;

''(iv) an employee who is not entitled to take not less than 24 hours of leave during any 12-month period to participate in school activities directly related to the educational advancement of a son or daughter of the employee, accompany such son or daughter to routine medical or dental appointments, and accompany an elderly relative of the employee to routine medical or dental appointments or appointments for other professional services related to such elder's care; or

''(v) an employee exempted by the Secretary under paragraph (13)(B);

''(D) the term 'overtime compensation' shall have the meaning given such term by subsection (o)(7);

(E) the terms 'compensatory time' and 'compensatory time off' mean hours during which an employee is not working and for which the employee is compensated at the employee's regular rate in accordance with this section;

''(F) the term 'part-time, temporary, or seasonal employee' means—

''(i) an employee whose regular workweek for the employer is less than 35 hours per week;

''(ii) an employee who is employed by the employer for a season or other term of less than 12 months or is otherwise treated by the employer as not a permanent employee of the employer; or

''(iii) an employee in the construction industry, in agricultural employment (as defined by section 3(3) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802(3)), or in any other industry which the Secretary by regulation has determined is a seasonal industry; and

''(G) the term 'overtime assignment' means an assignment of hours for which overtime compensation is required under subsection (a); and

''(H) the term 'school' means an elementary or secondary school (as such terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)), a Head Start program assisted under the Head Start Act (42 U.S.C. 9831 et seq.), and a child care facility licensed under State law.''.

SEC. 3. CIVIL MONEY PENALTIES.

The second sentence of section 16(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(e)) is amended to read as follows: ''Any person who violates section 7(r) of this Act shall be subject to a civil penalty not to exceed $1,000 for each such violation.''.

SEC. 4. CONSTRUCTION.

Section 18 of the Fair Labor Standards Act of 1938 (29 U.S.C. 218) is amended by designating existing section 18 as subsection (a) and by adding a new subsection (b) to read as follows:

''(b)(1) No provision of section 7(r) or of any order thereunder shall be construed to—

''(A) supersede any provision of any State or local law that provides greater protection to employees who are provided compensatory time off in lieu of paid overtime compensation;

''(B) diminish the obligation of an employer to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater protection to employees provided compensatory time off in lieu of paid overtime; or

''(C) discourage employers from adopting or retaining compensatory time plans that provide more protection to employees.

''(2) Nothing in this subsection shall be construed to allow employers to provide compensatory time plans to classes of employees who are exempted from subsection 7(r), to allow employers to provide more compensatory time than allowed under subsection 7(r), or to supersede any limitations placed by subsection 7(r), including exemptions and limitations in regulations issued by the Secretary thereunder.''.

SEC. 5. COMMISSION ON WORKPLACE FLEXIBILITY.

(a) ESTABLISHMENT.—There is established a Commission on Workplace Flexibility (hereafter in this section referred to as the ''Commission''). The members of the Commission shall be selected in accordance with the procedures set forth in section 303 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2633) and the compensation and powers of the Commission shall be as prescribed in sections 304 and 305 of that Act (29 U.S.C. 2634, 2635).

(b) DUTIES.—The Commission shall conduct a comprehensive study of the impact of compensatory time on private sector employees, including the impact of the law on average earnings, hours of work, work schedules, flexibility of scheduling work to accommodate family needs, and the ability of vulnerable employees or other employees to obtain the compensation to which they are entitled, and shall make a comparison of the compensatory time offered to public and private employees. A report concerning the findings of the study shall be submitted to the appropriate committees of Congress and to the Secretary of Labor not later than 1 year before the expiration of this title. The report shall include recommendations as to whether the compensatory time provisions of section 7(r) of the Fair Labor Standards Act of 1938 should be modified or extended, including a recommendation as to whether particular classes of employees or industries should be exempted or otherwise given special treatment and whether additional protections should be given. The Commission shall have no obligation to conduct a study and issue a report pursuant to this section if funds are not authorized and appropriated for that purpose.

SEC. 6. EFFECTIVE DATE; SUNSET.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect 6 months after the date of the enactment of this Act.

(b) SUNSET.—The provisions of this Act shall expire 4 years after date of the enactment of this Act.

MODIFICATION TO AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent that my amendment may be modified by the form that I have placed it in at the desk.

The CHAIRMAN. The Clerk will report the modification.

The CLERK read as follows:

Modification to the amendment in the nature of a substitute offered by Mr. MILLER of California:

Amendment No. 5 offered by Mr. Miller of California modified by (1) strike in the matter to be inserted by Section 2, ''(E) The terms 'compensatory time' and 'compensatory time off' mean hours during which an employee is not working and for which the employee is compensated at the employee's regular rate in accordance with this section;'' and redesignate thereafter accordingly; and (2) in section 3 by striking ''The second sentence of section'' and inserting in lieu thereof, ''Section''; and by striking ''to read as follows'' and inserting in lieu thereof ''by adding after the first sentence the following''.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. GOODLING. Reserving the right to object, Mr. Chairman, I just want to make sure I am correct in assuming this is not the 40-hour work week.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, my understanding is that that is not made in order by the Committee on Rules, and this is the one the gentleman has agreed to.

Mr. GOODLING. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the modification offered by the gentleman from California [Mr. MILLER]?

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 99, the gentleman from California [Mr. MILLER] and a Member opposed will each control 30 minutes.

Who rises in opposition to the amendment?

Does the gentleman from Pennsylvania [Mr. GOODLING] wish to claim time in opposition?

Mr. GOODLING. Mr. Chairman, I rise in opposition.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GOODLING] will control the time in opposition.

PARLIAMENTARY INQUIRY

Mr. LAFALCE. Mr. Chairman, I believe there may have been an error in the timing on the last vote. There are a number of us, at least a half-a-dozen or more, who, when we got on the subway, saw a clock that indicated approximately 1 minute-plus seconds left to vote. Had there been the ordinary 17 minutes, it is our collective judgment that there would have been ample time to vote.

Perhaps there is some incongruity between the clock downstairs and the clock here. But if there is any way to reopen that vote, it would be the desire of at least a half-a-dozen-plus Members that that be done; 14 Members.

The CHAIRMAN. The Chair could not entertain that suggestion. The Chair would simply state that the final 2 minutes following the elapse of the clock are determined by the stopwatch. The stopwatch had gone an additional 2 minutes.

Mr. LAFALCE. I thank the Chair.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, we offer this substitute, many of my colleagues on the Committee on Education and the Workforce, we offer this substitute because we do not believe that the legislation before us meets the test of flexibility, that it meets the test of voluntary, and that it meets the test of

the right of the worker to choose when and how to use the comptime should they decide to opt into that system. We believe that the legislation before us denies that voluntary choice, allows the employer to have too much say, and we believe that it also denies the worker the right to say when they want to use that time.

This is a disagreement between the two sides. It has been a disagreement we have had from the time this bill was heard in committee.

We also offer this substitute for a very important reason for workers of this country. It is constantly suggested that somehow the choice of comptime is a wonderful thing and it is free, you just decide you want to work overtime and instead of getting overtime pay you take comptime.

Let me explain to the Members that this has serious ramifications for workers. The loss of the premium time, the loss of the premium time comes out of your work year sometime later. When you take your comptime, you would be taking it in a work week that you would otherwise be working. You will get reimbursed when you take your comptime at the regular rate, but if you had freely chosen to have overtime you would have had the overtime you worked and the week that you could keep working if you did not have comptime.

What does that mean? That means that there is a potential for somebody earning $10 an hour, 140 hours overtime, according to CRS, up to maybe $2,500, $2,700 a year. At $10 an hour that is a lot of wages in terms of family income. It has an impact on unemployment, because if the premium time is not counted in, if you lose that premium time, you lose the unemployment benefits.

In California it could be $1,800 in unemployment benefits over 26 weeks.

□ 1545

So let us understand this: This is a decision that an employee must make very carefully. This is a decision that the employee must make in a very voluntary fashion. And if in fact the employee does that, then the employee who has earned those hours off, this is not a gift, this is earned by them working long days of overtime, the employee should be free to choose when and how.

They keep comparing it to family medical leave. It is one thing to go in to your employer and say, I have a sick child, a sick parent. We are giving birth to a baby in our family. I need time off. It is another thing to go in to your employer and say, I have a chance to spend 3 additional days with my kids at the lake. The employer looks at his schedule and starts weighing those two competing choices. But you earned this time. You earned this time. You worked late nights. You worked Saturdays and Sundays. Truly, you have got to have that choice.

That is why this substitute is being offered, because the underlying bill, H.R. 1, fails in each and every one of these categories to protect the voluntary nature of the decision, to protect the choice, to protect the flexibility and, most importantly, to protect the wages and the benefits and, even down the road, the level of your Social Security payments for those people who work. If they spend a career in comp time, they will lose a substantial portion of their remuneration of Social Security payments down the road.

So this is not just a delightful little decision that you make willy-nilly. This has consequences for those families. That is why the President drafted his comp bill in the manner in which he did, because this is a decision that must be weighed and workers must be fully informed.

The supporters of H.R. 1 like to suggest that just the standard of ''take it or do not take it'' is enough. It is not enough for the hard-working American families of this country.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Wisconsin [Mr. NEUMANN].

Mr. NEUMANN. Mr. Chairman, I would like to ask the chairman of the subcommittee and the sponsor of the bill on behalf of the folks I represent, particularly union members whom I have heard from, is my understanding correct that nothing under H.R. 1 would change the 40-hour workweek?

Mr. BALLENGER. Mr. Chairman, will the gentleman yield?

Mr. NEUMANN. I yield to the gentleman from North Carolina.

Mr. BALLENGER. Mr. Chairman, the gentleman is correct. I thank him for emphasizing this point.

Mr. NEUMANN. So I am correct, then, that at any time worked, even 1 hour worked over the standard 40 hours, would entitle the employee to time and one-half pay? Am I correct that this is the case under current law and would be the case in the future under this legislation H.R. 1?

Mr. BALLENGER. Mr. Chairman, if the gentleman will continue to yield, the gentleman is correct.

Mr. NEUMANN. Further, Mr. Chairman, would the gentleman confirm my understanding that under H.R. 1, employers could not force the individual employee or union which represents the employee to accept comp time as opposed to cash overtime as a condition of employment?

In other words, if the employee works overtime, is it correct that the employer must pay cash overtime wages if that is what the employee or the employee through his labor union chooses, instead of requiring the employee to take time off through comp time?

Mr. BALLENGER. Mr. Chairman, the gentleman is correct.

Mr. NEUMANN. Mr. Chairman, some union members from my hometown in Janesville, WI, particularly those that work in an automobile manufacturing plant, have expressed concern to me that their employer might require them to bank overtime hours and then use the hours at a specified time by the company, particularly during the 2-week period of time each year when the plant shuts down for model changeover.

My understanding is that under H.R. 1 the use of comp time is voluntary and that by ''voluntary'' means that the employer, whether an automobile manufacturer or some other type of company, would not be able to require that comp time, if chosen by the employee, be taken at a set period such as model changeover; is that correct?

Mr. BALLENGER. The gentleman is correct. Whether the agreement to accept comp time is negotiated by the union or by the individual employee, the use of comp time belongs to the employee who earned it. Neither the employer nor the union may require an employee to use comp time at a certain time.

Mr. NEUMANN. Mr. Chairman, I thank the gentleman for clarifying these important points to me.

Mr. MILLER of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

(Mr. VENTO asked and was given permission to revise and extend his remarks.)

Mr. VENTO. Mr. Chairman, I rise in support of the Miller substitute.

Mr. Chairman, I rise today in support of the Miller substitute and in opposition to this bill before us which weakens the Fair Labor Standards Act. The Miller substitute includes the needed safeguards without the penalties and disadvantages that are inherent in the basic measure before the House today.

For over 50 years, the 40-hour workweek has insured fair treatment and pay for working men and women. There is no need to change this law today—the impact may well undercut workers' rights and benefits. No matter how you package these changes, the bottom line is that workers are at greater risk of being short-changed and pushed to a work schedule in line with the employers' interests, not their own needs.

If this House really were seeking to empower workers, they would place limits on the mandated overtime policy that frustrate family and personal life today.

Court decisions have provided the employer with the power to mandate employees to work overtime beyond their defined 8 hours. This measure would weaken the concept of premium pay for that mandated work and buy workers off on the cheap. In fact, this bill would encourage more overtime employer mandates at a tremendous inconvenience to the employee.

I find it ironic that after all the speeches I have heard from the Republican majority about working together and cooperation with the President since the last election, that one of the first serious pieces of legislation to reach the floor of this Congress is an initiative to strip away the longstanding and hard-fought rights of working men and women in this country which is opposed by the President. The bill before us today is a direct assault on the Fair Labor Standards Act and seriously

erodes the traditional 40-hour workweek in an unbalanced manner—rejecting reasonable safeguards.

H.R. 1, the Working Families Flexibility Act, would allow employers to grant compensatory time to workers instead of overtime pay as long as there is a so-called voluntary mutual agreement or understanding. Although this may seem like a reasonable concept on the surface, but making a careful review and a realistic look at this legislation's predicate points to the harm to workers. Apparently, my colleagues, in support of this measure, intend to rely on the good nature of employers and assume an equal authority between employer and employee since this bill glosses over the facts and absurdly offers little to protect workers from obvious pressure and abuse that could, and would, occur if this measure is implemented. It makes me wonder if the advocates are connected to the real world of work.

The bill before us today is so wholly inadequate that the bottom line is that it comes down as antiworker legislation. The bill does little to stop employers from forcing their workers to accept comptime instead of pay—its anticoercing provision is weak and unenforceable; it does nothing to stop employers from offering overtime work hours only to workers who will choose comptime; it puts burdensome restrictions on the use of comptime by workers; and it does little, if nothing, to prohibit employers from hiring only workers that will accept comptime as a condition of their employment. The legislation therefore is seriously flawed.

Working families in this country are struggling to make ends meet. Many families depend on the additional income of overtime pay to get by. So when these families are forced to voluntarily mutually agree to accept comptime, they go without pay. Comptime does not pay the bills. This will mean a pay cut for many American families.

This legislation is not necessary. Employers can grant time off whenever an employee requests under the current law. This equation in this measure is a fabrication, making a tradeoff which is not needed and can only hurt workers without adequate safeguards. The best safeguard is the current law in which the overtime is paid and the employers are open to grant time off and, in fact, guided by the Family Medical Leave Act recently enacted.

Finally, the claim that this measure is proworking families, stands logic on its head. Would every major employee representative group oppose this measure if it were helpful to workers?

I urge my colleagues to defeat this bill.

Mr. MILLER of California. Mr. Chairman, I yield 2½ minutes to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise to support this substitute, which includes many of the Democratic amendments offered during the committee markup. Had the majority been interested in a true bipartisan, profamily approach to comptime, it would have accepted our amendments. Instead they rejected every proposal designed to improve this bill.

The Miller substitute allows employees a real opportunity to choose in the use of comptime. For example, a worker who needs to spend a few days with a sick parent could use comptime when he needs it, not when it is OK with the boss. A mother who needs a week off during school vacation can count on using her bank comptime and not be subject to the last-minute whim of her employer.

The substitute safeguards employee wages and paid leave. It protects vulnerable employees such as part-time, temporary, and seasonal employees who have very little leverage in objecting to unreasonable management demands.

It protects the comptime of employees by reducing the maximum banked hours to 80. And it allows the Secretary of Labor to require that employers obtain a surety bond so that employee wages are insured against an employer who skips town or goes bankrupt.

The Miller substitute also insures that no employer can offer comptime unless it also offers at least 24 hours of leave for employees to participate in their children's school activities or to help an elderly parent with routine medical appointments.

Finally, Mr. Chairman, the Miller substitute protects employees against flagrant abusive behavior. This substitute gives families a real choice of flexibility in the workplace, and it ensures comptime will not be administered in an arbitrary and capricious manner.

Cynthia Metzler, Acting Secretary of Labor, recently wrote our committee expressing the President's intent to veto H.R. 1. In that letter she outlined the President's objections. First, H.R. 1 fails to provide real worker choice. Second, it fails to protect employees' protection against abuse. And third, it fails to preserve the 40-hour workweek.

Mr. Chairman, if this House is serious about helping employees balance their work and family responsibilities, we should adopt the Miller substitute.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes and 5 seconds to the gentlewoman from Kentucky [Mrs. NORTHUP].

Mrs. NORTHUP. Mr. Chairman, I rise in opposition to the Miller substitute and in support of H.R. 1. While the Miller substitute claims to offer the option of comptime to workers, the truth is it would continue to deny them that option. Under the Miller substitute, huge groups, basically anybody that the Secretary of Labor deems should be excluded, would be prohibited from receiving the benefits of this comptime law.

In addition, the Miller substitute creates such a regulatory maze that no employer would ever offer comptime at such an option. In a time when the American public is calling for smaller government and less regulatory burden, this substitute is a major step backward.

The only real comptime proposal here is H.R. 1. Mr. Chairman, I have six children. As a working mother, I know the challenges of balancing a family and a career. I know what it is like not to be able to attend your daughter's swim meet or your son's soccer game because you have to work. With this bill, an employer could give a mother or father the opportunity to bank comptime. When a child got sick or had a recital or had to go to the dentist, she can take time from that bank and spend that time with her family. If she would rather receive overtime pay, she has that option. If she decides to cash in those hours, her employer would have to pay her within 30 days.

This is not a new idea. The public sector employees have had this opportunity for years, and we need to give it to the private sector employees.

I understand there are some workers that are afraid this will end overtime pay. This simply is not the case. When I explain to constituents what this bill means, they endorse it wholeheartedly. It is too bad that some Members, for political gain, have once again attempted to mislead hard-working Americans using scare tactics and inaccurate information. I believe the public is too smart for this. They support this bill, and they want that flexibility time.

Mr. Chairman, the President himself has talked about the need for flexible work schedules. This bill supplies that.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, these are tough times for many Americans as they struggle to make ends meet while balancing the challenges of work and a family. Families rightly seek greater flexibility and paycheck protection to meet their obligations at home and on the job. Unfortunately, the Republican comp time bill makes it harder rather than easier for these families.

The Republican bill fails to ensure that employees can use the comp time when they need it, when they need to go to that soccer game, when they need to spend time with their youngsters. Worse, it could take valuable overtime pay out of an employee's pocket. It does not guarantee that employees would not be forced to take comp time instead of overtime pay. It does not guarantee that comp time would be offered to all employees and without any strings attached. And it does not guarantee that employees' comp time would be credited for the purposes of pension or Social Security.

We need to have strong protections for workers who depend on overtime pay. Two-thirds of those who earned overtime pay in 1994 had a total annual family income of less than $40,000 a year and had an average wage of $10 per hour or less.

That is why we need the serious protections that are provided by the Miller substitute amendment. The Miller substitute ensures that employees would choose if and whether to take the comp time rather than overtime pay so that employees would not be forced to give up overtime dollars. It

protects employees vulnerable to overtime abuses. And it ensures, if comp time is offered, that all employees would be given the same terms so that extra hours are not given only to those who are willing to take comp time.

There are a number of amendments considered today, but the Miller substitute can fix the fundamental problems of the Republican comp time bill. I urge my colleagues to vote for the Miller substitute and against the Republican paycheck reduction act.

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. FAWELL], subcommittee chairman.

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding time to me.

I oppose the Miller substitute. From my viewpoint, I spent some time reading this arcane piece of legislation last night. But it is some 15 pages of confusion. It is a comp time bill I think in name only. There are many objections, I think, one who reads this carefully would have. I think it is a masterpiece of convoluted regulatory maze. But I am only going to mention two points.

First of all, with regard to the definition of eligible employees, that is to say, those employees who would be eligible for compensatory time off in lieu of overtime, if one gets to page 10 and section 15(c), we will find that there is what I call negative definitions of the employees who would be able to take advantage of this choice about which we have just heard.

It starts out by saying that the term employee does not include, and then it says, part-time, temporary, or seasonal employees. Then you have to jump over to another section for a definition of part-time, temporary, and seasonal employees. But I notice that, for instance, in that definition, anybody in the construction trades is automatically ipso facto determined to be part-time and so nobody in the construction trades, though they might have worked for the same employer for 40 years, would be able to have his compensatory time off choice.

It goes on to say that an employee will not include also anybody in the garment industry. It does not define garment industry, so we are going to have to let the Department of Labor, I guess the secretary will tell us what garment industry is. But if you happen to be classified in the garment industry, then you do not have any choice under this bill either.

□ 1600

Then it goes on to say, and this is really a beautiful, beautiful example of convoluted positioning, it says that an employee has to be one who is entitled to take not less than 24 hours of leave during any 12-month period to participate in school activities directly related to the educational advancement of a son or daughter of the employee, accompany such son or daughter to routine medical or dental appointments, and accompany an elderly relative of the employee to routine medical or dental appointments or appointments for other professional services related to an elder's care.

That is the President's wording in regard to the Family and Medical Leave Act, which, thus far, I do not think has had a hearing anyplace. But basically, as I construe this, what it is saying is that if an individual works for an employer who does not have that kind of leave, and it does not even define whether it is paid leave or unpaid leave, I guess we have to leave that up to the Secretary, too, but, anyway, if an individual is employed in a place of employment like that, they do not have a choice either.

Now, I would submit that that is probably most of America. Because most of America has not even had the chance to adjust, if and when the President's bill in regard to family and medical leave should pass.

It also goes on to say, oh, we have some more negatives we can talk about. And it says that an eligible employee, eligible for compensatory time out, for instance, should not be an employee exempted by the Secretary under (13)(B). That causes one to travel over to (13)(B), and (13)(B) says the Secretary may issue regulations regarding classes of employees, including all employees in particular occupations or industries, and the Secretary can evidently exempt any industry, any occupation from being covered by this act.

So if an individual happens to be in an industry or occupation that the Secretary has found not to be qualified, then they do not have a choice under this legislation either. Basically, there is no choice for much of anybody in this legislation, as I read it.

The other point I thought we should know about is the fact that it is also stated, as I read it here, an employer who violates any provision of this subsection, now we are on page 7, can recover, and I quote, ''Such legal or equitable relief as may be appropriate to effectuate the purpose of this section.''

Do my colleagues know what that means? Compensatory damages or punitive damages unlimited. And, remember, he has also thrown a new discrimination cause of action into this legislation. Which means that if anybody has discriminated on any of these little subtle bases here, that is just an employer, then that employer can be sued for millions of dollars and be able to have put against him a judgment for compensatory and punitive damages.

Anyway, Mr. Chairman, I just thought people might like to know this. This is not a very good piece of legislation.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Mrs. TAUSCHER].

Mrs. TAUSCHER. Mr. Chairman, I rise in support of my neighbor, the gentleman from northern California, Mr. MILLER, and his substitute amendment.

Mr. Chairman, I have worked for 30 years, and the working parents and families in my district are spending less and less time with their families and young children. They are driving too long to the office. Many of them get on airplanes to commute to make a sales call. Many find themselves looking for opportunities for flexibility, and when they hear the rhetoric of H.R. 1, many of them say, aha, perhaps there it is.

The truth is that H.R. 1 appears to be well-intentioned but, in my opinion, it does not offer the kind of flexibility, the kind of voluntary options and the real money that American workers want. The people of my district do not want to be forced into the position of deciding whether the comp time to go to the soccer game is put at a vexing choice of whether they have the money to buy the soccer shoes.

This is about real wages, Mr. Chairman. This is about the opportunity to have people have the opportunity to spend the money that they expect to be earning. Paycheck protection is the fundamental right of all American workers. The opportunity to have pension and Social Security money put forth by an employer is denied by H.R. 1.

I believe that we need to vote for this Miller substitute amendment.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington [Mrs. SMITH].

Mrs. SMITH of Washington. Mr. Chairman, I rise in opposition to the Miller substitute because it basically removes all the benefits of the bill.

When I started working as a teenager, well, actually at 11, I started realizing real soon that government can get in the way when they kicked me out of the fields because I was too young, even though I needed to work. By the time I was in my 20's, I was running a corporation, helping women, mostly middle class women who had raised their kids, bring it all together.

If I had been a government employee or I had been a government employer, I had the ability to adjust times, but I could not do it as a private employer. So what I had to do was find uncomfortable options that neither one of us liked.

What this bill simply does is it does protect the 40-hour work week. It does not wipe it out. This amendment wipes out the ability to have flex time. The bill does assure protection for employees, but it does what 75 percent of the women in America polled said they wanted, and that is the ability to have more flexibility as they are taking care of their moms, sometimes their dads, their kids, and working. They have the ability to work with an employer and put together a package that works for them.

Why do we believe that we, as a government, are so good that we know how to put together people's personal lives? I do not really believe we do. I believe the protections, especially treble damages, that is pretty scary, are built

into this bill for employers that would think that they should coerce. I think the 40-hour work week is protected.

I am not sure I will support the Senate bill. I think it might weaken the 40-hour work week. But I think, overall, American women will finally have a chance to be heroes, as they are, and be able to do it easier with flex time.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. SANCHEZ].

Ms. SANCHEZ. Mr. Chairman, I rise in support of the substitute offered by my good friend and colleague, the gentleman from California [Mr. MILLER].

The Miller substitute to H.R. 1 is the real Working Families Flexibility Act. The Republican bill is an impostor that will result in paycheck reduction for all working families.

If the other side had been truly interested in helping working families, then we would have created a bipartisan piece of legislation and we would have been proud to present it to the American people. Instead, we have a bill that was drafted behind closed doors and passed along party lines in committee. This is unfortunate because it is an opportunity missed.

I have been an employee for public service, I have been an employee in private business, I have been an employee of a large business, I have owned my own business, and I know that H.R. 1 could have balanced the need of flexible work schedules and the requirements of employers.

In my congressional district there are more than 25,000 people who make less than $15,000 per year. In addition, there are over 52,000 women who work and support their families. These women need the security of knowing that they can depend on overtime pay or use comp time to take care of their children.

While I support the idea of flexible work schedules, and I wanted to support H.R. 1, the bill does not provide sufficient protections for working families. During the markup, the committee could have restored some balance to this bill. I joined my good friends, the gentlewoman from Hawaii [Mrs. MINK], the gentlewoman from California [Ms. WOOLSEY], and the gentleman from Massachusetts [Mr. TIERNEY], in offering a simple amendment that would have helped working families have a real choice and real flexibility, but, unfortunately, our amendment was turned down.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Chairman, I thank the gentleman for yielding me this time to speak about an important issue to all working families.

Mr. Chairman, I rise in strong support of H.R. 1 and in opposition to the amendment of the gentleman from California [Mr. MILLER]. I think it is a poison pill for this bill and it would literally gut this excellent proposal.

Mr. Chairman, we have heard a lot of the distortions about what we are doing here. We have heard this legislation would take money and benefits out of the hands of hard-working individuals; that it would give employers the upper hand; that it would harm our working families, our hard-working families. If that is the case, why is it that President Clinton's pollster is saying that 75 percent of working families favor this bill, H.R. 1?

I think it is because they want the choice to take time off for their families instead of receiving overtime compensation. Currently, most employees have no choice. Government union employees do have this choice, but the rest of us do not. We have to take the pay even if we would rather have the time off.

The bill is for our workers and their families who do not have enough hours in the day to spend together. It is for the mom or dad who wants to go to school to see their child's play, visit their teacher or attend a basketball game. It is for those of us who need to take extra time to go to the doctor or take our children to the doctor. It is for those of us that actually would sacrifice the overtime pay just to take an extra vacation or a few days off to be with our kids or take care of important personal items.

The most important part of this is to remember that this is paid leave that the worker has earned, not unpaid family and medical leave that often goes unused because, frankly, our workers cannot afford to take the time off. Employees can make an intelligent and informed decision about how to best use their overtime. Whether they use comp time or take the pay is a decision they should make, not some Washington bureaucrat.

The choice is simple, Mr. Chairman. Let us give our families and workers the choice they deserve. Support H.R. 1 and oppose the Miller amendment.

Mr. MILLER of California. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MARTINEZ].

(Mr. MARTINEZ asked and was given permission to revise and extend his remarks.)

Mr. MARTINEZ. Mr. Chairman, I rise in support of the Miller amendment and against H.R. 1. Give people the choice.

Mr. MILLER of California. Mr. Chairman, how much time have we consumed; or how much time is left to both sides?

The CHAIRMAN. The gentleman from California [Mr. MILLER] has 18 minutes remaining, and the gentleman from Pennsylvania [Mr. GOODLING] has 16½ minutes remaining.

Mr. MILLER of California. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, I was a working mother of four children. I also have 20 years of experience as a human resources professional. I know the challenges facing working moms and dads today. I know that for things to work at home, parents need real flexibility in the workplace. H.R. 1 does not help working parents because it does not let the employee choose when to use the comp time they have earned.

The Miller substitute, however, is real comp time. It is real flexibility. It gives employees three ways to use their comp time: automatically, for family emergencies; at the employee's convenience, with 2 weeks notice; and with less than 2 weeks notice when it does not unduly disrupt business.

The Miller substitute stands up for working moms and dads, allowing them the choices they need to perform their most important task: parenting. Let us vote for comp time that really means something. Vote for the Miller substitute.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. MCCARTHY].

Mrs. MCCARTHY of New York. Mr. Chairman, I rise in support of the Miller-Clay substitute to H.R. 1.

When I talk with my constituents, they tell me they want Congress to put aside partisan fighting and find commonsense solutions to important issues. On comp time, they tell me they want a bill which provides workers true flexibility and a true choice of when to use it.

I understand this issue firsthand. Before coming to Congress, I was a nurse. I still am a nurse. Comp time would have been very attractive for me, since I put in long hours that kept me away from my family. But I also know that without real choice, there would have been many times when I would have been asked to work, wanted to take time off and been denied it. Instead of flexibility, I would have been left with no overtime pay and a comp time bank from which I could never withdraw.

The fact of the matter is the vast majority of employers will treat their workers right under comp time. But a small number will not, and any law we pass must protect the most vulnerable workers whose bosses will try to abuse the law.

I am proud to be an original cosponsor of the Miller-Clay substitute, because I believe it strikes the right balance between the needs of the employer and the employee. Under the Miller-Clay proposal employees get to decide when to use the comp time they have earned as long as it does not cause substantial or grievous injury to the employer.

More importantly, the Miller-Clay substitute provides sensible protections to employees who choose comp time.

□ 1615

Under this plan comptime counts as hours worked for overtime so employees will not be forced to work long hours later in the week. Employees can be assured that if their business goes bankrupt, the comptime hours they have accumulated will not be lost forever.

Finally, the Miller-Clay substitute gives workers 24 hours of leave to attend a parent-teacher conference or take a sick parent to the doctor. By helping workers who are struggling to make ends meet while caring for their family, the Miller-Clay substitute is truly family oriented.

Mr. Chairman, I urge my colleagues to vote yes.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT of Nebraska. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the substitute and in support of H.R. 1. Under the substitute it occurs to me that the Secretary of Labor would be empowered to deny comptime to basically anyone the Secretary wants. The provision strikes at the very heart of H.R. 1, which is giving freedom to workers and to employers.

The substitute creates a maze of new regulations and penalties. Employers simply will not offer comptime for fear of making some kind of an honest mistake and being taken to the cleaners.

There is only one proposal that meets the needs of workers and employers, and that is H.R. 1. The bill gives workers and employers what they want, the freedom to offer a new benefit, and the freedom to decline or accept it. H.R. 1 should be titled Working Families Freedom and Flexibility Act.

H.R. 1 breaks the barriers that have stopped the private sector from offering a benefit that Americans have been demanding for quite some time. This bill does so without a one-size-fits-all Federal mandate. Employers will be free to listen to their workers and decide whether to offer the benefit. Workers will be free to accept or refuse the benefit. They can use the comptime or they can take the overtime wages. It is entirely up to the employees.

Mr. Chairman, H.R. 1 is a win-win for America. It provides freedom to employers to offer a benefit without another bureaucratic government mandate. It provides freedom for workers to take the time that they have worked and use it to spend with their families or to take their overtime pay.

For nearly 210 years, Congress has passed laws to ensure that the American worker and the business sector have the opportunity to succeed. H.R. 1 continues that fine tradition. I encourage my colleagues to support this landmark legislation to reinvigorate the idea of freedom in the workplace and oppose the substitute.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, I thank my friend from California for yielding time, and I rise in support of his substitute.

Mr. Chairman, it occurs to me that someone listening to this debate today might be awfully confused when they hear virtually everyone on our side say the bill before the House puts the whip in the hands of the employer and takes the choice away from the employee and hears virtually everyone on the other side say exactly the opposite is true. Let me tell my colleagues why I feel so strongly that we are right about this argument. It has to do with the way the underlying bill that we are seeking to amend is drafted.

If we have a situation where an employee who always chooses cash, or has always chosen cash in the past, is denied overtime in the future and an employee who always chooses comptime is given overtime in the future, I think it is a fair conclusion that the other employees in that workplace might get the message that if you choose cash you do not get overtime. But if you choose comptime, you do. That effectively takes the choice away from the employee and puts it in the hands of the employer.

Our friends on the other side no doubt say that is not what the bill says. The bill says that you have to offer the employee the choice. That is true. That is literally what the bill says. But in practice let me tell my colleagues what I believe would happen. The burden of proof would be on the employee to hire a lawyer, go to court and show that the employer intentionally chose to discriminate or deny overtime to the employee who chose cash rather than comptime. The way you have to meet that burden of proof, with all due respect, is impossible. There is a saying in law that he or she who has the burden of proof loses. In this case it would be the employee who would have that burden of proof.

How would you meet the burden of proof? You would have to find a smoking gun. You would have to find a memo or an oral statement from an employer that would say, ''Whatever we do, let's stop offering overtime to people who choose cash rather than comptime.'' Very few employers, first of all, I believe, would coerce their employees. I accept that. But even fewer employers are going to be stupid enough to let such a memo or oral statement be around. Very few people are going to meet this burden of proof.

We then have the assertion that an employee can cash out their comptime on demand. That may be what the written piece of paper says, but that is not the reality, Mr. Chairman, because the same person who is persuaded not to choose cash in the first place is very unlikely to go back to an employer and demand cash in the second place. On paper this sure looks like choice, but in the real world it sure looks like coercion.

The Miller substitute meets those objections. It would truly put the choice in the hand of the employee and not the employer. It would deal with the situation where an employee has accumulated comptime and the employer goes out of business by not permitting that situation to get out of hand and accrue. If you really want worker choice, support the Miller substitute.

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Montana [Mr. HILL].

Mr. HILL. I thank the chairman for yielding me time.

Mr. Chairman, I rise to oppose the Miller substitute and to express my strong support for the Working Families Flexibility Act. The Miller substitute would create such a regulatory maze with such heavy penalties that no employer would ever offer comptime. Make no mistake, there is only one comptime bill before us, and that is H.R. 1.

H.R. 1 is very simple. It allows private sector employers to provide comptime in lieu of overtime pay under an agreement with their employees. If an employer chooses to make comptime available, the employees have the option of having their overtime compensated with cash or with paid time off. Employees who prefer to receive cash wages for overtime hours worked would be free to continue to receive cash payment for their overtime.

Mr. Chairman, this legislation does not change the 40-hour workweek for the purposes of calculating overtime. Employees who work more than 40 hours over 7 days would continue to receive overtime at 1½ times their regular pay. If the employer and employee agree on comptime, then the paid time off would be granted at 1½ hours for each hour of overtime worked. This arrangement for comptime must be a mutual agreement between the employer and the employee. It is entirely voluntary on the part of the employee. The legislation also protects employees from being coerced into comptime or overtime.

Mr. Chairman, I owned a small business, about 20 employees, before coming to Congress. My office policy was set up for exactly what this legislation would achieve. If one of my employees wanted to go to a track meet or had a parent-teacher conference during the workday, I simply asked them to make up the time later on. It was a casual, trusting relationship. That was until the Department of Labor told me that it was wrong to provide this kind of flexibility to my employees of balancing their work life with their family life.

But let me give another example, Mr. Chairman. There is an art theater in Montana, in a small town. They perform at night and on weekends. The theater has five employees who sometimes work 20 to 30 hours on the weekend in addition to their regular workweek. They prepare the stage, visit schools, pack and unpack props and other equipment. Currently these employees would willingly give up their time, but they are breaking the law. With a comptime option, Mr. Chairman, the employees could take off their time in subsequent workweeks to make up for their overtime.

Mr. Chairman, there are 50,000 small businesses in Montana. Ninety percent of them employ 50 or fewer employees. It is not the place of the Federal Government to deny those small businesses in Montana the opportunity to provide flexible workplaces.

Mr. MILLER of California. Mr. Chairman, I reserve the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, as a new member of the Committee on Education and the Workforce, I rise in support of H.R. 1 and in opposition to the amendment offered by my colleague from California [Mr. MILLER]. I am a strong supporter of the bill before us, H.R. 1, and was pleased to support it in the committee earlier this month.

Contrary to what my colleagues may hear today, the bill does not affect the 40-hour workweek or existing rights of overtime pay. It also has built-in protections and safeguards to ensure that employees are not coerced into choosing comptime. The base bill allows employees to decide how they want to be paid for their overtime work, either in dollars or comptime.

I once had a job where this policy was in effect, both as an employee as well as a boss, and I know that it works. When I no longer serve in this Congress, I would strongly prefer a job where I could put in a 40-hour week over 4 days and have a Monday or Friday off to spend time with my family, and I would think that that would be a worthwhile and attractive alternative to many of us in this Chamber today.

Today I have heard a lot about being forced to choose one or the other. That does not happen. What we want to do is give workers the opportunity to choose for themselves what they want. The opponents of this legislation have offered lots of amendments, but they have not offered an amendment to take away this benefit from those employees that today have exactly this type of practice in the workplace. My sense is if they did, that those employees that have that opportunity today would raise a real hue and cry against what this Congress would do.

Mr. Chairman, it works. I saw it work. We need to have this work for all employees and that is why I am glad to support this legislation this afternoon.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from Michigan [Ms. RIVERS].

Ms. RIVERS. Mr. Chairman, the debate today really is about striking a balance, about finding a way to meet the demands for flexibility that employees all over this country have with our need to protect people from decisions that employers might make to the disadvantage of that employee. We are really talking about income protection here today.

I know that there has been some discussion about the importance of letting individual employees decide and I agree, that is important. We should let individuals decide. But I think that the other side protests a little too much about that, and the speeches we have heard about how demeaning it is to suggest that employees may need some protection really does not look at the issue in a reasonable light.

I know, because for many years my husband and I lived on overtime. My husband is an autoworker. He works in 1 of the 12 automobile plants in my district. He has been an hourly worker for the entire time we have been married. Overtime for many years paid for our Christmas presents. It allowed us to take a summer vacation. It allowed us to make additional payments on our cars. If that income were not available to us, our life and our quality of life would have changed substantially.

Now, the argument is, is that the employee makes all the decisions under this bill. Of course that is not true. The reason that people have been so concerned on our side of the aisle about lower income employees is because the people who most need the money, lowincome employees, are the ones that are most susceptible to the kind of pressure that an employer could put on them. Employers can put that kind of pressure on an employee to choose time off rather than income, or they can pick and choose between employees about who will get the overtime, probably the one who will take time rather than money.

It is important that people realize while compensatory time is valuable, you cannot buy bread with it, and for people who need the income we have to be sure that this bill protects them and protects the money that they need each and every week.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. PAUL].

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in support of H.R. 1 and in opposition to the Miller amendment. The Miller amendment obviously would negate everything we are trying to do in H.R. 1.

One of my favorite bumper stickers simply says ''Legalize freedom.'' I would like to think that is what we are doing here today, is legalizing freedom to some small degree. The workers in the public sector already have this right to use comp time. There is no reason why the workers in the private sector cannot have this same right as well.

□ 1630

The bedrock of a free society is that of voluntary contracts and it is easy for many of those who oppose this bill to understand that voluntary contracts and voluntary associations in personal and social affairs is something that we have to respect. But there is no reason why we cannot apply this to economic affairs as well. A true free society would permit voluntary contracts and voluntary associations in all areas, and it has not always been this way, as it is today, where social liberty and economic liberty are separate. It has only been in the 20th century that we have divided these two, and there is no reason why we cannot look at liberty in an unified manner. Those individuals who want freedom of choice in personal and social affairs should certainly recognize that those of us that believe in economic freedom ought to have those same choices.

This great division has occurred and has led to a great deal of confusion in this country. Today, we are making this token effort to relegalize in a very small manner this voluntary contract to allow workers to make a freedom of choice on how they would like to use their overtime, taking the money or using it as comptime. There is no reason why we should prohibit this. It is legal in the public sector. There is no reason why we cannot legalize a little bit of freedom for the worker in the private sector as well.

Mr. Chairman, this act partially restores the right of employees to contract with their employers to earn additional paid time off from work in lieu of overtime pay when the employees works longer than 40 hours in a week.

I am pleased to support this bill, as it represents a modest step toward restoring the freedom of contract. Freedom to form employment contracts is simply a branch of the freedom of association, one of the bedrocks of a free society. In fact, another good name for freedom of contract is freedom of economic association.

When persons have the right to associate with whom they choose, they will make the type of agreements that best suit their own unique needs. Any type of Government interference in the freedom of association means people will be forced to adjust their arrangements to satisfy the dictates of Government bureaucrats,

For example, even though workers might rather earn compensatory time so they may have more time to spend with their children and spouses then accept paid overtime, the current law forbids them from making such an arrangement. But Congress has decided all Americans are better off receiving overtime pay rather than compensatory time, even if the worker would prefer compensatory time. After all, Congress knows best.

The Founders of the country were champions of the rights of freedom of association. Under the U.S. Constitution, the Federal Government is forbidden from interfering in the economic or social contracts made by the people. As we all know, the first amendment prohibits Congress from interfering with the freedom of association. There is nothing in the history or thought of the Framers to indicate economic association was not given the exact same level of protection as other forms of association.

In fact, the emphasis placed by this country's Founders on property and contract rights indicates the Founders wanted to protect economic associations from Government interference as much as any other type of associations.

Unfortunately, since the early years of the 20th century, Congress has disregarded the

constitutional prohibition on Federal regulation of freedom of economic association, burdening the American people with a wide range of laws controlling every aspect of the employer-employee relationship. Today, Government presumes to tell employers whom they may hire, fire, how much they must pay, and, most relevant to our debate today, what types of benefits they must offer.

Behind these laws is a view of the function of Government quite different from that of the Founders. The Founders believed Government's powers were limited to protecting the liberties of the individual. By contrast, too many in Congress believe Government must function as parent, making sure citizens don't enter into any contracts of which the national nanny in Washington disapproves.

I note with some irony that many of the same Members who believe the Federal Government must restrict certain economic association claim to champion the right of free association in other instances.

For example, many of the same Members who would zealously defend the right of consenting adults to engage in voluntary sexual behavior free from State interference. Yet they are denying those some individuals the right to negotiate an employment contract that satisfies these unique needs.

Yet the principle in both cases is the same, people should have the right to contract and associate freely with whomever, on whatever terms they choose, they choose without interference from the Central State.

As has been often mentioned in this debate, 75 percent of employees surveyed by the polling firm of Penn & Schoen favored allowing employees to take compensatory time in lieu of overtime. Yet Members of Congress, who not only claim to favor freedom of association but claim to care for the workers, will not allow them the freedom to contract with their employees for compensatory time.

What arrogance and hypocrisy. If employees feel that compensatory time would benefit them, and employers, eager to attract the best employees, are willing to offer compensatory time, what right does Congress have to say "No, you must do it our way?"

Congress has no right to interfere with private, voluntary contracts whether between a husband and wife, a doctor and patient, or an employer or an employee.

Mr. Chairman, it is time to lift the federally imposed burdens on the freedom of association between an employer and employee. As a step in that direction, I will vote for the unamended Working Family Flexibility Act and I call on all my colleagues who support individual liberty and freedom of association to join me in supporting this pro-freedom, pro-worker bill.

Mr. MILLER of California. Mr. Chairman, I reserve the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Chairman, today I rise in opposition to the Miller substitute and in strong support of the underlying bill, H.R. 1. The Miller substitute has many problems, among them it effectively denies comptime to many American families by setting up classes of ineligible workers, and as my colleague from Illinois, Mr. FAWELL, so ably showed, it makes unlikely an employer would ever offer comptime to employees because of a new maze of Federal regulatory requirements.

As my colleagues know, Mr. Chairman, as I have listened to this debate it has stimulated me to go back and read this bill. This is not rocket science. This bill is only eight pages long. Basically what this bill says is, on page 3, an employer can provide comptime to employees only if, A, the employees union agrees to it, or B, the individual has chosen to receive comptime in lieu of mandatory overtime compensation. And what happens then if an employee decides he does not like it? Well then you move on to the next page, page 5, an employee may withdraw an agreement described in this paragraph at any time. An employee may also request in writing that monetary compensation be provided at any time for all compensatory time accrued that has not been used. And then, Mr. Chairman, what happens if an employer abuses this? Well, then they are subject to the Fair Labor Standards Act of 1938.

Mr. Chairman, this is a very good bill. If my colleagues would listen to one side and the other side, they would wonder who is telling the truth. My suggestion is: Read the eight pages of this bill and vote for H.R. 1 and vote against the Miller substitute.

Mr. MILLER of California. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I want to thank my colleagues who have joined in this debate this afternoon.

There is a very fundamental, a very fundamental difference between these two pieces of legislation. We believe that one of the fundamental differences is about really preserving the truly voluntary choice by the employee, about truly voluntary flexible scheduling by the employee and making sure again that preserving the choice of the employee about when to use his time. We also have a very fundamental difference, and a number of my colleagues from the other side of the aisle spoke to it. We believe that there are people unfortunately in this country who are very vulnerable workers, who work in industries with a long history of running on their workers' pay, on not sending their contributions to the State unemployment board, of not sending the tax contributions to the IRS, of not paying into Social Security. Unfortunately, some of these people may be well intentioned but rather under capitalized, and they constantly are taking what the employee has earned and using that to run their business, and then the employee is left holding the bag. It happens to tens of thousands of employees all of the time in this country. Hundreds of thousands of employees have been denied overtime that they have worked for and that they have earned according to the Department of Labor.

So what are we saying? We are saying in those industries where you have a history of these kinds of activities, the Secretary of Labor ought to be able to say whether or not those employers ought to be able to engage in comptime because let us understand what one does with comptime:

"You agree to work overtime. You agree to work more than 8 hours, more than 40 hours. You agree to work at night. You agree instead of going home at the end of your shift you're going to stay and do some additional work. A lot of that work is real hot and it's real heavy and it's real dangerous, but that's what you agree to do and you've earned that. You should be protected then against the ability of an unscrupulous employer to run on the obligation."

Mr. Chairman, I appreciate that a number of speakers have gotten up and spoken about that provision of this bill, but we do believe, we do believe, that those people ought to in fact be protected. They can exercise the choice, but they ought to know what the choice is about, and if it is in an industry, then the Secretary of Labor ought to try and determine whether or not we ought to put these people's wages, these people's wages at risk in the case of where we have a history of unscrupulous employers.

So there is a fundamental difference about these two pieces of legislation. I would hope, I would hope that those who are truly interested in providing the real choice of comptime versus overtime and real flexibility for families to use it when they need it and can help their families will vote for the Miller substitute.

Mr. Chairman, I yield back the balance of my time with my understanding the gentleman from Pennsylvania will be the last speaker.

Mr. GOODLING. Mr. Chairman, I yield myself the remainder of my time.

The CHAIRMAN. The gentleman from Pennsylvania is recognized for 6 minutes.

Mr. GOODLING. Mr. Chairman, I rise in opposition to this substitute offered by the gentleman from California [Mr. MILLER].

I have to wonder where we have been the last couple years because the last time we had this legislation before the committee in the last session of Congress there were no amendments offered in committee, and there was no substitute offered on the floor. This year there were some amendments offered in committee, and we took some of those and included them in my amendments here on the floor, but only one amendment was offered from the other side. So, as my colleagues know, where have we been all of this time?

I have many objections to the substitute. First of all, I do not question the intention of the substitute, but I do very pointedly say that it positively guts the whole bill, and I can substantiate that by saying, well, there are seven broad areas that we are exempting, and then if that is not enough, we get down to the point where we say, "and the Secretary can exempt anybody else," so we could end up no one

has the opportunity, except again the public sector, which has had that opportunity for a long, long time.

The substitute prohibits comptime for all part-time temporary seasonal employees, all employees in the garment industry, all employees not entitled to take 24 hours of leave per year for family member, for school activities or routine medical care; all employees in the construction industry; all employees in agricultural employment. The part-time prohibition is further defined to prohibit comptime for any employee working less than 35 hours per week, and there is no specific definition of the construction of the garment industry. The agricultural employee, construction and garment prohibitions appear to extend to all the employees even if they could be a secretary that has worked there full-time for 15 years.

Now beyond all of that, all these specific exemptions with respect to the use of compensatory time, the Miller substitute takes what has been a fairly straightforward rule and now makes it so convoluted that I cannot imagine that anybody would understand who is eligible, what is available, and what is not available.

Now we talk over and over again about the protections in the bill, and again I want to repeat, as I have many times today, H.R. 1 says, ''You can use your comptime for any purpose so long as you give reasonable notice and the use does not unduly disrupt the employer's operation.'' These are the exact same tests as in State and local government and similar to that in the Family and Medical Leave Act for medical leave.

The Miller amendment says that if any employee is using comptime for purposes covered by the Family and Medical Leave Act or any comparable State law, they do not have to give any notice, and it does not matter what the impact is on business for any purpose. If they give 2 weeks' notice, they follow one rule; if they do not give 2 weeks' notice, they follow another rule. As I said, it becomes very confusing and convoluted, and then of course there is unlimited punitive compensatory damages to be awarded, far beyond even our civil rights legislation.

So let me just wrap up by saying reject the substitute and listen again. I think we have all agreed now that the 40-hour work week is saved. I think everybody now who has read it agrees to that. We know that it gives private sector employees the same opportunity the public employers have but with more protection then they have. We know that employees are just as good in the private sector as employees are in the public sector, just as bright, just as able to make decisions as anybody in the public sector, and therefore we should give them the same opportunity that we give those in the private sector.

We do not want to say to those in the private sector that because they are in the private sector, somehow or other only the Federal Government can determine whether they should have this opportunity. It is the employee's choice. The employee is completely protected to make that choice. The employee can cash out when they want to cash out. The employee can break the contract that they made if they decide that they do not really want to do that. So it is a win, win, win situation for the employee because we have protected them in this legislation.

So again I ask my colleagues, reject the substitute which guts the entire bill and vote yes on H.R. 1.

One additional comment:

These staffs on both sides have worked day and night, and I certainly want to pay tribute to them for all the work that they have put in. It was not only Members that were working; there were staff members who were working, as I said, day and night.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. Mr. Chairman, I do not know if they got compensatory time or not, or overtime. I hope we were within the law in relationship to our employees.

Mr. Chairman, I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I know that the gentleman from Missouri [Mr. CLAY] and myself would like to join in commending the staffs. They have worked long and hard on this legislation, and I would also like to thank the chairman of the committee in the spirit of Hershey this year. We had a wonderful opportunity to offer amendments, and we appreciate that opportunity in committee.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of this amendment to H.R. 1, the Working Family Flexibility Act offered by the Honorable GEORGE MILLER.

I appreciate the need for the American worker to have the flexibility to choose between overtime pay and compensatory time.

Without this body's action on this issue, many employees in this country have compensatory time as an accomplished fact of their work life. These compensatory time agreements may be provided as a part of binding labor contracts or informal or formal work agreements.

The Fair Labor Standards Act does not require employers to pay overtime based on hours worked in a single day. When an employee who normally works five 8-hour days a week needs to take a few hours off during the week, the employer can let the employee leave work early 1 day and stay late the next without having to pay overtime, so long as the total hours worked for the week is no more than 40.

Employers can also accommodate an employee who needs to take time off 1 week by letting them take the time off without pay. If the employee is concerned about the loss of pay, the employer can authorize the employee to work enough overtime another week to make up the lost time.

The problem with making any changes to the overtime pay requirements is the impact on workers face loss of pay due to employer violations of overtime pay laws.

Complaints under the Fair Labor Standards Act may involve alleged violations of minimum wage, overtime, recordkeeping, and/or child labor requirements. The Wage and Hour Division received nearly 35,000 complaints in fiscal year 1996.

In fiscal year 1996, 13,687 compliance actions disclosed overtime violations. These represent nearly 50 percent of those in which Fair Labor Standards Act monetary—minimum wage or overtime—violations were found.

The Wage and Hour Division last year found just over $100 million in back wages due to overtime violations owing to nearly 170,000 workers.

If there were only well intended employers and well meaning employees their would be no need for rules and regulations to govern the work environment.

I believe that this amendment to H.R. 1 will offer necessary protections to American workers who may not work in the conditions that we could endorse with an open compensatory time bill.

Mr. GOODLING. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as modified, offered by the gentleman from California [Mr. MILLER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GOODLING. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 193, noes 237, not voting 2, as follows:

[Roll No. 58]

AYES—193

Abercrombie	Dingell	Kennedy (RI)
Ackerman	Dixon	Kennelly
Allen	Doggett	Kildee
Andrews	Doyle	Kilpatrick
Baldacci	Edwards	Kind (WI)
Barcia	Engel	Kleczka
Barrett (WI)	English	Klink
Becerra	Eshoo	LaFalce
Bentsen	Etheridge	Lampson
Berman	Evans	Lantos
Bishop	Farr	Lazio
Blagojevich	Fattah	Levin
Blumenauer	Fazio	Lewis (GA)
Bonior	Filner	Lipinski
Borski	Flake	Lofgren
Boswell	Foglietta	Lowey
Boucher	Ford	Luther
Boyd	Frost	Maloney (CT)
Brown (CA)	Furse	Maloney (NY)
Brown (FL)	Gejdenson	Manton
Brown (OH)	Gonzalez	Markey
Capps	Gordon	Martinez
Cardin	Green	Mascara
Carson	Gutierrez	Matsui
Clay	Hall (OH)	McCarthy (MO)
Clayton	Hamilton	McCarthy (NY)
Clement	Harman	McDermott
Clyburn	Hastings (FL)	McGovern
Condit	Hefner	McHale
Conyers	Hilliard	McIntyre
Costello	Hinchey	McNulty
Coyne	Hinojosa	Meehan
Cramer	Holden	Meek
Cummings	Hooley	Menendez
Danner	Hoyer	Millender-McDonald
Davis (FL)	Jackson (IL)	Miller (CA)
Davis (IL)	Jackson-Lee (TX)	Minge
DeFazio	Jefferson	Mink
DeGette	John	Moakley
Delahunt	Johnson (WI)	Mollohan
DeLauro	Johnson, E. B.	Moran (VA)
Dellums	Kanjorski	Morella
Deutsch	Kennedy (MA)	Murtha
Dicks		

Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velazquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—237

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McKinney
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Owens
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—2

Frank (MA)
Kaptur

Messrs. HOUGHTON, RILEY, and SMITH of Texas changed their vote from ''aye'' to ''no.''

Mr. HILLIARD and Mr. KENNEDY of Massachusetts changed their vote from ''no'' to ''aye.''

So the amendment in the nature of a substitute, as modified, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. KOLBE) having assumed the chair, Mr. COMBEST, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1) to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector, pursuant to House Resolution 99, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. GOODLING. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 222, noes 210, not voting 1, as follows:

[Roll No. 59]

AYES—222

Aderholt
Archer
Armey
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCollum
McCrery
McInnis
McIntosh
McIntyre
McKeon
Mica
Miller (FL)
Minge
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Wolf
Young (FL)

NOES—210

Abercrombie
Ackerman
Allen
Andrews
Bachus
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E.B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce

Lampson
Lantos
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reyes
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schiff
Schumer
Scott
Serrano
Sherman
Shimkus
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weller
Wexler
Weygand
Wise
Woolsey
Wynn
Yates
Young (AK)

NOT VOTING—1

Kaptur

□ 1721

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1, the bill just passed.

The SPEAKER pro tempore (Mr. MCINNIS). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MASS MAILINGS

(Mr. THOMAS asked and was given permission to address the House for 1 minute.)

Mr. THOMAS. Mr. Speaker, I seek this time to engage the gentleman from Delaware in a colloquy in regard to his amendment on the fiscal year 1997 appropriation bill that discloses the costs of mass mailings.

I yield to the gentleman from Delaware (Mr. CASTLE) for purposes of clarification of his amendment.

Mr. CASTLE. Mr. Speaker, I thank the gentleman from California for yielding to me.

My amendment provides for greater disclosure of franked mass mail costs than is currently provided. It requires that the statement, ''this mass mailing was prepared, published and mailed at taxpayer expense'' be printed on each mass mailing. It requires that on a quarterly basis the total number of pieces and the total cost of such mass mailings sent by each Member of Congress be disclosed to the public.

It also provides for piece and cost comparisons based on the number of addresses that are in each district.

Mr. THOMAS. Mr. Speaker, the gentleman indicated that his amendment included the term ''total cost.'' By total cost, notwithstanding what those words mean, did the gentleman mean to include the associated printing and production costs of mass mailings such as computer time, print costs, paper costs, and ink costs?

Mr. CASTLE. Mr. Speaker, if the gentleman will continue to yield, my primary concern has been the cost of mailing franked mail. I have been a staunch supporter of reducing the franked mail appropriation and am very pleased by the effort that has been made in recent years to rein in these costs, mostly under the gentleman's tutelage.

The cost of mailing franked mail as presently reported does not differentiate between unsolicited mass mail and constituent response mail. Thus watchdog groups which report on how much of a Member's franked mail budget is used are unable to make this distinction, which I believe is an important one.

It is the responsibility and obligation of Members to respond to their constituents, and I think the public supports this use of taxpayer dollars. Unsolicited mass mail falls into a different category. Yet the public has no way of knowing how much Members are spending to mail unsolicited mass mail. This is the issue I was trying to address with my amendment.

The other body's administrative system makes it easy for that body to report its Members' mailing costs and production costs of franked mail. However, given that the House does not yet have a system set up to do this and given that production costs were not the target of my amendment, I believe that Members should not be required to report production costs.

Mr. THOMAS. Mr. Speaker, I thank the gentleman because the House does not yet have a way to capture the printing and production costs. If the purpose of the gentleman's amendment, as stated, is to disclose to the public the mailing costs of mass mailings, that can easily be accomplished.

I thank the gentleman for his clarification as well as for his efforts in reforming the use of the frank.

□ 1730

PROPOSED RESCISSION OF BUDGETARY RESOURCES AFFECTING THE DEPARTMENT OF ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 105–57)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one proposed rescission of budgetary resources, totaling $10 million.

The proposed rescission affects the Department of Energy.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 19, 1997.*

TWENTY-FIFTH ANNUAL REPORT ON ENVIRONMENTAL QUALITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Resources:

To the Congress of the United States:

I am pleased to transmit to the Congress the Twenty-fifth Annual Report on Environmental Quality.

As a nation, the most important thing we can do as we move into the 21st century is to give all our children the chance to live up to their God-given potential and live out their dreams. In order to do that, we must offer more opportunity and demand more responsibility from all our citizens. We must help young people get the education and training they need, make our streets safer from crime, help Americans succeed at home and at work, protect our environment for generations to come, and ensure that America remains the strongest force for peace and freedom in the world. Most of all, we must come together as one community to meet our challenges.

Our Nation's leaders understood this a quarter-century ago when they launched the modern era of environmental protection with the National Environmental Policy Act. NEPA's authors understood that environmental protection, economic opportunity, and social responsibility are interrelated. NEPA determined that the Federal Government should work in concert with State and local governments and citizens ''to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.''

We've made great progress in 25 years as we've sought to live up to that challenge. As we look forward to the next 25 years of environmental progress, we do so with a renewed determination. Maintaining and enhancing our environment, passing on a clean world to future generations, is a sacred obligation of citizenship. We all have an interest in clean air, pure water, safe

food, and protected national treasures. Our environment is, literally, our common ground.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 19, 1997.*

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. MCINNIS). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. CANADY] is recognized for 5 minutes.

[Mr. CANADY of Florida addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

A SUCCESSFUL BIPARTISAN RETREAT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 5 minutes.

Mr. SKAGGS. Mr. Speaker, I think we have established a bit of a tradition by now that when those of us that have been involved in putting together the bipartisan retreat in Hershey are here to talk about that, we will make the symbolic gesture of going to the other podium and talking to our colleagues on the other side of the aisle, in part.

It has been interesting in the days since the weekend in Hershey to notice how many references have been made to the retreat to Hershey, to civility, both in debate on the floor and in the committee hearings that I have been a part of. I hope that is good evidence of things sort of taking seed, anyway. I know we have a great deal of work to do to make good on the beginnings that occurred at the retreat at Hershey, PA.

Before getting into a little bit of that, I just want to recognize and express my deep thanks to all that were involved in planning the weekend; my cochair, the gentleman from Illinois [Mr. LAHOOD], and the other members of the planning committee that worked literally for months and months and months together, a gratifying experience in its own right, to put together with the help of some great outside experts a plan for the weekend.

Those colleagues included the gentlewoman from North Carolina [Mrs. CLAYTON], the gentleman from California [Mr. DREIER], the gentlewoman from Missouri [Mrs. EMERSON], the gentlewoman from Florida [Mrs. FOWLER], the gentleman from Texas [Mr. HINOJOSA], the gentleman from New York [Mr. HOUGHTON], the gentleman from Ohio [Mr. SAWYER], and the gentleman from Texas [Mr. STENHOLM].

As I think most of our colleagues are aware, we came away from the weekend in Hershey with many excellent ideas. Those are going to be reviewed and vetted and scrubbed and we hope then produced as recommendations coming out of the continuing work of the planning committee, that I hope now can be called an execution committee. We have met once since the weekend and will be meeting again.

Among the things we have already put in place, and Members will be advised of this by correspondence to their office, is a briefing on the retreat, the evening of April 16, from 5 to 7 p.m., downstairs in HC–5, where we hope our colleagues who were not able to attend the weekend, and their spouses, if at all possible, can join many of us who were there and our spouses for an opportunity to review some of what went on that weekend, to take a look at a video that is being compiled of the opening session, which included remarks by the Speaker and the Democratic leader, as well as a truly inspirational talk by the historian David McCullough.

We will have a time for socializing a bit, as well as dealing substantively with what went on in the weekend at Hershey and what our hopes are for carrying forward in very concrete terms the many, many good ideas that came out of that weekend.

Mr. Speaker, I yield to my good friend, the gentleman from Illinois [Mr. LAHOOD], for any comments he might wish to make at this point.

Mr. LAHOOD. Mr. Speaker, I thank the gentleman, and I too want to add my thanks to all of those who worked so hard on making the retreat possible, including the Pugh Charitable Foundation, the Aspen Institute, and the Congressional Institute. Those folks contributed mightily to making our weekend a success.

But in large measure it was successful because of the Members who came, the 200 Members, about equally divided between Republican and Democratic Members, and then about 150 spouses and 100 children, and the weekend was a success because of the fact that Members took the time to come. The kind of encouragement that Members have been exhibiting to carry on the suggestions that were made at the weekend I think means a great deal.

I hope that our group can get together and come up with some recommendations. I think many of the recommendations have a great deal to do more with running the House, the institution of the House, how to make it more effective in the sense that people have a chance to debate, knowing that there are going to be differences, there are going to be partisan and political differences, but in reality when we leave the floor and the vote has been cast people will continue to talk to one another and carry on discussions beyond the House floor, and it does not relegate itself to the extent that Members will not carry on conversations after they leave the House floor.

Mr. SKAGGS. The gentleman's point is very well made. There have been some who have wanted to misconstrue our efforts in this regard as somehow getting rid of disagreement, which could not be further from the truth.

We recognize, I think, that representing this big country of ours——

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. SKAGGS. Mr. Speaker, I ask unanimous consent for 1 additional minute.

The SPEAKER pro tempore. That request may not be entertained by the Chair. The gentleman's time has expired.

Mr. SKAGGS. Mr. Speaker, if I may finish this one sentence.

The SPEAKER pro tempore. The gentleman's time has expired.

ORDER OF BUSINESS

Mr. CHAMBLISS. Mr. Speaker, I ask unanimous consent to take the place of my colleague, the gentleman from Colorado, [Mr. MCINNIS], in the 5-minute rotation today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

LOCKHEED MARTIN TO ROLLOUT F–22 ON APRIL 9 IN MARIETTA, GA

Mr. CHAMBLISS. Mr. Speaker, I yield to the gentleman from Colorado, [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I thank the gentleman very much for yielding.

Just to complete the thought with my friend from Illinois, we just wanted to make sure that folks understand that our purposes are not to eliminate disagreements, which are inevitable, given the strongly held views that we have on the many important issues facing the country.

What we do believe is that we can replace what was becoming ever more sour debate among us with healthy debate which will live up to the expectations that I think the country and we hold for this institution.

Mr. CHAMBLISS. Mr. Speaker, reclaiming my time, I rise today to celebrate what I think is going to be a very historic moment in the national security of this country. On April 9, 1997, in Marietta, GA, at the Lockheed Martin plant we will have the rollout of the F–22.

I rise today along with my colleague from the 7th District of Georgia, [Mr. BARR], to talk about this historic event and to say that it marks the dawn of air dominance for the United States of America in the 21st century. The F–22 will be the fighter for the United States of America in the future.

The F–22 contains three major characteristics that will allow the United States of America to maintain the air dominance that we have been able to maintain in every major conflict over the last 40 years. Those three attributes, those three assets, are:

stealth, integrated avionics, and supercruise.

Folks, this is one heck of an airplane that Lockheed Martin has put together, and I rise today with my friend from Marietta to celebrate this historic moment.

Mr. Speaker, I yield to the gentleman from the 7th District of Georgia [Mr. BARR].

Mr. BARR of Georgia. Mr. Speaker, I thank my distinguished colleague from the 8th District for yielding. The gentleman from the 8th District has been a very, very strong and consistent supporter of our military, and particularly recognizes the need to maintain air superiority and air dominance well into the next century, a role which the United States of America has not forsaken since the early days of World War II.

As the gentleman has indicated, the F–22 fighter, which I am very proud to say is being assembled in the 7th District of Georgia at the Lockheed Martin facility at Dobbins Air Reserve Base in Marietta, GA, is the aircraft that will do that.

The roll-out that the gentleman mentioned on April 9, Wednesday, is something that I and my colleagues hope will be witnessed by Members throughout this Chamber as well as from the Senate. This truly will be an historic event, witnessing the rollout of this unique aircraft.

This aircraft, as the gentleman from the 8th District has indicated, not only will fly faster than anything out there today, it will have stealth capabilities that go far, far beyond any aircraft in any country in the world, and it has the capability of delivering weapons systems before the enemy, whether it is an aircraft or land installation, even knows that aircraft is there. As a matter of fact, they will probably never know what hit them with the F–22.

I appreciate again the work that the gentleman from the 8th District has done in working in his position on the Committee on National Security to ensure the appropriate funding and development of this most unique aircraft.

Mr. CHAMBLISS. Mr. Speaker, I thank the gentleman, and I wish to congratulate Lockheed Martin for the superb job they have done in the development of this airplane.

I also wish to congratulate the U.S. Air Force for the work that they have done in moving this project forward.

Mr. Speaker, we look forward to April 9.

CIVILITY AND THE BIPARTISAN RETREAT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. SAWYER] is recognized for 5 minutes.

Mr. SAWYER. Mr. Speaker, I come to join my colleagues today who are taking this opportunity to speak on behalf of the retreat that took place 10 days ago or so. I do so in a way that we really did not have time to do at the retreat itself.

What I would like to do today is to share with my colleagues in substance an article that was published 9 years ago in The Atlantic. It was the cover story. It was entitled ''Why Study History?'' It begins with a recollection of the election of 1892, over a century ago, in which the author, Paul Gagnon, describes the election as one of exchanges between Grover Cleveland and Benjamin Harrison, which were notably superficial, sometimes unsavory, and avoided most of the toughest questions facing America at the time.

It probably sounds familiar to many Americans. Cleveland and Harrison were not simpletons, but like most political leaders, as the author points out, they knew more than they dared to say and worried more than they dared to show.

The Committee of Ten, organized in that year to elevate the level of public debate, put civic education at the top of the school agenda because they saw a need to raise the level of political debate in the country.

We still need to do it. Not much has changed since then, and it was that which was a motivator behind the retreat itself.

The author pointed out in that article in 1988 that it takes a real understanding, a bone-deep understanding of democracy, to know how hard it is to preserve civilization or to better human life. And in describing what it takes, he touched on the kind of thing that I think we need to understand as a product of the retreat we undertook.

As he pointed out, the kind of work we do is difficult because it asks people to accept the burdens of living with tentative answers and with unfinished and often dangerous business. It asks us to accept costs and compromises, to take on responsibilities as eagerly as we claim rights, to honor the interests of others while pursuing our own, to respect the needs of future generations, to speak the truth and do the right thing when falsehood and the wrong thing would be more profitable, and generally to restrain our appetites and expectations. All this while working to inform ourselves on the multiple problems and choices of our Nation.

□ 1745

It is easy enough to lay out these kinds of wholesome values when things are going well, to remember the attitudes that we learned in classroom lessons and repeat over and over throughout our lives, and it is not even so hard to practice them provided that a certain level of morale prevails. There is no trick to virtuous behavior when things are going well. Most people will hold ethical attitudes, without much formal instruction when they feel themselves to be free, secure, and justly treated.

The truly tough part of all of this is to prepare us for the more difficult times. The question is not whether we will remember the right phrases but whether we will turn words into practice when we feel wrongly treated or fear for our freedom or security. It is particularly difficult when we see others in the public or private sector appear to flout every value that we would hold highly for one another. The chances for democratic principles to survive such crises depend on the number of representatives and indeed the number of citizens who remember how free societies have responded to these kinds of times in the past, how we have acted to defend ourselves and emerge from the bad times. Citizens need to tell one another, and we need to tell one another, and we need to tell those that we represent before it is too late what struggles have had to be accepted, what sacrifices borne and comforts given up, to preserve freedom and justice.

I can think of no single commentary that more completely strikes the recognition that we faced in Hershey, that it will not solve all of our problems of personal acrimony within the Congress, but it was never intended to do that. The retreat helped remind us that we can disagree with one another on matters of philosophy and belief while treating one another with respect personally. There will always be partisan differences, there should always be partisan differences.

The retreat was not intended to end them, but really to serve as a starting point, to build understanding among Members of the House and understanding that each of our personal outlooks has validity. Even if they do not agree, it will help reduce tensions. It is a baseline from which to build and the dialog that began in Hershey has provided the foundation for the rebuilding of civility within the institution, to understand where we all have been and where we all are going.

Mr. STOKES. Mr. Speaker, I want to thank our distinguished colleagues, Congressman DAVID SKAGGS and Congressman RAY LAHOOD, for reserving this special order. I was among Members of this legislative body who traveled to Hershey, PA, earlier this month for the bipartisan congressional retreat. I am pleased to share the success of this undertaking with my colleagues on both sides of the aisle.

In short, the bipartisan congressional retreat provided us with the opportunity to engage in candid discussions of how we can improve the working environment of the House. We focused on how Members currently deal with differences of opinion and how improvements can be made in this area.

Mr. Speaker, in my opinion, this was the finest retreat that the House of Representatives has held during my entire tenure in Congress. While we are accustomed to having House Democrats gathered for retreats and Republicans holding separate retreats, I can say that the Hershey retreat was truly bipartisan. More than 200 Members of the House, and an equal number of family members were in attendance at the Hershey retreat. In my case, I was pleased to have my wife, Jay, my daughter and her husband, as well as two of

our grandchildren, join me at the retreat. The retreat afforded the opportunity for Members of Congress, many of whom have only spoken to one another in passing, to commune with one another and have dialog in order to learn more about each other. The retreat provided our families this same opportunity. When we saw our children and grandchildren playing together, it encouraged us to come together. Our bipartisan retreat also included excellent breakout sessions. The small group setting allowed us to have informal discussions without the uncivility that we have experienced in the House. Further, the occasion to have breakfast, lunch, and dinner together provided an opportunity at each session to visit with someone whom we had not visited with before. By the time we were ready to return home, it was obvious that all who attended the retreat felt a sense of kinship.

Mr. Speaker, those of us who attended the retreat also came away with a much greater understanding of the history and traditions of the House. As Members of Congress, we belong to the finest legislative institution in the world. All of us have an obligation to treat it in that manner.

The SPEAKER pro tempore (Mr. MCINNIS). Under a previous order of the House, the gentleman from Colorado [Mr. MCINNIS] is recognized for 5 minutes.

[Mr. MCINNIS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. STENHOLM] is recognized for 5 minutes.

[Mr. STENHOLM addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

MARGIE JANOVICH'S SACRIFICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. CHRISTENSEN] is recognized for 5 minutes.

Mr. CHRISTENSEN. Mr. Speaker, 1 week ago today, we buried a lady from my district by the name of Margie Janovich. The story of Margie Janovich I shared last week with the American people, a story that she had struggled with the fight of cancer for 18 months, but I wanted to come back today and share the story again because it is such a moving story and tomorrow is the beginning of the debate with the partial birth abortion bill.

Margie's story, for those of you who have not heard, this is a family, Margie and her husband Joe had 9 children in this picture and I do not know, Mr. Speaker, if the camera can get a picture of this or not, but Margie was 44 years old when she passed away last week, and Margie died of cancer. She had been diagnosed with thyroid cancer, and at the time that Margie was diagnosed with thyroid cancer she was 5½ months pregnant. As a matter of fact, she was pregnant with this little gal, Mary.

Well, Margie, because of her pro-life views and because she believes that life is the most sacred thing that could ever be given from God, said she was going to forgo cancer treatments so she would not risk hurting her unborn child. And so she waited until little Mary was born and the thyroid cancer spread. It spread to her breasts and into her lungs and 18 months later it eventually took her life.

But before it took her life, her 9 children, Nick and Tina, Jim and Terry and Mike and Joe and Danny and Andy and precious little Mary, experienced something that few children in America experience, and that is a mother who not only loved them but gave her life for them. And someday when her husband Ron sits down to tell little Mary what act of sacrifice and what her mother did to deliver Mary safely into a world, into a country that does not value life, I think it will be a story that will touch Mary forever.

As I think of tomorrow's debate, and think of the 25 million children we have murdered in America because of convenience, because of choice, I think of my conversation with Margie Janovich 1 week before she passed away. She always had a smile on her face, and when I went in to visit her in the hospital she asked me now, are we going to have the votes this year to override a veto on the partial birth abortion? She always was thinking about how we could protect more lives. She was always thinking about someone else, thinking about her family, thinking about her children and thinking about the unborn.

I had a chance this week on Sunday to go over and see Ron and see the kids, I saw Andy and Danny and Tina. It has been a difficult 18 months for them, but they have experienced something because of what their mother gave that few children in America will be able to experience, and that is the love of a mother for her children. I think of the issue of convenience, and I think of the issue of sacrifice, because that is really what abortion is all about.

It is about a choice, but the choice occurs prior, prior to conception. The choice occurs whether or not you are going to get into bed with someone. The choice occurs far before the issue of an unborn life. And Margie Janovich understood this choice. She understood the choice of life. She understood the issue of taking an unborn life, and she decided for her the best thing to do would be to protect life.

But even under the partial birth abortion bill that we are going to be debating tomorrow, Margie could have taken the route of an abortion, because her life was in danger. So the bill tomorrow that we are going to be debating would have allowed for that exception. You will hear a lot of rhetoric tomorrow about an amendment talking about health of the mother. But the health of the mother could be anything, from emotional distress to financial distress, to a number of things.

I hope that the American people are watching tonight as they decide to call and to get active and get involved and call their Representatives, because tomorrow is the debate, and tomorrow as we decide, I hope the American people will remember Margie Janovich and her 9 children and the sacrifice that she made for her little baby, Mary.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

[Mrs. CLAYTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. WAMP] is recognized for 5 minutes.

[Mr. WAMP addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THE BIPARTISAN RETREAT IN HERSHEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. HINOJOSA] is recognized for 5 minutes.

Mr. HINOJOSA. Mr. Speaker, I rise today to speak about the bipartisan retreat in Hershey, PA. We came together in an effort to bring greater civility to the House of Representatives, and that is exactly what I feel we accomplished. We wanted to set a tone of cooperation and compromise for the 105th Congress. We proved that it could be done. As freshman Representative, JO ANN EMERSON from Missouri and I recruited over 60 percent of the 74 Members of our 1996 class. We made sure that our young class is included in the struggle to unite our House of Representatives. Both of us served as part of the planning team and coleaders of the small group sessions. The participants in planning this event spanned the range of ideological, geographic, ethnic and seniority differences.

This diversity was also reflected by those attending the retreat, as evidenced by the participation of the Speaker of the House, NEWT GINGRICH, Majority Leader DICK ARMEY, Minority Leader DICK GEPHARDT, and Minority Whip DAVID BONIOR.

Acrimony seemed to be the trademark of the past 104th Congress. Upon coming to Washington, it was very apparent to me that the House of Representatives was at a crossroads and that, more than anything, efforts needed to be made so that we could have a level of trust in each other. It was imperative to strive to achieve this goal in order to be able to effectively work together and, in turn, to be productive. Ultimately, that is what all of our respective constituencies elected us and sent us here to Washington to do.

On a personal note, I received a letter this week, and I want to share it because it shows that there are people out there in the country who believe that we can do it. It says:

My dear friend, Congressman HINOJOSA:

Thank you for seeing us on Monday. I was glad to see you. I must tell you that you now have the job for which you were born. Normally wild horses could not drag me to any part of that government bureaucracy, but knowing that you were there somehow made it seem more believable, that real people walk those hallowed halls and were going to make a real difference. And from what a person reads in the newspapers and sees on CNN and C–SPAN, it appears that real people are few and far between. Isn't that just the way, they tell us all of the bad stuff and none of the good stuff, and I know that there are some fine Congressmen and Congresswomen. Keep up the good work. Keep on representing the common folks like us in south Texas.

Fondly, your constituent, Phyllis Griggs.

I want to say that it was a pleasure to be in Hershey, PA, and to see that there is a lot of spirit and enthusiasm to get the job done.

Mr. Speaker, I yield to the gentleman from Illinois.

Mr. LAHOOD. I thank the gentleman from Texas for yielding.

Mr. Speaker, I wanted to rise and say that one of the highlights of the bipartisan retreat was the speech that was delivered by David McCullough, who is a Pulitzer prize winning author and historian and contributed so much to making our retreat so successful.

Mr. Speaker, I include the remarks of David McCullough for the RECORD so that for those who did not attend the retreat, they can read the CONGRESSIONAL RECORD tomorrow and this will be a part of the RECORD, so that people in the future will have a chance to read the remarks that he delivered at our retreat, which I think inspired all of us that were there.

BIPARTISAN CONGRESSIONAL RETREAT—PLENARY SESSION SPEAKER

(By David McCullough)

Well, Amo, you've taken my breath away and your invitation to speak here is as high a tribute as I've ever received. I feel greatly honored but also a strong sense of humility. And I hope it won't seem presumptuous if I—in what I say today—appear to know your job. I don't. If I can help you in what I say, if I can help the country, then I will be very deeply appreciative of the chance to be here.

Your speaker welcomed you to Pennsylvania, I do so too as a Pennsylvanian, by birth and by education and as one who loves this state. There is more history here than almost anywhere else in our country. Our most important, our most sacred historic site—Independent Hall—is less than 100 miles from where we sit, as the crow flies. And if you come to Pennsylvania, you can always learn something, at whatever stage in life.

Last year, Rosalee and I came back to Philadelphia. We pulled up in front of the hotel in a big, shiny, rented car and the doorman, a handsome fellow in full regalia, opened the door for Rosalee. I popped the button for the trunk and I could see him getting the luggage out. I got out and walked around the back of the car and he looked up and said: ''Well, Mr. McCullough, welcome to Philadelphia; it is wonderful to have you here.'' And I thought, ''I wonder if he knows me because of my books or because of the work I do on public television?'' And so I said, ''If you don't mind, I'd like to know how you know who I am?'' And he said, ''the tag on your suitcase.''

You can't but help learn a great deal in this session and as Speaker Gingrich said, this event is unprecedented in the long history of the U.S. Congress. A gathering like this never happened before. And how wonderful that your children are here—the next generation—some of whom may also be serving in Congress. We have the future with us too. And we have the past.

Now many people think of the past as something far behind, in back of us. It is also possible to think of it as in front of us, in the sense that we're going down a path that others have trod before, and some very great people; we are in their footsteps. And it is in that spirit that much of what I have to say will be said. I want to talk about history; I want to talk about purpose, and because there's an old writer's adage, ''Don't tell me, show me.'' I want to conclude by showing you.

''We live my dear soul in an age of trial,'' he wrote, in a letter to his wife. In the seclusion of his diary he wrote, ''I wander alone and ponder. I muse, I mope, I ruminate.'' He was a new Congressman and he was about to set off for his first session in Congress. John Adams, heading for his very first Congress—the Continental Congress in Philadelphia in 1774—and he was very disturbed, very worried.

''We have not men fit for the times,'' he wrote, ''we are deficient in genius, education, in travel, fortune, in everything. I feel unutterable anxiety.'' The next year when he returned for the second Continental Congress he found that the whole atmosphere had changed. This was after Lexington, Concord, and Bunker Hill. This was a time of pressing need and America, he decided, was a great, ''unwieldy body.''

''Its progress must be slow, it is like a large fleet sailing under convoy, the fleetest of sailors must wait for the dullest and the lowest. Every man in the Congress is a great man,'' he wrote, ''and therein is the problem—an orator, a critic, a statesman, and therefore every man upon every question must show his oratory, his criticism, and his political abilities.'' In 1776, in the winter—in the dead of winter—with the temperature down in the 20s, John Adams set off again from Braintree on horseback to ride 300 miles. Nothing unusual then; we think of communications and transportation as two different subjects. In the 18th century, transportation and communication were the same. Nothing could be communicated any faster than somebody on a horse.

He arrived back in Philadelphia—this is early in 1776, and bear in mind this was the year of the Declaration of Independence—and he wrote: ''There are deep jealousies. Ill-natured observations and incriminations take the place of reason and argument.'' Inadequate people, contention, sour moods, and from his wife, Abigail, John Adams received a letter in which she said: ''You cannot be I know, nor do I wish to see you, an inactive spectator.'' She wants him to be there for all it is costing her, for all the difficulties she is having, caring for the family and running the farm. And then she adds, ''We have too many high-sounding words and too few actions that correspond with them.''

1776. History * * * History is a source of strength. History is a source of strength. History teaches us that there is no such thing as a self-made man or woman. We all know that. We all know the people who helped. Teachers, parents, those who set us on the right track, those who gave us a pat on the back, and when need be, those who have rapped our knuckles.

History teaches us that sooner is not necessarily better; that the whole is often equal to much more than the parts; and what we don't know can often hurt us deeply. If you want to build for the future, you must have a sense of past. We can't know where we're going if we don't know where we've been and where we've come from and how we got to be where we are. A very wise historian, who was also the Librarian of Congress—Daniel Boorstin—said that to try to create the future without some knowledge of the past is like trying to plant cut flowers.

History is an aid to navigation in troubled times; history is an antidote to self-pity and to self-importance. And history teaches that when we unite in a grand purpose there is almost nothing we cannot do.

Don't ever forget the great history of your institution—your all-important institution. All of us, all of us want to belong to something larger than ourselves. I'm sure it's why you're in Congress; I'm sure it's why you decided in the beginning, ''I'm going to give up this and do that, and it's going to be difficult for my family''—because you wanted to serve something larger than yourselves. It's at the heart of patriotism; it's why we are devoted to our churches, our universities, and, most of all, to our country.

With that kind of allegiance—that kind of devotion—we can rise to the occasion in a greater fashion than we have any idea. And we've done it time and again, we Americans. Think what your institution has achieved. It was Congress that created the Homestead Act. It was Congress that ended slavery. It was Congress that ended child labor. It was Congress that built the Panama Canal and the railroads. It was Congress that created Social Security. It was Congress that passed the Voting Rights Act. It was Congress that sent Lewis and Clark to the West and sent us on voyages to the moon.

Some acts of Congress like the Marshall Plan or Lend Lease, as important as any events in our century, were achieved under crisis conditions. But it doesn't have to be a crisis condition. It can be an ennobling, large, imaginative idea. A big idea.

Much of what has happened in our time has been determined by outside forces. In the Depression, the national aspiration—the national ambition—was to get out of the Depression. In the Second World War, the national aspiration—the national ambition—didn't need to be defined, it was to win the war. In the Cold War, the national aspiration was to maintain our strength against the threat of the Soviet menace, but at the same time, maintain our open free way of life.

But now the Cold War is over. And outside forces are not determining the national ambition. So what is it going to be?

Because we have the chance to choose. You have the chance to choose. And as important as balancing the budget may be, as important as restoring civility and law and order in the cities may be, as important as fourth-grade testing may be, or school uniforms, they aren't the grand ennobling ideas that have been at the heart of the American experience since the time of John Winthrop and the ideal of the City on the Hill.

And we have the chance to do that. We have the chance to create that—you have the chance to do that. There has never been in any of our lifetimes a moment of such opportunity as now with the Cold War over. And if we just lift up our eyes a little and begin to see what we might be able to do, we too—we

in our time—could be cathedral builders. We can be a great founding generation, like the founding fathers. And what a wonderful uplifting, thrilling, unifying sense of purpose that can provide. America itself at the very beginning was a big idea; the biggest idea in the political history of the world. That could happen again.

John Adams, who was one of the most remarkable of our Founding Fathers and whose wife Abigail has left us a record unlike that of any other spouse of a political leader of that time, set something down on paper in the Spring of 1776 that ought to be better known. It's called Thoughts on Government. It was originally written as a letter to the eminent legal scholar, George Wythe of Virginia. It was about twelve pages long and when other Members of Congress asked him for a copy he sat there, by candlelight, at night in a room in a house across the street from the City Tavern in Philadelphia, copying it all down. And then Richard Henry Lee of Virginia suggested that it be published.

Keep in mind please that it was written before the Declaration of Independence. And listen to the language, listen to the quality of the language, which of course, is the quality of thinking. That's what writing is: thinking. That's why it's so hard.

''It has been the will of heaven that we, the Member of Congress, should be thrown into existence in a period when the greatest philosophers and lawgivers of antiquity would have wished to have lived.'' Right away, you see, he's saying, it is the will of heaven, there are larger forces than we ourselves, and he's applying the moment against the standard of the past: antiquity. It is to a very large degree, a lesson in proportion. ''A period when a coincidence of circumstances without an example has afforded to thirteen colonies at once an opportunity at beginning government anew from the foundation and building as they choose.'' New, unprecedented, and they may choose. ''How few of the human race have ever had an opportunity of choosing a system of government for themselves and for their children.'' And here is the sentence I dearly love. ''How few have ever had anything more of choice in government than in climate.''

He proposed a bicameral legislature. ''A representative assembly,'' he called it, ''an exact portrait in miniature of the people at large,'' balanced by a second ''distinct'' smaller legislative body that it may ''check and correct the errors of the other.'' Checks and balances. There was to be an executive whose power was to include the appointment of all judges, and command of the armed forces, but who was to be chosen—and you'll like this—who was to be chosen by the two houses of legislature and for no more than a year at a time.

At the close, he also wrote this—and think about this please, as maybe a clue to what the cathedral we build might be. ''Laws for the liberal education of youth are so extremely wise and useful that to a humane and generous mind no expense for this purpose would be thought extravagant.''

Then after another month or so he sat down and wrote a letter to a friend back in Massachusetts, a fellow son of Liberty. April, 1776. Carved into a mantelpiece at the White House, in the State Dining Room, is the prayer—the wishful prayer taken from a letter Adams wrote to his wife Abigail after his second or third night as President in the White House—the first American to occupy the White House as President—in which he says, ''May only wise and honest men rule here.''

I offer for your consideration the possibility that what I'm about to read might be carved, if not in a mantelpiece, somewhere in our Capitol where it would have appropriate attention. I can think of almost no other line from any of the founders so appropriate, so pertinent, to what you face—what we all face—not just in problems, not just in personal animosities or contention or rivalries, but what we face in the way of opportunity: to be builders as they were. Because he establishes both a way and a warning: ''We may please ourselves with the prospect of free and popular governments. God grant us the way. But I fear that in every assembly, members will obtain an influence by noise not sense, by meanness not greatness, by ignorance not learning, by contracted hearts not large souls. There is one thing my dear sir that must be attempted and most sacredly observed or we are all undone. There must be decency and respect and veneration introduced for persons of every rank or we are undone. In a popular government this is our only way.''

I salute you all. I salute you as a fellow citizen, as a fellow American, as the father of five children, as the grandfather of nine children. I salute you as one who has spent a good part of his working life trying to write some of the history of your great institution.

Our country deserves better—from all of us. But we look especially to our leaders as we should rightfully do. And there are no more important leaders than you. We don't expect you to be perfect. We do expect hard work, diligence, imagination, a little humor, civility, and especially, the sense that there is really no limitation to what we, a free people, can do. And that, with the grace of God, and a common sense of purpose, there is no limit—which has always been at the heart of the vision of America since the beginning.

Mr. HINOJOSA. Mr. Speaker, I yield to the gentleman from Colorado.

Mr. SKAGGS. I just wanted to commend the gentleman in the well and his colleague from the incoming class, the gentlewoman from Missouri, JO ANN EMERSON, who made a tremendous difference in our efforts to plan this undertaking and see it through to a successful conclusion.

I think he made the very important point that no organization as large as this one is able to get anything done if we do not have some minimum level of trust in each other, especially across the aisle. You cannot accomplish that if you do not spend a little bit of time getting to know each other. That was part of what this retreat was about. It is primarily not just about good feelings but the fact that without some minimal level of trust and mutual respect, we cannot get the country's work done, and that is what we are all here to do.

FLORIDA'S RELEASE OF VIOLENT CRIMINALS MARKS SAD DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. WEXLER] is recognized for 5 minutes.

Mr. WEXLER. Mr. Speaker, today is a very sad day for Floridians and for all Americans. Nearly 1,000 criminals who have committed the most heinous crimes imaginable have been released from Florida's prisons without serving nearly their full sentences. Once again the victims and their families will relive the worst nightmare, knowing that the criminal who destroyed their lives is free to commit the crime again.

This is an outrage, and Congress must stop it now. Imagine it was your 6-year-old son who was sexually molested by a friend you trusted enough to bring into your home. Imagine it was your wife or sister who was brutally raped. Imagine it was your 17-year-old son who was repeatedly stabbed to death. These are not hypothetical examples. All of these vile criminals were among the 1,000 prisoners already released from Florida's prisons.

□ 1800

The criminals who committed these heinous crimes are now walking free due to a U.S. Supreme Court decision that creates a so-called constitutionally protected right to gain time, an early release mechanism created by Florida officials in 1983 to alleviate prison overcrowding. History shows that a frighteningly high percentage of these criminals will molest, murder, and rape again and again.

Last month Floridians saw a chilling example of what happens when violent felons are released from jail prematurely. Lawrence Singleton was released after serving only 8 years, only 8 years of his 14-year sentence for raping a 15-year-old girl, severing her forearms, and leaving her for dead. This young girl lived. But last month Singleton struck again and murdered a Tampa woman.

How many Floridians must die because of this absurd U.S. Supreme Court decision? The whole premise of gain time is a contradiction. Releasing violent prisoners before they serve their full sentence is just plainly wrong. A child molester, a murderer, or a rapist has earned absolutely nothing. For years Florida was known as the crime capital of the United States. The U.S. Supreme Court has slapped law-abiding Floridians in the face.

That is why Congressmen FOLEY, MCCOLLUM, and I today filed a bipartisan constitutional amendment empowering States to keep their violent offenders behind bars and allowing the American people the opportunity to exercise common sense when our Supreme Court has failed to do so.

Our sheriffs can catch them, our State attorneys can prosecute them, our judges and juries can sentence them, our State legislatures can appropriate the money to build the prisons. But after all, this ridiculous loophole sets these violent people free.

Something is dramatically wrong when a technicality and interpretation by judicial decree overrides good sense, good judgment, and good government when as many as 16,000 dangerous criminals are free to terrorize our neighborhoods and when the Supreme Court places the rights of violent criminals above the rights of law-abiding citizens.

The Constitution of the United States must be changed.

The SPEAKER pro tempore [Mr. MCINNIS]. Under a previous order of the House, the gentleman from Illinois [Mr. LAHOOD] is recognized for 5 minutes.

[Mr. LAHOOD addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

REFUSE TO SUPPORT LESS PAY FOR WORKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Ms. BROWN] is recognized for 5 minutes.

Ms. BROWN of Florida. Mr. Speaker, H.R. 1 is a disgrace to American workers. In the last several days workers from all over my district have come to Washington to ask me to vote against this bill. Those working constituents do not want their pay reduced by a Congress out of touch with the American work force.

Let me repeat that. Those working constituents do not want their pay reduced by a Congress out of touch with the American work force.

Mr. Speaker, a vote for this bill is a vote for a pay cut for the workers.

H.R. 1, the Working Family Flexibility Act of 1997, is also known as the pay reduction act. Today millions of workers depend on overtime pay just to feed their families and keep a roof over their heads. How cruel to consider this overtime pay as optional. Today too many people depend on overtime pay to survive. Their survival is not optional.

Mr. Speaker, it is employers, not employees, who get greater flexibility from this bill. This bill does not contain necessary safeguards to ensure that the employee decision to accept comptime is truly voluntary. The overtime provision in the Fair Labor Standards Act protects workers from excess demands, from overtime work, and by requiring a premium pay for overtime provides an incentive for businesses to create additional jobs.

There is no doubt that the American workers prefer pay for their overtime work instead of comptime. A recent poll by Peter Hart found that the American worker prefers pay for their overtime instead of comptime by a margin of 64 to 22 percent. Unfortunately too many workers do not get paid for overtime. The Employment Policy Foundation, a think tank supported by employers, estimates that workers loose $19 billion a year in overtime pay due to violations of the Fair Labor Standards Act. Why should we give managers more control and give workers less money? A worker who was forced by management to take comptime instead of overtime pay is being required to take a voluntary pay cut.

Mr. Speaker, I refuse to support less pay for workers.

SUCCESS AT HERSHEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. HOUGHTON] is recognized for 5 minutes.

Mr. HOUGHTON. Mr. Speaker, before I talk I yield to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I simply want to state that with regard to the recent retreat at Hershey, two things: First, while my colleagues were enjoying a retreat, I was on a work weekend. That was my district, and my schedule called for me to meet a group of tourists from Washington, DC, and so I did my duty. I wanted you to know that I worked hard that weekend making sure that you were hosted well.

But the second notation I want to make is that universally with every member of the Hershey staff, waitress, busboy, every single person who worked there and who dealt with the Members of Congress and their families, the mood and the comment was absolutely unanimous to the effect that they were met with courtesy on the part of the Members and their spouses and their children, that everybody was well behaved, that the requests were all met handily. In short, they were glad to have the Members of Congress and their families at the retreat at Hershey.

For me it was a good exercise in doing my job, but more than that, it was good to see all of the Members at the resort area in Hershey.

Mr. HOUGHTON. Mr. Speaker, the gentleman from Pennsylvania did his job well, as did Governor Ridge. It was an honor and a pleasure to be with him. Thanks very much. Maybe New York will be the hospitable State the next time we have a meeting.

Mr. Speaker, my friends, I would like to talk just a second about the bipartisan retreat. It was a wonderful experience. I am not going to duplicate the comments that my bosses, the gentleman from Colorado [Mr. SKAGGS], the gentleman from Illinois [Mr. LAHOOD] and the gentleman from Ohio [Mr. SAWYER] have mentioned, but I would just like to add one or two comments to something which was really I think really a definitive moment in the history of this Congress.

Here we were, 220 of us, approximately 550 people up there, talking as we should talk, talking to citizens, talking as concerned citizens. Maybe one of the most impressive things as far as I am concerned was the inclusion of the spouses. You know, many times life, whether it is in politics or business, whatever it is, it is sort of a solo act; but here we were as families talking and expressing ourselves and sharing ideas. It was enormously healing.

You know bit by bit, whether it is again in a family or a business or something else, we sort of drift apart, and all of a sudden we realize that this thing has been apart and we are looking down into a chasm. We have got to pull it back together, and I think that is what happened: Very, very important.

I got a letter prior to going there from some people out in Washington near Seattle, St. Stephen the Martyr Roman Catholic Church, and let me just read a little bit about it because this is sort of the genesis of what we were doing out there.

It said: ''Dear Congressman, as the new term of office begins it is our desire that all of our elected leaders strive to work together.''

Now, this was not prompted at all. ''Regardless of political alliance, the potential for stalemate and impotence in leadership decisions exists due to separate party agendas. It is necessary in the best interests of your country, of my country, that there be teamwork and compromise and strength of purpose. You are paid by us. We expect you to behave with dignity and integrity.''

Now, I am not going to read the rest of this letter, but you get the gist of it. I mean, these people are involved right here with us every day. They see us, they send us here, they expect us to deal in the same manner that they would deal with their parishioners, or with their family or with their fellow citizens, and that is why this thing was so special.

Let me just say one other thing. I had a wonderful opportunity this morning to go down to the Mall and see the opening of the World War II memorial. Bob Dole was there, the first public appearance I think he has made since the election. He gave an enormously effective and emotional speech, and I hope that other people will be able to read it or listen to it. One of the things he said is that ''you know we here represent young people who died for a future they will never realize.''

You know, I just thought of that because of the responsibility it puts on all of us. Here were those young people in with World War II, as there have been in other wars, who risked their lives, lost their lives for a future they would never be able to experience themselves.

It gives us a tremendous sense of obligation to do what is right here, and so I was proud to be a part of this experience. I hope it is not a flash in the pan. I hope it will continue. I hope the whole spirit of Hershey will be a spirit that we can look back on and say it was well worth our while.

COMPTIME/CHUMPTIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Georgia [Ms. MCKINNEY] is recognized for 5 minutes.

Ms. MCKINNEY. Mr. Speaker, I wanted to come to the floor this evening because I wanted to talk about the bill that we just passed here, H.R. 1, the comptime bill, flexibility time bill, what the gentlewoman from California [Ms. WOOLSEY] called the chumptime bill.

I would first like to commend CBS Evening News for their March 18 Eye on America story reported by Sandra

Hughes. I called CBS and requested a transcript because I want to read that transcript now.

The opening shot, for those who did not see it, was a door opening and a woman by the name of Etta and her family walking out, and a narrator says: ''Just after dawn, just east of Charleston, the daily struggle begins for Etta Williams.'' And Etta sees her kids off to school, and a narrator says: ''Even though she was working up to 60 hours a week as a cook at the local Pizza Hut, Etta says she had to go on food stamps to feed her family because her manager was not paying her for all the hours she worked.''

Etta says: ''They go in, they take your hours, they delete it from your pay.''

The narrator says: ''This minimum wage mom has joined a dozen other employees suing Pizza Hut saying the company deleted countless hours from their weekly paychecks.''

Etta Williams continues: ''It is stealing from the poor, stealing, and they are getting rich off of it.''

The narrator says that we tried to talk to her manager at Mount Pleasant, SC, Pizza Hut, and the employees called the police.

Then there is a segue to Gregg Dedrick who is a senior vice president eloquently situated in a nice plush office, and he says: ''I would say it is unfortunate she feels that way. I think we are a fair employer, we want to pay people a fair day's pay for the work they do, and we have processes in place to resolve those discrepancies.''

The narrator then says: ''But a former manager at a Pizza Hut in Walterboro, SC, told us a far different story. ''Pam Chapman is that former manager who says: I have to live with this. The thought of going and taking hours actually stealing from the employees.''

Pam Chapman admitted that every week she entered the computer and deleted hours from workers' payroll. Pam Chapman says: 'I have been through 3 previous managers and every last one of them did the same thing.''

Then CBS concludes the story by saying all of this comes on the heels of a CBS news investigation into similar allegations at Albertson's grocery stores. In that report which was played as a recent Senate hearing on overtime workers in four States who are suing the grocery store chain claimed they were cheated out of millions of dollars in back pay.

□ 1815

Jenni Perry was a bookkeeper. Jenni says, ''I was told by my store director to change, falsify, whatever you want to call it, time cards.''

Then CBS goes on to say, ''We wondered just how common these kinds of wage complaints are, so we asked the United States Department of Labor. They sent us this, and it was a great big, huge book, a printout, really, about this thick. Last year alone, more than 12,000 companies were fined a total of $100 million for not paying employees for all the hours they worked.''

Etta Williams ends by saying, ''It is not only stealing from me, they are taking away from my children too,'' which is why Etta Williams decided, in order to protect her family, she was going to have to stand up for herself.

Now, the bill that we passed today has very real implications for the millions of Etta Williamses that are out there across this country, and for the benefit of my constituents, I want to make it clear to them what this is about.

This bill is not family legislation and it needs to be vetoed by the President.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Missouri [Mrs. EMERSON] is recognized for 5 minutes.

[Mrs. EMERSON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

BIPARTISAN RETREAT IN HERSHEY A SUCCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Mrs. MEEK] is recognized for 5 minutes.

Mrs. MEEK of Florida. Mr. Speaker, I am one of the fortunate Members of the House of Representatives who got the unique opportunity of attending the bipartisan retreat. I must admit, Mr. Speaker, when I was initially invited, I felt, well, this will be just another feel-good session, or it will just be another one of these innocent, well-designed things that would lead to failure.

I want to say, Mr. Speaker, that it was not. It was tremendously successful. I am an experienced educator and an experienced civic-minded person. I have been on many retreats. In my opinion, this was one of the better ones that I have been fortunate enough to attend.

First of all, I think that it is time the House of Representatives realized that it does take getting away from the 435 seats that we sit in on the floor of this House, many times. It takes that because the institution itself has divided us geographically from the way we sit on this floor. This retreat did a lot.

I want to commend my colleagues, the gentleman from Colorado [Mr. SKAGGS], the gentleman from Illinois [Mr. LAHOOD], the gentleman from New York, [Mr. HOUGHTON], the Speaker of the House, the gentleman from Georgia [Mr. GINGRICH], the minority leader, the gentleman from Missouri [Mr. GEPHARDT], and the gentleman from Ohio [Mr. SAWYER]. Because of the efforts they put forth in planning this and making it happen, we owe them a debt of gratitude.

I welcomed the opportunity to meet outside of work with many of my colleagues, many of whom I had never met before, even though I had seen them passing in the hall. The event was well planned and well organized. Discussion group leaders were extremely helpful, and the sessions were productive. It was wonderful to see so many of my colleagues together with their families.

The presentation by Dr. McCullough, a great scholar, a great writer, was extremely revealing and very provocative, because I have been here 4 years and that was the first time I heard a scholarly approach to the historical perspective of this House.

He gave us a reason to feel that we should be proud of all of the merits that perhaps the American public does not realize as to what this House has done. He did it in such a way, he did not pander to us, he dealt with facts and said we should be very proud. I think that proudness, Mr. Speaker, coming from each one of us, would certainly inhibit some of the incivility we have seen on the floor.

Will it increase civility on the floor? I think it will. I think it improved the respect that we have for each other. I think it gave us a strong perspective of why the House is so important and why our decisions that we make here every day are very important and how they benefit the people of this country.

The design of the workshop was superlative. It was not thrown together. It had goals, it had objectives, it had ways to reach the goals that we sought so well. It had an evaluation so that we could say to the committee, that is what we saw this year; when you have this again, maybe these are some improvements that we would like to see.

I think it was a very, very good use of the money of the people who sponsored it. It was a team-building kind of device. Industry and business, they know how to do these kinds of things, that is, to take you away from the workplace and have you face your colleagues, to have you dialog and to have you meet each other's families. I think this Congress as an institution could take a lesson from business and industry, and this retreat did that. It created that kind of team-building.

There were many good readings which I liked very much. They sent each one of us some pre-readings, and if we read it, it set the tone of what we were there for, and they had research studies that showed. So it was not just a fun thing, even though we did have fun, but it was based on very sound research, and we had very good scholars and good speakers behind it.

It was issue-oriented, family-friendly. It just did me proud as a grandmother to see the families there with their children and the children enjoyed it so much. Was the retreat good? Yes. Was the retreat successful? Yes. The retreat gave us an objective or an outcome that it would take us years to reach if we had not moved out of these 435 seats.

So I want to say to the people who sponsored it, we want it repeated again next year. It was the best.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

[Mr. KINGSTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

[Mr. SMITH of Michigan addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

PARTIAL BIRTH ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PAUL] is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, tomorrow we will vote on the very important issue of partial birth abortion. I would like to address that subject for a few minutes. I have practiced obstetrics and gynecology for more than 30 years and have delivered thousands of babies. I have never needed to, nor have I known of any circumstance where the partial birth abortion procedure was necessary for the health of the mother. Quite to the contrary, it is my most sincere conviction that the procedure itself is quite dangerous to the mother.

When it was first said by the right-to-life advocates that this procedure was being done frequently, I was reluctant to believe this possible, considering its danger and its grotesque nature. It was only after the admission by the proponents of abortion that, indeed, it was done frequently, and on healthy babies, that I was willing to consider that we had slipped to the point where this operation is promoted as an acceptable medical procedure.

The notion that this procedure should be available for the protection of the health of the mother is disingenuous to say the least. As a physician who encountered inter-uterine fetal death in the second and third trimester, I have never entertained the thought of performing this procedure because of the risk to the mother.

Using the mother's health as an excuse for abortion reminds me of what I witnessed in the 1960's as an obstetrical resident. Physicians defying the law were using an illegal loophole, saying that if an individual threatened suicide it was a justification for abortion. It was a matter of course to make a phone call and get a commitment from a sympathetic psychiatrist to say yes, he would sign the papers, and that is all it took.

It is one thing to defend abortion because one sincerely believes it should be legal, but it is another thing to distort the truth, fudge the statistics, and pretend that it is done for the health of the pregnant woman. This should be exposed for the falsehood that it is.

I am convinced that abortion is the most important issue of the 20th century. Whether a civilized society treats human life with dignity or contempt will determine the outcome of that civilization. Supporters for legalization of abortion in the 1960's never dreamed it would come to the debate that we face today over this grotesque procedure, the partial birth abortion.

In determining whether or not this country endorses this procedure, we make a moral statement of the utmost importance regarding the value of human life.

The legislative approach for abortion is of lesser consequence than the issue itself. Abortion regulation, like all acts of violence, traditionally and under the Constitution were dealt with locally until 1973 when the courts chose to legalize nationally the procedure. Removing the issue from the jurisdiction of the Federal courts so States could deal with all of the problems surrounding abortion would be more in line with the traditional constitutional approach to government. Obviously, all funding by any government ought to be prohibited in a society that pretends to protect human life and defend individual liberty.

It is now a worn-out cliche that abortion is defended in the name of women's rights and freedom of choice. But claiming to protect the freedom of one individual can never be an excuse to take the life of another. Life and liberty are never in conflict. Life and convenience may well be. The inconvenience and responsibility of caring for a hungry, crying baby at 3 a.m. never justifies baby killing, nor is an inconvenient baby in the womb a justification for its elimination.

For those who cry out for choice, let me point out that someone must speak out for the small, the weak, and the disenfranchised so their choice for life is heard.

No one in this body can challenge me on my defense of personal choice in all social, personal, and economic matters, but I do not accept the notion that choice means the right to take the life of a human being. That is a mockery of the English language and truth.

Those so bold who today would argue that choice means not only the killing of the unborn but the partially born as well, I say to you, where are you when it comes to real choice in economic transactions, hiring practices, gun ownership, use of private property, confiscatory taxing policy, taking personal risks, picking schools for our children, medications and medical procedures not yet approved by the FDA? Let me hear no more about choice as the excuse to kill. Please, with due respect, pick another less offensive word.

This great debate over life has lasted now for over 30 years, and it took the partial birth abortion procedure to crystallize vividly exactly what this debate is all about. The deliberate killing of a half-born infant, with heart beating, arms and legs flailing, and a chest struggling for a first breath by aspirating the infant's brain is, to many of us, an uncivilized, abhorrent and unacceptable procedure.

Yet, we as a nation, now without a moral bearing, appear frozen as to what to do. The debate has boiled down to this: Should the police be called, or should the abortionist be paid a handsome fee?

For now, the best we can do is make a statement that there is a limit, and we have reached it. Hopefully some day there will be enough respect for local governments to handle problems like this, but we must forcefully acknowledge that the defense of all liberty requires the respect for all life.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. WOLF] is recognized for 5 minutes.

[Mr. WOLF addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah [Mr. HANSEN] is recognized for 5 minutes.

[Mr. HANSEN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

DISCRIMINATION: TWO WRONGS DO NOT MAKE A RIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Mrs. FOWLER] is recognized for 5 minutes.

Mrs. FOWLER. Mr. Speaker, the debate over affirmative action is not about whether discrimination exists in America today, because we all know that it does. The debate is over whether granting preferences based on race or gender is the way to eliminate that discrimination.

Webster's defines discrimination as, ''a difference in treatment or a favor on a basis other than individual merit.'' Is that not what current affirmative action programs are all about, making decisions based primarily on gender and race?

The central tenet of all affirmative action programs is to give preferential treatment to someone not based on individual merit.

□ 1830

Individual merit ranks second to considerations of race or gender. It is clear that today's affirmative action programs fit under the definition of the word ''discrimination.'' That brings us to the crux of this argument: Does it make sense to fight discrimination with discrimination, or do two wrongs make a right?

The answer to both, in my opinion, is no. Our country was built on the ideal of equal opportunity for all, and the original intent of affirmative action programs was to help provide a level

playing field for those who were not getting that opportunity. Unfortunately, once the Government got hold of it, that program which started out with the best intentions became a hire-by-the-numbers system involving quotas, set-asides, preferences, numerical goals, and timetables. What has been left out of the equation is the notion of individual merit, the important question of, Is this the best person for this job?

Today's affirmative action programs harm our society, both by lowering standards and by leaving the beneficiaries of the program to doubt their own ability. As a woman, I know beyond a shadow of a doubt that women can compete with any man on an equal playing field. I find the assumption that we need preferential treatment in order to succeed insulting.

Have women had a harder time advancing up the corporate ladder and getting access to educational opportunities? There is no doubt about that. But is affirmative action the way to create more opportunities for women, a quota here, a set-aside there, or should we be focusing on removing the barriers that keep women from advancing and succeeding on their own?

The Glass Ceiling Commission, started by former Labor Secretary Elizabeth Dole, takes a second approach. It has been tremendously effective. The Commission identified the barriers in the workplace that keep qualified women from moving up the corporate ladder. It then set about working with companies to find ways to remove those barriers, allowing women to advance on their own merit and qualifications.

Much of this process involves changing long-held beliefs, attitudes, and prejudices. Elizabeth Dole created the Glass Ceiling Commission from her firsthand knowledge of the kinds of barriers, both institutional and personal, that women face in both academia and the workplace. She was 1 of only 24 women in her Harvard law school class of 550, and I have heard her many times recount the disturbing yet not surprising comment made by one of her male classmates to her on her first day of class back in 1962. He said, ''Elizabeth, what are you doing here? Don't you realize there are men who would give their right arm to be in this law school, men who would use their legal education?''

Not only was this man's attitude toward women at Harvard law school wrong, but he was certainly wrong about Elizabeth Dole using her legal education. Affirmative action programs treat the symptoms. What we should be treating is the illness itself. The problem with just treating the symptoms of discrimination with further discrimination in the form of affirmative action is that you make the underlying illness worse. You intensify feelings of resentment and prejudice among the very people from which we need to eradicate it.

If women and minorities are to be treated equally, and with respect, too, it is time to stop dividing our country along race and gender lines. Let us get back to traditional forms of affirmative action involving nondiscriminatory outreach, recruitment, and marketing efforts, and empower all Americans by providing equal opportunity in an atmosphere of strong economic growth.

AMERICA'S FUTURE LIES SECURELY IN THE HANDS OF OUR FAMILIES

The SPEAKER pro tempore (Mr. MCINNIS). Under the Speaker's announced policy of January 7, 1997, the gentleman from Missouri [Mr. HULSHOF] is recognized for 60 minutes as the designee of the minority leader.

Mr. HULSHOF. Mr. Speaker, there has been a lot of discussion about what came out of Hershey, PA. Of course, the tone of civility and discussion about civility was probably the predominant theme. However, there were matters of substance.

In fact, David McCullough, an award-winning author, provided some pretty inspiring comments for those of us who chose to attend. Mr. McCullough invited us, really, to take stock of history so we could get a perspective of where we want to go as a Congress and what agendas we wish to promote. Mr. McCullough pointed out that, of course, back in the 1860's when Abraham Lincoln was sworn in as President, as our 16th President of this country, the national agenda was focused around the civil strife that our country was enduring.

Moving ahead in history through the Great Depression, the national ambition was, of course, to pull ourselves out of the Depression, as well as with World War II and eventually the cold war with the growing Soviet menace. All those things had outside forces essentially dictating what the national policy was to be.

Mr. Speaker, now that the cold war is over, I think outside forces no longer are dictating our national agenda. I think we stand on the verge of a historic opportunity. I believe it is time, Mr. Speaker, that we create a new vision for this country. The newly elected Members of the Republican class of the 105th Congress have been speaking out in a positive way about the new vision that we hope to foster in the coming months and years ahead.

Last week, Mr. Speaker, Members may recall we focused as a class on community renewal. We touted real life success stories from individual districts that showcased creative ways that faith-based charities and private industries and communities were reaching out to the poor and needy, and ways to help the poor and needy, and ways Government could be a partner, rather than a parent.

Tonight, Mr. Speaker, our class has decided to focus on the family, and ways that this institution can help promote a family friendly agenda. We believe that strong families can make for a better America. In that fashion, Mr. Speaker, I am happy to yield to the newest member of our class who joined us after a special election in December. I yield to the gentleman from Texas [Mr. BRADY].

Mr. BRADY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, at the start of a school year, a teacher noticed that one of her students was particularly well behaved. Her manner was, in fact, exemplary. As the weeks went on she noticed even more because it stood out so much in her class. At one point she finally approached the young child and asked, Who taught you to be so polite and so kind-hearted? And the little girl laughed and said, really, no one. It runs in our family.

Enduring traits that built America run in America's families: That of individual responsibility, of caring for your neighbors, of contributing to the community in which you live and grow up and work, being involved in your church, in your Boy Scout troop, helping to build the community in which you live. America's future lies very securely in the hands of our families.

This year in the 105th Congress, the Republican leadership and the Republican Congress will take significant steps to make a real difference in our lives and in our families' lives. We will continue to bring the budget into balance, to rein in the IRS, and to lower interest rates. We must, because today most of us pay more in taxes than for food, clothing, and shelter combined. A balanced budget means lower rates on our mortgages, our student loans, and our car loans, and annual savings of about $857 for a typical American family.

It is also time, and we are going to work hard, to restore safety to our streets and neighborhoods by waging a real war on drugs and violent crime. We want parents to be able to spend more time with their children, so today we have passed a family friendly workplace policy that Members are going to hear more about tonight. We will work to ensure our children inherit a clean, healthy environment, and receive the quality education they need to survive and succeed in this increasingly competitive world.

We face a lot of challenges, but America is blessed with hardworking, sturdy families. I believe so strongly in families because my family believes so strongly in me. My dad was killed when I was young, and my mom raised five of us by herself. She taught us by her example to take responsibility for ourselves, to practice our faith each day, and to give back to the community in which we live.

In our family my mom is a true American hero. If you look around your family and around your dinner table, and around the gatherings during the holiday, and listening on the

phone when you visit with your family, you will likely see a hero or two whose personal sacrifice is the reason for your success and for the success of our country.

Tonight, in the next few minutes, we are going to hear from the Republican freshman Members from across this country, led by our President, who is going to talk about the changes and improvements we are going to bring to the quality of life of America's families. It is important because America's families are the foundation for America, and we can, with their help, we can meet every challenge America faces today.

Mr. HULSHOF. I thank the gentleman, and I especially welcome him to our group, and I appreciate very much the leadership that he has taken on this particular issue. I think his points are well taken. We have begun that road. We have got a great distance to travel, and we look forward to working with the gentleman during this 105th Congress.

Mr. Speaker, I am happy to yield to the gentleman from Texas [Mr. PAUL], another Texan, and I do not know necessarily that Texans have a corner on family virtue, but I am happy to yield to my friend.

Mr. PAUL. Mr. Speaker, I appreciate the gentleman yielding. I am delighted the gentleman has called this special order tonight, and I am pleased I can participate in it.

Earlier today we had a vote on the Working Families Flexibility Act. This came out of the committee I had been working on, and I was a strong supporter of this. We did promote this as a family-oriented piece of legislation.

As we all know, this piece of legislation allows more choices for the family in the way they can spend their overtime or their time off. Obviously, this is a benefit to the families. In one way I was a little disappointed that we had to go through it, because if we live in a free society it is assumed that you can make these agreements with your employer, but under the circumstances it was not available to many of our families unless we passed this piece of legislation, so I was delighted we were able to do that.

During that debate I mentioned that one of my favorite bumper stickers says simply ''Legalize Freedom.'' Any time we do that in this Congress, I am very pleased.

The other thing I would like to suggest, along with our nice title there, ''Strong Families for a Better America,'' I would like to put a subtitle there and say, ''Freedom is Family-Friendly.'' I think the more freedom we have, the stronger our families are.

We have seen a tremendous effort, sincere efforts, over the past 30 or 40 years with the promotion of the welfare state. It is always done in the name of helping people and families, but quite frankly, there is very little evidence to show that the $5 trillion spent on the welfare system has strengthened our families. As a matter of fact, I think it has done quite the opposite.

In the same sense, these many funds were spent to strengthen education, and if we look at our educational system, it has not helped. If we have an educational system that is not working hardly, are we doing much benefit to our families?

So, I think the opposite of the statement, freedom is family friendly, I think big government is not. I do not believe that if power and responsibility and authority and responsibility gravitates here to Washington that it is beneficial to the family. The more freedom we have, the more local options we have, the more choice we have for our families, I think the better off we are.

Obviously, families would have a lot more choices if they had a lot less taxes, so we have emphasized that as well. I think our reducing taxes on families and giving tax credits for children would certainly be a great benefit.

I would like to bring up very briefly one subject that is dear to my heart, because it involves families. It is generally believed by many in this country that the women's movement was the main reason why women went out to work. Quite frankly, I think there are a lot of women who were forced to work in order to take care of their families in the best way they can see fit. This to me was so often a reflection of inflation because of the cost of living. I believe that eventually we have to address this subject and deal with it to make sure our families have the greatest opportunity possible that we can provide for them.

Mr. HULSHOF. Mr. Speaker, I think the gentleman's points are well taken, particularly as far as the workplace is concerned. I think that of course when you have two-parent families and both parents are having to work to pay the tax bill, I think what we have done today, again, is a step in that direction as far as helping provide some balance in the workplace with more flexibility for employees, and again, this is just a step, I think, in the right direction.

I know that the dean of our Republican delegation, the gentleman from Missouri, JIM TALENT, who is the chair of the Committee on Small Business, also has measures that he will be addressing, like home-based businesses and really promoting ways that home-based businesses can help balance the job as well as family responsibilities.

□ 1845

Mr. PAUL. Mr. Speaker, I think it is interesting to note that the workers in the public sector have already had this right. I think it was only fair that we give this to the individual workers throughout the country.

Mr. HULSHOF. Mr. Speaker, I think the gentleman is correct. I think that the misnomer, perhaps some of the misinformation about the flexibility act is that somehow it abolishes the 40 hour work week which of course it does not.

I see the gentleman from Alabama is in the well of the House. I yield to the gentleman from Alabama (Mr. RILEY).

Mr. RILEY. Mr. Speaker, I appreciate the gentleman yielding to me.

As most of my colleagues in the freshman class probably realize, probably more than I thought possible, how important my family is to me and how important it has been to me. One of the primary reasons I ran for this office was to protect my family. Primarily, my first granddaughter.

When she was born 2 years ago, she was $187,000 in debt. Today she is $200,000 in debt. We must come together on both sides of the aisle and produce a balanced budget this year, because we cannot continue to make our children and our grandchildren pay for the debts of our generation. We must allow them the opportunity to begin life with the same opportunities that we have.

Unfortunately, today working families across this country gather around kitchen tables each week and wonder why they cannot make ends meet. They wonder why they work longer, why they have to take second jobs. And they feel like they are literally running in place. Many families have given up the American dream that their children will achieve a higher standard of living than their parents or grandparents. In my opinion, the best way we in Congress can help the American family is to once and for all balance the Federal budget.

What will a balanced budget mean to you and your family? A balanced budget will result in no less than a 2 percent drop in interest rates. To put this in perspective, the cost of a $75,000 mortgage would be reduced by as much as $37,000 over 30 years. A family would save $2000 on $11,000 in student loans. The real beneficiary of a balanced budget, Mr. Speaker, would be the American family.

I guess that is one of the reasons that today I cosponsored the Working Families Flexibility Act, and I want to commend all of those who helped pass this legislation today. This will give the private sector employees the same opportunity as public sector employees to spend time with their families. By taking comptime from work instead of overtime pay should they choose to do so in this fast paced day and age where two-income families continue to rise, families will be able to increase this valuable time together because of the Working Families Flexibility Act.

My commitment to families is also why I cosponsored H.R. 902, the Family Heritage Preservation Act, which will repeal the estate tax. Most of the families in this country work hard all of their lives for two reasons: They want to provide a better standard of living for their own families, and they want to leave the fruits of their labor to their children and to their grandchildren. However, today many families are forced to sell off the family farm or the family business just to pay the Government's estate tax.

It is time we stopped the Federal Government from confiscating up to 55 percent of a lifetime's accumulation. Seventy percent of all the small businesses do not survive to the second generation because they have to liquidate all or a part of the assets just to pay the estate tax. Furthermore, 87 percent will never be passed on to the third generation.

Mr. Speaker, our families are and will continue to be the backbone of our society, and it is incumbent on each of us to help protect and preserve those who ultimately will decide our very future.

I call on the rest of my colleagues, especially in this freshman class, to support this family friendly legislation that the Republican Party has promoted this year and in past years.

Mr. HULSHOF. Mr. Speaker, I certainly appreciate the comments of the gentleman and know that prior to his election here to this esteemed body that he had quite a probusiness background and certainly a very successful career. We are glad and honored that he is one of our number, and we look forward to continued success in the well of this House.

Mr. RILEY. Mr. Speaker, we look forward to the gentleman's continued leadership. I want to take this opportunity to tell all the Members of this class how much they have meant to me personally and how I look forward to working with all of them in the days to come.

Mr. HULSHOF. Mr. Speaker, I yield to the gentleman from Colorado [Mr. BOB SCHAFFER].

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I cannot think of a better topic to discuss tonight, and I commend you on your leadership for bringing this topic forward and giving us this opportunity, because this whole topic of focusing on families and the impact that legislation that we pass here in Washington and what that means for families across the country is precisely the reason I came here in the first place.

I believe very firmly that we should be motivated in every piece of legislation that we pass, from the comptime bill that we dealt with today to balancing the budget and our assessment of tax policy and how we lead the country should be driven from the perspective of how it impacts families.

Clearly one of the pillars that many of us hold in common and bringing us here tonight is our belief that families represent the most central and essential social unit in American life. I know that is true in Colorado and in your home State as well. And for all of us here, having families regarded as a central social unit, essential in everything that we believe to be the focus of American life includes welfare, for example.

When we talk about welfare reform, when we saw this Congress, the 104th Congress pass welfare reform back to the States, once again we saw that maintaining the integrity of families was at the center of that effort.

What we are seeing right now in all 50 States is they deal with reforming welfare systems on a State by State basis, just as this Congress envisioned. We are seeing programs that encourage self-sufficiency, that encourage work, that reward honest hard work rather than dependency, that carry on a legacy that Americans have traditionally enjoyed, one that suggests that young children should have hope and should be able to aspire to have wonderful jobs, to be self-sufficient and to be able to take care of themselves.

When we look at health care, the clearest difference that I have discovered, as a new Member and a freshman, is the difference of opinion that we see here between those who believe on occasion that it is in the end the Government's responsibility to provide for the health care of individuals versus our vision that we wish to empower families to provide health care for their children and ultimately be responsible for the health of their kids. A clear difference, a clear distinction.

But I hope that we are successful in continuing to keep our family focus at the center of the health care debate, too. With respect to wages, it is we who believe that we need to find whatever strategy we can come up with here in Congress to increase the family wages and the earning power of American families, rather than have them continually look for more and more handout from their Government. So increasing wages, increasing the ability to seek opportunity is certainly essential to us.

And all of our efforts that deal with trying to strengthen our economy, be they our efforts to try to reduce capital gains tax or estate taxes that we discussed 2 weeks ago, all designed to try to increase the economic power that we enjoy as Americans and in America that promote and strengthen American families.

Public education is another topic that I know we are going to be dealing with quite a bit. Those of us here really believe that it is ultimately the responsibility of parents to teach their children. We bear the responsibility as parents, and we in fact employ public school districts and public school teachers to assist us in that job. That is again a focus that we need to maintain and be very forceful about here on the floor in every single bill that we pass.

Finally the institution of marriage, something that is ridiculed on occasion, something that comes under attack right here in this body and throughout the country. It is something that I know you share the same intent that I do, to restore the integrity of the institution of marriage, to realize that a family, two parents, a child with two parents has a tremendously greater chance of succeeding and surviving in American society than those who are struggling with families that are operating and trying to make a go of it singlehandedly. It is very difficult. We want to do everything we can to support them.

I want to share something with you and for the rest here, this is a picture of my daughter. If you have a chance to come to my office, you can take a look at it a little closer. My daughter Sarah is 6 months old, 6 months old.

Sarah, on the day of her birth, owed $19,000 to the Federal Government. That was her obligation to the Federal debt. That was her obligation to pay for things that, frankly, this Congress did not have the courage to pay for in years past. They did not think she would mind.

Well, she probably is going to be furious when she learns to discover this on her own and understand what that means. That is what she owed on the day of her birth. Over the course of her working life, the interest on that debt will amount to almost $200,000. It is quite a burden we have saddled this child with. I know I keep this picture with me. I refer to it often and look at this little girl because this happens to be my girl, but it could be anybody's child. It could be yours. It could be any child in America. They have no reason to grow up in a world where they are saddled with that kind of debt, with that kind of a burden that has been placed upon them.

I think we owe it to Sarah. We owe it to every child in America that hope and opportunity is something that will be closer and closer and a chance to achieve that and within their grasp. That is what I am committed to. I know you are committed to that, too, and the people in your fine State and the rest that are here today.

I just want to pledge to you and to all here assembled and all those who are watching this debate today and observing that not a day will go by that this U.S. Congress is in session and convened that I will not be fighting for everybody's American family, keeping little girls like Sarah foremost in my mind in how we conduct our business and keeping my family and your family and every American family first and foremost in our daily deliberations.

Mr. HULSHOF. Mr. Speaker, I appreciate very much the remarks, especially the commitment to family. I know the gentleman touched on through his remarks some discussion about relief, tax relief. And certainly I think that is, of course, what we are learning as new Members of Congress, that that is the challenge that lays ahead of us, trying to fashion some tax relief for middle income families and all Americans. I know estate tax relief, I think the gentleman referred to, is an area that I have a special interest in.

I also know it is something that our friend from Mississippi cares deeply about.

I yield to our new Member, the gentleman from Mississippi [Mr. PICKERING].

Mr. PICKERING. Mr. Speaker, I want to thank Mr. HULSHOF for putting this

together for new Members of Congress so that we can talk about the importance of family and the importance of families to the success of our country.

I have four children, four boys, ages 7, 5, 3 and 1. Our campaign slogan was, ''If not your support, your sympathy.'' And tonight they are at home watching.

I miss them but I hope as they watch what I do here in this body and what I try to do to serve my country that at the end of my days they will see that what we were all about is not just about taxes and spending and the issues that come before us, but it is about strengthening and supporting and sustaining the key to our success, our family, of having a culture that discourages violence and crime, that promotes strong education, that seeks to remove the barriers and the penalties and the punishment that we now see too often placed on families. And if we can be a part of that, then I will be very proud of my service and that I hope my four boys will think that we did something to make their generation live in a free and prosperous and moral country.

In May 1988, President Ronald Reagan visited the Moscow State University and before leaving held a short question and answer session with some of the students. He made a statement that I think is appropriate tonight.

President Reagan said, ''Progress is not foreordained; the key is freedom.''

For our families to make progress and succeed, our families must have freedom. Freedom to grow, to prosper, to spend time with their children, freedom from an overly burdensome government.

Sonny Montgomery served in this district before I did. He met the challenge of his day helping build a strong defense and contain communism to give my children and to give us the freedom and the prosperity that we enjoy today. Men like Bob Dole.

I believe the challenge of my generation, the challenge that we face today is strengthening and providing the environment for families to prosper. We will have to make some tough decisions as we go forward. The American family today is gripped by taxation, regulation. It seems to punish those things we believe in: marriage, investment, work.

□ 1900

It seems to side against families trying to raise their families consistent with their faith and their values. We are trying to propose legislative solutions that help; that bring common sense and lift the load and the burden from the family.

What are some of the ideas that we are talking about, some of the solutions, the alternatives to the failed old policies that have mortgaged our future? What we want to do is provide hard-working families more time for their children and more money for their pockets, and the ability to pass on not only their good name but the fruits of their labor without the fear of the IRS.

We want to pass the Working Families Flexibility Act, on which we voted today. We want a balanced budget. We want to end the marriage penalty and to implement a family tax credit. We want to end the death tax, the inheritance tax.

Tonight I want to tell a few stories about families back home in my district. A man named Chester Thigpen, 85 years old, has worked his entire life to provide for his family, his wife Rosett and four children, two boys and two girls.

Mr. Thigpen's first day of work was back in 1918. On that day his labor yielded him 35 cents. Today he is a successful tree farmer, with several hundred acres of prime timberland. He has been a tree farmer for over 40 years and he has worked daily to ensure a bright future for his children.

He is an example of the American dream. He is the first African-American to win the honor of the Mississippi Tree Farmer of the Year and the National Tree Farmer of the Year.

But what threatens him and his family today? It is not pine beetles, it is not tornadoes, it is not termites. His farm is in jeopardy because of the death tax, the inheritance tax.

He has worked hard his entire life and would like to leave what he has done to his children, to give them the fruits of his labor. In Proverbs it says that a good man leaves an inheritance for his children's children. Mr. Thigpen wants to do this, yet our Federal Tax Code wants to confiscate it, to take it away. He has been successful, so our Government wants to penalize him.

He did not work his entire life to see his farm, his inheritance that he wants to leave to his children, taken away. The Thigpens say to their children, ''Let what you do be an asset to your community.'' They have lived that. They are testimonies and they are examples of that.

We need to stand for Mr. Thigpen and his family, to do away with an estate tax that punishes hard work, that takes away the inheritance he wants to leave his children. It is clearly the worst example that we have in our tax system, to tax people from their grave. Taxation without representation in its purest sense. It is a horrible, horrible example that must be changed.

I want to talk about hard-working families that now pay more in taxes than they pay in clothing, in transportation, in their mortgages and their rents. They pay all of that, more than that, in taxes.

In 1948, the typical family of four paid 3 percent of its income to the Federal Government in direct taxes. In 1994, the equivalent family paid 24.5 percent of its income to the Federal Government. We do not need another 46 years of growth in taxes, we need 46 years of growth in prosperity for our children and our children's children. This is our battle for our generation, to preserve the freedom, to support our families.

I will close with one last example of another family in my district from Pearl, Mississippi, Bobby and June Pickle. They have two boys, Brett and Lake. Mr. Pickle said, and I quote, ''Taxes eat us alive.''

When they had their first son, Brett, June, their mother, quit her job. She wanted to stay home to raise and nurture her family, but she could not afford to do so. The bills were too high, the taxes were too high, and she was forced to go back and work.

It is time to change our priorities. Family tax credits that we are proposing will help families who choose to have a mother or a father stay home with their children. Hopefully they will have the economic freedom to do that.

There are many things that are important in this Congress, none more important than supporting, strengthening and sustaining our families. The gentleman from Oklahoma, J.C. WATTS, is a good leader on the Community Renewal Act that will help us move families from welfare to work, that will help strengthen the values that we cherish, to look to nongovernmental solutions, faith-based and community-based organizations, to help strengthen families and communities. All this and more we can do to strengthen our families.

I thank the gentleman for granting me this time tonight and look forward to working with all the Members in this body to do everything we can to support our families.

Mr. HULSHOF. Mr. Speaker, I thank the gentleman for giving us some human faces and human life examples as to why we need as a Congress to create a new vision, I think, especially the story that the gentleman from Mississippi told about his constituent, Mr. Thigpen, and the estate tax.

Today in our committee hearing in the Committee on Ways and Means, we had several individuals who testified about the ravages of the estate tax. Certainly as the son, only son, of a Missouri farm family, I know firsthand whereof the gentleman speaks, of the plight of millions of Americans whose pursuit of the American dream becomes a nightmare when the realities sink in that a family business has to be liquidated, or perhaps a family farm has to be auctioned off on the steps of the courthouse just to pay the Federal tax.

I know our family as well as millions of family members across this country have invested not only money into family businesses but their hearts and souls. I know family businesses often take the risks and then navigate those treacherous straits of regulation. And just as open waters and calmer seas lie on the horizon, the Federal Government crashes a tidal wave over the bow of the boats of these family-owned businesses. I applaud the gentleman for his comments.

I also recognize my friend from New Jersey, who also is a leader in his community. I know that last week he provided some inspiring comments about success stories in his district about community renewal, and I am happy to yield to him now.

Mr. PAPPAS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, most of us know the famous line from the movie the Wizard of Oz, where Dorothy clicks her heels together and says ''There's no place like home.'' Well, more and more business owners, just like Dorothy, are sharing the same sentiment that there is no place like home.

Over 14,000,000 business owners around this country work out of their home, Mr. Speaker. Each of us know people who work from their homes: consultants, salespeople, lawyers, doctors, accountants, graphic designers, bookkeepers, and the list goes on. But beyond their jobs, many of these people are parents. The advent of fax machines, the Internet and teleconferencing has literally changed the face of doing business. No longer are businesses confined to large office buildings.

Last week I announced that I have introduced legislation, H.R. 955, the Family Freedom Home Office Deduction Act of 1997 that, if enacted, will literally help America's families.

Seventy percent of all home-based businesses are started by women. I was pleased to announce the introduction of this legislation at the site of the New Jersey Association of Women Business Owners' State luncheon. I was joined by many business owners from the 12th District of New Jersey who successfully run home-based businesses.

Each of these people expressed support for the legislation, and many of them mentioned that running a home-based business gave them the opportunity to both work and take care of family commitments. While they could start and run a business, they could also go to doctors' appointments with their children, attend a teacher's conference or do numerous other things with their children.

Operating a home-based business takes away many of the constraints that currently prohibit parents from being able to attend to important events in their child's life.

As we were getting ready to make the announcement, a woman who has been active in the home-based business issue approached me. She had written a book about starting a home office, a home-based business, and expressed support for my bill. In fact, she autographed her book and signed it, ''To MIKE PAPPAS. There is no place like home.''

So many of the issues that we will take up this year, and so many of the proposals that private industry is undertaking, seek to create a more family-friendly work environment and promote family values. We have acknowledged so many times before that families are working harder and longer just to keep up as their tax burden has risen and college costs have soared through the roof.

Many parents spend every last minute, sometimes working two jobs themselves, just to pay the bills and try to save for their children's education. Sometimes, though, as they work so hard to provide and save for their family, they are unable to be there for the family members. How can we expect parents to monitor what their children are watching on television if they are not able to be at home? How can we expect parents to monitor their children on the Internet if they are not at home? For many, the simple solution is the home office.

Think about it for a second. Parents can still work, can still pursue greater prosperity and can do it while being at home with their children. Whether it is the father who wants to be there for his children or the mother who works as a consultant, working from home has become increasingly appealing.

The Tax Code should reflect the modern business environment of America and the IRS should recognize its impact on our future. Currently, the IRS severely restricts the ability of home-based workers to deduct the expenses relating to their home office.

I think that all of us, on both sides of the aisle, can agree that giving parents the opportunity to spend more time with their children would have a positive effect on America's families.

As we stand here tonight on the brink of a new century, dreaming of the future, embracing the next advance in technology, we must not forget and we must strive to maintain our country's greatest asset, our families.

Mr. HULSHOF. Mr. Speaker, I appreciate the gentleman's comments, and in looking about I am happy to see my colleague from Kansas.

If I could share this quick personal story, not to certainly comment upon my colleague's age, but I recall sitting in front of a black and white television set in the mid 1960's and watching the Olympics and cheering the gentleman on to victory and to an Olympic medal. It is an extreme honor to have the gentleman from Kansas joining us as a new Member, and I would yield to the gentleman from Kansas [Mr. RYUN].

Mr. RYUN. Mr. Speaker, I thank the gentleman for the time and thank him for yielding.

I also thank the gentleman from New Jersey for having mentioned the great State of Kansas in his comments about the movie ''Gone With The Wind'' and the ''Wizard of Oz.'' Kansas is a great State and I am pleased to represent the second District.

I am also pleased that my freshmen colleagues have chosen to come and speak on a subject that is dear to all of us, and that is the family. As a father of four children, ranging in ages from 21 to 26, I know how important this subject will be to them and their future families.

Normally, we send our children to school as freshmen, but in this case my family, our children, sent me to Congress as a freshman, and it is a pleasure to be here and serve the second District and to also speak on how important this issue is for families.

Mr. Speaker, it is important, I believe, that we look at the issue of balancing the budget, because what it does, it protects not only our children and our future children, but it protects our Nation. The current national debt is approximately $5 trillion.

Just how much is $5 trillion? Well, if we paid a million dollars a day for 365 days, that is every day of the year, it would take us 13,699 years to pay off our national debt.

It is also a terrible tragedy when we saddle our children born today with a debt. They owe the Federal Government $200,000 just on the interest on the debt alone. That is something we need to correct. That is why balancing the budget is imperative.

Balancing the budget would reduce the interest rates, according to Federal Reserve director Alan Greenspan, by as much as 2 percentage points. What does that mean? Well, that means that for a typical family, it would save them in these particular areas: Say a student loan, a typical student loan, it would save them $216 per year. It means if a family had a typical car loan, it would save that family as much as $180 a year.

For a family that is purchasing a 30-year mortgage on a $50,000 home, with 15 percent down, it would mean that it would save them $1,230 of their hard-earned money. It means that a family who would be purchasing, let us say, a $100,000 home, putting down 15 percent, again on a 30-year mortgage, it would mean a savings of $2,160 back to families, back helping them in the areas that they should be receiving an award.

We all agree we are facing a tremendous budget crisis. The reason we are facing the budget crisis is not because we are taxed too little, it is because the Government simply spends too much.

I know, Mr. Speaker, like all of us that are seated here, we have to learn to balance our checkbook. That is what we are really asking the Government to do, is not to spend more than it really has.

□ 1915

The $1.6 trillion in revenue that makes up the President's budget request is not the Government's money; it is the product of hard work and sacrifice that belongs to American families and Kansas families. It is hard earned money. They should be receiving their rewards. The Nation's capital does not create wealth. All the money that sits in the U.S. Treasury was taken from someone's pocket; that is, the hardworking taxpayers.

I would like to put that money back into the pockets of the American people, back to the people of the Second

District. They simply are taxed too much. We need to make those changes. Families deserve tax relief from this crushing tax burden. A $500 per child tax credit would benefit the families who need it. It would also help single mothers who have incomes less than $25,000 a year, helping them specifically.

A repeal of the estate tax and gift tax would enhance the chance for families, family farms and family businesses to succeed and pass it on to the next generation. Reducing the capital gains tax would simply create more jobs, it would help the economy grow, it would encourage better jobs for more people, it would encourage them to work and to save more and to invest more. Balancing the budget and relieving the American taxpayer, families in general, taking away that crushing tax burden is pro-life, Mr. Speaker, and it is imperative that we do it.

Mr. HULSHOF. I appreciate the inspiring remarks of the gentleman from Kansas and am happy to have him as a leader among our newly elected Members on the Republican side and of this House.

Again, Mr. Speaker, as we look for positive solutions to many of the problems that lie ahead and as we as a class forge our identity and we help to create the vision for the future, we are happy tonight to focus on the family, and in that way I yield to my friend from Alabama, Mr. ADERHOLT.

Mr. ADERHOLT. Mr. Speaker, this evening as some of my colleagues are doing, I would like to take a few minutes to share my thoughts about the American family.

I believe there is nothing more important than strengthening families in America today. As Representatives in Congress, we should ever be mindful of the role we play in supporting America's families. It is because of this belief that I intend to do everything in my power, the power given to me by the people of the Fourth District of Alabama, to take a stand on the issues that are affecting our Nation's families.

Two of the greatest gifts I believe that we can give our children are a balanced budget and lower taxes. We need to cut spending and reduce the tax burden to make sure that we have strong economic growth so that our children and our children's children can enjoy the same benefits that we have been given.

It is time for the Federal Government to take responsibility for its decisions and their effect on the American people. Federal spending should be reined in and controlled. Reducing the growth of Federal spending is the way to get a balanced budget, not by taking more money from hardworking people who are already struggling to make ends meet.

By balancing the budget, a middle-class family easily saves $1,500 per year. Who do you know would turn down having an extra $1,500 per year in their pocket?

Another pressing concern for families is taxes. The American family is the most heavily taxed entity in the Nation. As has been pointed out several times here tonight, the average family in 1954 were paying just about 2 percent of its adjusted gross income in Federal income taxes. Today that figure has soared to 25 percent. And when you add State and local taxes, the average family of four pays almost 40 percent of its income in taxes. Forty percent. That is more than most families spend on housing, clothing, and food combined.

The strain of meeting America's crushing tax burden has forced many homemakers into the work force, reducing the amount of time that parents spend with their children by approximately one-half. Part of the Republican agenda is to allow families the opportunity to spend more time together. By giving men and women the option to choose comptime instead of overtime, they are given the chance to spend more time with their families.

Last, tonight as we focus on the issue of abortion on the House floor tomorrow, an issue that greatly affects the very existence of families, I would like to state my unwavering commitment to restoring respect for human life, born and unborn, in the 105th Congress. As we consider the partial birth abortion ban, I ask my colleagues to consider the words of Mother Theresa, who once stated that abortion is the greatest destroyer of peace today. It is a war against the child, a direct killing of the innocent child. Let us put an end to this brutal procedure that has taken the lives of so many babies each year and every day.

In closing, recently I brought a resolution to the floor that would reaffirm the role of the Ten Commandments as a cornerstone of a fair and just society. I believe that this symbolic gesture is important in reaffirming the Judeo-Christian values on which this Nation was founded.

As Representatives in Congress, we should always be mindful of the role that we play in setting the course of the American family. This is an awesome responsibility. But with God's help to see the right, we can make this great Nation a city on the hill.

Mr. HULSHOF. I appreciate the gentleman's remarks and especially his efforts and was happy that his resolution the week before last did pass this body.

I am happy, Mr. Speaker, to yield to a good friend from Texas, Mr. SESSIONS. Of the 32 new Members on the Republican side, Mr. Speaker, 30 of us sought congressional seats for the first time this time. My friend from Texas and I, however, gave it a shot back in 1994.

Mr. SESSIONS. I thank the gentleman from Missouri for yielding.

Mr. Speaker, tonight what we are talking about in plain and simple terms is not only stronger families for a better America, but what we are talking about is how American families are going to survive in the 1990's and in the future. Tonight we have heard discussion after discussion, person after person offer an argument for the best thing that we can do for America's families. Of course, Mr. Speaker, I would say that that is that we need to balance the budget.

The last time the budget was balanced was in 1969, when President Lyndon B. Johnson was President. I know that we can improve the lives and the conditions for families through lower interest rates, on homes, cars, college loans and through more job opportunities, now and in our future. But it is time that we do that now, and it is now time that we say we must have a balanced budget.

The result of a balanced budget according to a DRI/McGraw Hill study is that there would be a drop in the 30-year Treasury bond rate to 4.5 percent. It is now over 7.5 percent, so you can see that that is an astonishing drop of 3 percent. This would cause fixed rate mortgages to drop by the rate of 2.7 percent which would cause housing starts to rise to 65,000 units.

What would this mean? For the people who I represent in Texas in the 5th Congressional District, this would mean that there would be a savings of over $1,230 a year on the average home mortgage, $216 for a student loan, and $180 on average for a car loan. That is why we must balance the budget. It will provide real savings for working families, and instead of taking a second job to meet the financial needs of the family, parents might find that they have more time to spend with their families.

What we do here in Washington does have a real impact on the lives of families throughout this country. We must show the courage and the discipline it takes to balance the budget. Our spending entitlements continue to grow each year. That means that money available for discretionary spending on programs such as education, welfare, Medicare, Medicaid, will continue to decrease. We simply cannot allow that to happen.

Reducing the cost of government means lower taxes for working families. It means preserving, protecting and strengthening Medicare and Social Security. It means returning enough money to my home in the State of Texas to cover the cost of a good education for all of our children and taking care of all of our citizens.

It is important that we constantly ask ourselves what we pass in the way of legislation, will that cause a burden or a reduction on America's families?

I am glad today that we voted for the Working Families Flexibility Act. This is exactly what we need to be doing. It will allow all workers to have the option of either overtime pay or extra time off. This would allow working mothers and fathers the choice of taking time off to do the following things: Perhaps to take their children to school for the first day of school, watching a school pageant, attending a parent-teacher conference, or staying

at home with a sick child. I believe we are on the right track. This bill would give greater freedom to families in Texas and also those all around the country to raise and educate their children.

Texans and Americans are counting on us to get the job done. If we can educate ourselves about the benefits of balancing the budget and the dire consequences of continuing these deficits, we will have the discipline to do the right thing. I say, let us balance the budget now.

Having laid out these facts for you tonight, for the American people, I would just like to leave them with a few questions.

First, how could your family survive year after year spending more money than it earned?

Second, what could your family do with extra money if at the time we balance the budget, we deducted $500 off the top 6 those families's taxes for each child that they are trying to raise?

And, third, what would you think of your Member of Congress if that person misled you and did not balance the budget?

Mr. HULSHOF. I appreciate the gentleman's remarks and his courage and discipline, not only for the Members of his district in Texas but for the country.

Mr. Speaker, I yield to the gentleman from Indiana.

Mr. PEASE. I thank my colleague from Missouri for the leadership he has provided, not only this evening but throughout this Congress to date.

Mr. Speaker, yesterday I had the opportunity to meet with some of my constituents from the Disabled American Veterans, Indiana Chapter. While speaking with them, Jim Powers, a disabled Hoosier veteran commented: ''Family is all that is important. Without it, nothing else aside from faith much matters.''

Jim was speaking from personal experience. Having been married for 38 years, he and his wife are fortunate enough to have their family close at hand in Indiana. One of the most important roles Jim has the opportunity to play is grandfather. He and his two granddaughters are fortunate that they see each other every day, and he is significantly involved in their personal development. He cherishes the closeness of his family. Though I wish this were true for every family, the statistics today are quite disheartening. Many, many individuals are disconnected from family members while others search for anything that remotely resembles a family unit. Those who lack a traditional family find themselves without the togetherness, stability and aid in times of need that faith and families provide.

In the past, the system to rectify this increasingly common shortcoming has been to increase Federal funding of welfare and social services. Unfortunately, this system of increasing Federal spending and trying to supplant the family unit with a bureaucratic machine has proven inefficient, ineffective and in many cases actually destructive of families.

Now the trend is moving many of these services away from the Federal Government to the States and local governments. While I do believe this is a step in the right direction, I am increasingly certain that it is not enough simply to shift these programs from Washington to the States and local governments, for in many cases the lack of a family unit, the real heart of our social problems, will still exist no matter which government spends the money.

We certainly cannot legislate a traditional family for all those who lack one. However, we can, through legislation, encourage and provide support for private charities and faith-based institutions to assist in the roles of support and family services which so many desperately need.

Tax deductions for charitable contributions must be maintained. And the implementation of tax credits for charitable contributions to organizations which perform social services can help those Americans who need a family unit or support for their existing families. Services such as counseling and educational funding, health services, youth programs and elderly assistance can all be administered through private organizations, such as scouting, YM and YWCA's and Habitat for Humanity, among others, and faith-based institutions.

□ 1930

The 105th Congress is taking measures to ensure the strengthening of families. One thing above all is clear. Our Government cannot and should not try to be a replacement for the traditional family. Instead we must call on our local charities, churches, and community organizations to expand their role in providing support to families in stress and to rebuilding families that have disintegrated.

The private partnership of neighbor helping neighbor has been one of the great traditions of this Nation. We in the Congress must find ways to strengthen, not supplant, that tradition. When we do, our families and thus the Nation will be the stronger.

Mr. HULSHOF. I appreciate the gentleman's comments.

Mr. Speaker, I know time is drawing short, and I yield to the gentleman from South Dakota [Mr. THUNE].

Mr. THUNE. I want to thank my colleague from Missouri and the many other of our freshman class who have joined us here this evening to talk about things that are important to the American family.

Mr. Speaker, the Declaration of Independence, our founders, articulated what is one of the most profound and simple statements of self-government that the world has ever seen, and yet they said that all men are created equal and they are endowed by their Creator with certain unalienable rights and among these are the right to life, to liberty, to the pursuit of happiness. In order to secure these rights, governments are instituted among men deriving their just powers from the consent of the governed.

In that very basic statement, we have become the model for the world and people from all over the world come here; and as Bill Bennett has described the gates test, that is what happens when you open your gates; do people want to get in or do they want to get out? In America people are flocking to come here because of the things that we stand for and have stood for over the years.

I had the opportunity here a couple of weeks back to take my 9-year-old and my 7-year-old to the Lincoln Memorial, and as we went up the two flights of steps and there he was, honest Abe in all his glory, the big statue, my 7-year-old remarked, I did not realize that he was so big; and we had to explain that that was not his actual size, his feet really were not this long.

But as I thought about her statement, I thought to myself in many ways he was big. He was in terms of his ideals, his principles, his convictions. The things that he stood for are many of the things that motivated me to run for office, things like freedom, things like equality, things like a belief that government should not do for people. Only it should do for people only those things that they cannot do for themselves.

And we have heard this evening from a number of our colleagues talking about the important priorities that we see in terms of this Congress and the things that we can accomplish to advance freedom, freedom for families. We had a vote today on a bill that would give families more flexibility, more freedom, more opportunities to spend time with each other. We will vote tomorrow on a bill that respects the sanctity of life, one of those unalienable rights that we heard about earlier in the Declaration of Independence. And last year we had an opportunity and we are seeing the effects of it this year to vote on welfare reform, which in my judgment provides more freedom for families, it restores self-respect, self-sufficiency, independence, and I think we are seeing the fruits of that bill that was enacted last year. We have already seen welfare cases drop 15 percent between January 1995 and September 1996.

And so as we talk about these various issues throughout this Congress, I think those are the things that we as a class want very much to keep at the forefront of the agenda. We talk about the rights that we as a country enumerated and established when our founders and their great foresight laid down the Declaration of Independence. They talked about life, liberty, and the pursuit of happiness, and that is really

what we are about is giving our children an opportunity to pursue happiness, to enjoy the freedoms and the liberty that we have in this country and to respect the right for life.

Mr. HULSHOF. Mr. Speaker, I appreciate the gentleman's comments.

Mr. Speaker, to conclude as we have discussed newly elected Republican Members, as we try to create and help fashion a vision for our country tonight, we have focused on strengthening the families in ways that this body can provide family friendly legislation such as the measure we passed today. Our message is rooted in hope and in optimism because that is indeed what our country was founded on.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore (Mr. SMITH of Michigan). Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, last night myself and other members of the Democratic caucus gathered here to discuss the issue of campaign finance reform, and we had a good constructive discussion, I believe, about what is wrong with the present system, and we again appealed to the Republican leadership of this House to put a campaign finance reform bill on the table for us to consider.

This morning, roughly about 10 hours after we concluded our special order, I picked up the Washington Post, and I read that the Republican chairman who is in charge of the partisan investigation into campaign fundraising has himself abused the system. According to the story on the front page, the chairman of the House Committee on Government Reform bullied a lobbyist for the Government of Pakistan for campaign money in the manner the lobbyist described as a shakedown. Not stopping there, the chairman then contacted the Pakistani Ambassador, complaining that the lobbyist could not raise him enough money.

My colleagues, this is just the kind of abuse the chairman himself has been empowered to investigate.

Originally I was concerned that these hearings would be too partisan, but after stories in this morning's Washington Post I now know that these hearings will not just merely be partisan, they are going to be a joke. How can the gentleman from Indiana hold the gavel and conduct these hearings in an objective manner?

In light of today's allegations the gentleman from Indiana should, in my opinion, recuse himself from the committee's investigation, and he should also open up his committee's probe to a much wider scope than the White House and include both parties in Congress.

Tomorrow the Republican majority of this House will likely ask us to vote and probably pass a $12 to $15 million budget that will be placed in Chairman BURTON's hands for this investigation, and how they can do that in good conscience after today's headlines really baffles me.

I want to say today our House Democratic leader, RICHARD GEPHARDT, because of his concern over the nature of this investigation and where it is going, the House Committee on Government Reform issued a statement, and I would just like to read from part of that statement. He says that the vote on committee funding scheduled for tomorrow sanctions the Republican leadership's decision to make 12 to 15 million taxpayer dollars available for a one-sided, open-ended investigation of White House campaign fundraising. This partisan investigation flies in the face of a unanimous vote in the Senate to broaden the scope of the inquiry into improper and illegal activities in Democratic and Republican campaigns in the last election.

Let me just for a moment not read from that statement anymore and explain that essentially what is happening here is that the Republican leadership and the chairman of the House Committee on Government Reform are suggesting that this investigation essentially be limited to the White House, and they are not interested in broadening the investigation, the way it was done in the Senate, to include both Democratic and Republican campaigns, congressional campaigns, Senate and House campaigns, in the last election. The budget granted to Chairman BURTON is $8 million more than the Senate investigation.

Further, the House investigation could go on for the duration of this Congress instead of the year-end resolution set to conclude the Senate investigation. Chairman BURTON has granted himself unprecedented subpoena power and refused to provide the Democrats on the committee any resolution on the rules of conduct that would allow us assurances of the same fair and balanced process that will occur in the Senate investigation.

Now the Republican leadership, as myself and other Democratic colleagues have pointed out many times on the House floor, has ruled out so far any consideration of a campaign finance reform bill, and they are preventing Congress from being included in the House investigation. Their action begs the question of whether they are truly interested in reforming the campaign finance system or merely bent on attacking a Democratic administration, and that I think is what this is all about. What the Republican leadership wants to do, what the Republican chairman of the committee wants to do, is limit this investigation to the administration, to the White House, to the Democrats in the White House and not consider what is going on in Congress on both sides of the aisle.

The gentleman from Indiana has also abused his power, and the Republican leadership has been a willing conspirator by allowing him to run over the rules of the House in this investigation. Improper or illegal activity, whether it occurred in the Democratic or Republican campaign, should be included in the House investigation. Anything short of that smacks of protecting our self-interest at the expense of rooting out the abuses in the entire campaign finance system.

Now in the statement that the Democratic leader put out today he also released a letter to the Speaker signed by the Democratic leadership and the Democratic ranking members serving notice that we, the Democrats, will oppose the committee funding resolution and use whatever parliamentary tools we have available to block its consideration unless he reconsiders bringing this resolution to the floor in its current form.

And let me repeat. All that we are saying is that this investigation should be like the one in the Senate. The Senate one makes sense. They are not limiting it to the White House; they are including Democrats and Republicans and congressional campaigns as part of the overall inquiry.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE.

The SPEAKER pro tempore. The gentleman should refrain from characterizing the Senate action.

Mr. PALLONE. Excuse me; thank you, Mr. Speaker.

Now the problems that I mentioned with regard to the gentleman from Indiana and the reason that we are gathering here tonight, or the reason that I am here tonight, and some of my colleagues, is because we want to see campaign finance reform. Again the Republican leadership is missing a great opportunity here because there are some serious proposals that have been introduced by Members of the House on the campaign finance reform issue. We may discuss a few of them tonight. On the Democratic side we have formed a campaign finance reform task force in order to review all legislative proposals for reform and to try to develop a consensus position, and I want to stress that many of my colleagues, including some of the Republicans, some of the rank and file Republicans, have introduced some good proposals in this regard.

There are bills out there that address spending limits, the role of political parties, political advocacy, tax-exempt organizations, contribution limits, greater disclosure, FEC enforcement, soft money, free commercial broadcast time, public financing, and the list goes on. But the bottom line is these bills mean nothing unless the Republican leadership of this House, which is the majority party, sets the agenda and decides to act.

I would like now to yield, if I could, to one of my colleagues who is here tonight to talk about some of the same concerns, the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. I thank the gentleman from New Jersey, and I believe that the important focus of our conversation, and certainly debate as well, over the past couple of weeks and our conversation this evening is to really elaborate on the facts and begin to clear the air that there is opposition in totality really, Republicans and Democrats, to the question of campaign finance reform. I think we have unanimity, if you will, in the whole concept of campaign finance reform in terms of its importance. We do not have that commitment in terms of having it come to the floor of the House and immediately address the concerns in a nonhysterical but rational way to respond to the concerns of the American people.

Now yesterday I joined Members of the House, colleagues of mine that happen to be all women, and it was a symbolic press conference to suggest that we who are women know how to clean house. The only thing we are lacking is a good broom, and we had indicated that we want to clean house and want the Speaker of the House to bring to the floor viable campaign finance reform legislation that all of us will have an opportunity to debate, and as you have indicated, I am part of the campaign finance reform task force.

There is good legislation on both sides of the aisle, so this is not a suggestion that there are not Members on both sides of the aisle ready to roll up their sleeves and work. The problem is that there is a roadblock, if you will, to be able to bring viable legislation to the floor of the House and viable legislation for this body to discuss.

I do not believe the American public is really looking for us to turn on ourselves. The comments that I made yesterday were I want to see the homemaker, the scientist, the bus driver, the teacher, have access to the U.S. Congress. I want to see them get up one morning and say, I would like to be in the U.S. Congress, I have an issue, I have a passion, and therefore with those individuals running, we realize that we have to have ways of electing Americans to the U.S. Congress.

There is nothing wrong with that. That means there has to be a form of fundraising.

I certainly think there are very positive ideas, such as access to the electronic media or to the media that should be given in an organized manner to provide reasoned debate, to have us express ourselves to the public with no sort of flowery advertising around us, but just look our constituents in the eye and have the ability to communicate through the media.

There are many ways that we can address this question of campaign finance reform, but in the shadow of that discussion, and I hope that it is discussed or I have discussed it in a manner that is not confrontational, I am outraged presently by the efforts now of the majority on the Committee on Government Reform and Oversight in terms of the structure, and I think it is important for those of us in Congress to be able to come to compromise. We just had Hershey and the bipartisan approach to this Congress, and I believe in it.

□ 1945

I think it can work. But in the shadow of all of us committing to campaign finance reform, taking the broom and sweeping this House clean, this structure that has now been offered to investigate possible campaign abuses requires outrage. Nothing less. It does not require solid commentary. The reason why it requires outrage is that we are doing ourselves a disservice. It is limited to the so-called improprieties and possible violations of law by the executive branch officials and Government agencies in the 1996 Presidential campaign.

This is a much narrower scope than our other body, the Senate, adopted in a 99 to 0 vote. These are the same representatives that represent this Nation and constituents, they are Republicans and Democrats alike, and they have indicated that the value of having this process is to ensure not that we look to blast and castigate, but that we look to correct and uplift.

How can we correct and uplift if we do not find or get to the bottom of the issue, if I am not afraid to come forward and say, for example, some of the improprieties may be just that, incorrectness, mistakes that were not intentional? God forbid if we are in this highly politicized atmosphere. We want to fine someone and hang them up by their fingernails, if you will. It may have been just an impropriety. If that is the case, do we not want to find that out in the light of day? Why are we narrowing the House investigation to just the President and what happened in 1996, when the Senate has very well covered itself to find out the truth and to improve this structure.

Let me also acknowledge that the format gives pause. With the subpoena powers, we know that we have a Democratic Party and a Republican Party. We recognize that the great American people have the right to vote Democratic and Republican, and in some instances vote a third party, and I appreciate and respect that.

We realize that we, in different parties, get together and we strategize. We talk about how we are going to win this election. There is nothing sinister about that. But yet there is unilateral subpoena powers so that this particular oversight committee under this chairman will not only seek subpoena powers and subpoena data that may be relevant, but they will seek subpoena data on the strategies of the Democratic Party that would violate, if you will, really free speech and the way this country is run.

As long as we are not creating criminal activities, there is nothing wrong with analyzing how we can beat the other fellow, how we can get our message out. Why is that relevant to campaign finance improprieties or campaign finance reform? There is no limitation on this committee's or the chairman's subpoena powers so that private matters may be investigated.

Let me also bring to the attention of our discussion this evening a precedent that I have never heard of; that is, the unilateral authority of the chairman to release documents. Now, I want all of this to be discussed in the light of day, but let me share with the American people that that would mean that confidential financial records and trade secrets could be released without the opportunity for committee review or anyone else's input but the chairman; medical histories and other personal records of individuals. The identity of confidential FBI informants and other confidential law enforcement information could be presented without any challenge. Privileged attorney-client communications.

No document protocols conducted by any other committee have ever given the chairman this authority. Mr. Speaker, let me cite for my colleagues, Whitewater did not have this authority. Iran Contra, the resolution did not allow this unilateral distribution of private records. And again, let me stand here and say, I am not looking for a cover-up, I do not want a cover-up, I want fairness.

Certainly the ethics investigation did not allow this random distribution of papers that might in fact suggest that someone is criminally at fault if they made a mistake. As I said, if we are truly looking to get this solved, we need to be able to have people come forward so people can say I made a mistake and I want this committee to know about it, because I want it to be fixed.

As I yield back to the gentleman, and I see that my good friend has joined us, and I happen to be a cosponsor on Congressman FARR's very, very able and very responsive bill on campaign finance reform that responds to my concern about how the bus driver can come to the U.S. Congress, the school teacher can come, the average American can get elected because there is a proper process of campaign fund-raising.

Let me tell my colleagues what I am most concerned about. We have not passed a budget yet. We have not talked about the 10 million, and when I say talked about, let me stand corrected, we have not addressed the concern of 10 million uninsured children in America without health care. We have not looked at and resolved the questions of seeing how we can implement this new welfare reform.

We have not addressed the security of pension rights for Americans, and yet this committee may already have at its finger tips $8 million to spend and possibly upwards of $15 million to spend on this investigation, when young people in my district are fighting to get summer jobs, where the lines are teeming

with individuals who are looking to get summer work and may not have the kind of investment from this government that will help them get summer jobs, when people are without housing.

I cannot understand how we would put in one source, if you will, or give to one entity that is narrowing its investigation, with no ending, some $15 million. I think it takes my breath away. If I was not standing on the floor of the House, I might not be able to stand. To do this kind of investigation with no commitment to coming forward with real campaign finance reform.

The American public, I believe, does not want us to be in a witch-hunt. What they really want is for us to sweep our own House clean. We can do that by violent discussion on the floor of the House of real campaign finance reform and take those good millions of dollars and help with affordable housing and the uninsured children, for working families, for health care, and making sure that the welfare reform works.

The gentleman from New Jersey certainly has been one of the leaders, along with the gentleman from California, and I that we will be heard and that we will have the kind of debate that will help us solve the problems that the American people would like us to.

Mr. PALLONE. Mr. Speaker, I just want to thank the gentlewoman, because I think she really encapsulated the way I feel and the way many of us feel.

I have to say last weekend when I was in the district, I had people come up to me and talk to me about the amount of money that is going to be spent by these committees on investigation, and people were literally outraged by the millions of dollars. But the amazing thing is that this funding resolution that the House Republicans expects us to vote on tomorrow would spend $8 to $11 million more than what is being proposed in the Senate committee, and yet limiting it exclusively to the White House, not even discussing congressional activity on the Republican or the Democratic side, and yet it is $8 to $11 million more.

Again, I did not want to dwell on the fact of what the chairman is doing here, but I have to conclude that the chairman himself, based on what was in the Washington Post today, clearly he does not want this investigation opened to deal with congressional activities, because maybe it will implicate him perhaps. That is what is really an outrage here, that they are trying to make this so partisan, just the White House, all of this money, and refusing to deal with any investigation of activity on either side of the aisle in the House of Representatives and in congressional campaigns; then at the same time saying we will not consider campaign finance reform, we will not bring it to the floor, we do not have a deadline, we do not have a proposal.

Fortunately for us, we have someone here with us tonight who does have a proposal and has been out there talking about us and has concrete ideas and has put them in bill form.

I would like to yield to the gentleman from California (Mr. FARR].

Mr. FARR. Mr. Speaker, I thank the gentleman for yielding to me and for the gentlewoman from Texas [Ms. JACKSON-LEE], for her very articulate outline.

I am an author of one of the proposals for campaign finance reform, and I am not going to dwell on my particular bill. But I am going to point out that we certainly need to address this problem. The American public heard the President right here in this room just a few months ago ask us in all sincerity to deliver to him by July 4, our Nation's birthday, a campaign finance reform bill.

Tomorrow we will be recessing for our Easter recess, for our homework back in our districts, and we do not return here until April 8, I think it is. So April, May is a month, June a month. We have about two-and-a-half months left after we get back to meet the President's deadline. What have we seen? Absolutely nothing. There is no committee hearing scheduled, there is no work in progress on a bipartisan effort.

I want to point out that this campaign finance reform has to be bipartisan. It has to have four principles that I think are essential in any bill. It has to be fair. This bill cannot be designed to help the Republican Party nor the Democratic Party. It cannot have the favor of one party over the other.

Second, the bill has to reduce the influence of special interests. We have to bring down the amounts that political action committees can contribute. We also have to limit large single donors. I think we have to limit the amount that an individual can give, as the gentlewoman from Texas just pointed out, so that this House should be accessible to anyone, not just those who are millionaires and go out and spend their own money.

Third, it has to have a level playing field. We have to make campaigns competitive. How do we do that? By enacting spending limits so that essentially everybody who is in this process knows exactly how much is going to be spent and those who just spend the most are not the winners.

Fourth, the principle for campaign finance reform has to include access to the system by nontraditional candidates. I was sworn in in the very spot that the gentleman from New Jersey are standing in in a special election in 1993. It was the first time I stood on the House floor. I looked out, as the gentleman are looking at me today, to a sea of white males. Sandy was shocked coming from the California legislature, where it is much more gender balanced and ethnic balanced than the U.S. Congress, and it hit me that indeed, if this institution is going to be of, by and for the people, then it has to have people of America in here, and it is not doing that. We have 48 women in the U.S. Congress. There are more women in the United States than there are males. This ought to have a majority of women.

How are women going to get elected to the U.S. Congress? How are people of color going to get elected to the U.S. Congress? We are only going to do that by a campaign finance reform system that is fair and makes it possible for minorities to run for this office. We cannot require that people have to raise all of their money in their districts.

There are people here in very, very poor districts. Under the Federal law, anyone can move into a district to run. So if we limit the incumbent to saying you have to raise the money in the district, we will send a message out to anyone of wealth to say, aha, I can get elected to the U.S. Congress, all I have to do is move to a particular district, because that candidate is now required to raise all of her or his money in that district. That is not fair. That does not make the process accessible.

So these ingredients of fairness, reduce the influence of special interests, level the playing field so that it is competitive, and to make the system accessible by nontraditional candidates I think are the four principles of campaign finance reform.

□ 2000

Do Members know what? We have the bills to do that. We have more than just my bill. We have a bipartisan bill; different, not much different. We have different approaches. We have people who want to clean up pieces of campaign reform, those who want to clean it all up.

None of these bills, none of them, have been able to be scheduled for a hearing. I speak tonight in this colloquy with my colleagues to ask the American public to rise up and demand that the leadership of this House, that the Speaker of this House, set for a hearing, set for a vote, a campaign finance reform bill. We must bring that to the House.

I plead with my colleagues to help alert the American public that this process is broken and it is not going to get fixed, it is only going to get diverted by attention to what is going on in the White House, what is going on in the Senate, but not to what is going on to fix campaign laws in America.

I would be glad to be involved in any discussion the gentleman wants to have.

Mr. PALLONE. Mr. Speaker, I appreciate the gentleman's comments. He has really been very modest, because the fact of the matter is that he knows this issue very well, and that his legislation is very well thought out and very specific about what we should be doing.

I think what the gentleman is saying, and I think we all agree, is that there are a number of bills out there. There is not necessarily any miracle

cure. We have some areas where we agree and others where we do not. But the bottom line is that we are in the minority and we do not control the process here. Unless the Republican leadership and the chairmen of the committees have hearings, let legislation come to the floor, set a deadline when we can consider these bills, nothing is going to happen.

All we have really been doing for the last month or so on the floor here almost every night or every other night is to demand that some action be taken, and that the Republicans allow some of these bills to come up.

I yield to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I just wanted to say a few comments, and I would like to engage my colleague in a colloquy on his legislation, though he has been kind enough to acknowledge that there are many others. We are not here to at this time debate the pieces of legislation.

I think something is important that goes to the point that we have now agreed with on the average person having access to the United States Congress. One of the most successful processes is, as the term is used, bundling. I want to raise that because it does not sound good. It is important as we have the discussion that people would understand that there are a lot of processes in campaign finance that are not negative, that are in fact enhancing and helpful.

If we do not get on with the people's business of debating, we are going to get the American people so angry they are not going to be able to accept anything that may come forth, and there are some positive aspects.

I might ask my colleague, the gentleman from California, one that comes to mind, of course, is a group that so intelligently organized around helping women to get to the United States Congress. I was one of them who received the support. The minute I received the support from this group by the name of Emily's List, that takes $10 and $5 and $1 from women across the Nation, it seemed to be a band of acceptance. And certainly I started with very little in running for this office.

But it is important for people to understand that there can be good concepts that allow the average citizen to give a dollar, and before he or she knows it, a person who they care about, who has their principles, can be elected because someone in New York gave $1 or someone in Florida gave $1.

Would the gentleman just share with us how he perceives that to help diversify and help this Congress?

Mr. FARR of California. Let me explain that by going back to the State that I represent, California. When I was in the California legislature we had to run for that office with very tough rules in the State, disclosure rules. Essentially those rules have been drastically amended and modified by an initiative that the people enacted last November which severely restricts not only what contributions can be given, but how much one can spend in a campaign.

The point is that running for public office is a very exciting opportunity. We ought to allow people to receive contributions. I think we can limit the amount of contributions, and we can limit the category of those contributions, but we ought not to limit the source of contributions. By that, going back to the gentlewoman's point, is that Emily's List, like others, there is the Wish List, a more conservative group, but there are groups out here that call out to people who are on their lists, who have signed up and said we are supportive of your cause.

A mail solicitation goes out to those people and says, ''By the way, Mrs. SHEILA JACKSON-LEE of Texas is running for Congress. We support her activities. She is a woman, she has served in the Texas legislature, she has a distinguished background, and we think she warrants election to the United States Congress, and would you women around the country please send us a small contribution. Together we will put these contributions together; that is called bundling, and we will send them to SHEILA JACKSON-LEE.''

I do not see any problem with that. That organization does not come down here and lobby. It does not ask for any votes. It does not have an agenda in politics. What it is doing is trying to elect the right people to public office. There are a lot of groups like that. I do not think we ought to restrict them. Some of these campaign finance reform bills say that should not happen.

I was a former Peace Corps volunteer. When I ran for Congress I wrote people that I served in the Peace Corps with. Why? They knew me. I was also in a university. I wrote to the people that were in my class in the university. I graduated from a high school. I wrote to the kids that were in that high school. Some lived in my district, some lived in the State, some lived out of State.

When you run for public office, the way you get elected and the way you start a campaign is call up your friends and your family. I called up my family, and they are Republicans and I am a Democrat, and they said, we will support you. We probably never supported a Democrat before, but we will support you because we are your family. That is the way you get into public life. None of these bills should stifle that.

What we are trying to talk about is finance reform. Take the incredible obscenity of having to spend $1 million to get elected to the United States Congress. The bill that I propose, and almost all of them, recognize that the average costs of a campaign to the United States Congress is a little over half a million dollars; $600,000. That is the cap. We say you do not need to spend more than that to get elected.

We also say the way you collect money ought to be limited. You ought to have how much money you can raise from PAC's, and it cannot all come from there; how much can come from wealthy individuals, it cannot all come from there; how much can come from yourself, you cannot just pay for your own campaign out of your own pocket. That way we allow this diversity of contributions to be getting in, limiting the amount, limiting the total capacity of that particular area, and allow you then to run a competitive campaign for $600,000 or less.

Mr. PALLONE. I appreciate the comments the gentleman made. I know that our time is running out, because we want to yield for another special order tonight, but there are going to be a lot more opportunities.

We are going to be here every night, if necessary, to make the point that we want campaign finance reform to come to the floor, and that the Republican leadership has an obligation to make sure that that happens in this session of Congress and as soon as possible.

I thank the Members again for joining with me. This is just the beginning of a lot more discussion on this topic.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman very much, and I certainly hope that the outrage over $50 million is something that we can focus more on what we should be, which is getting real campaign finance reform.

Mr. FARR of California. It is too bad we have to schedule a special order to discuss campaign finance reform. We ought to be doing this in a regular session, in a regular time, to vote on a bill, not just to talk about the bill.

Mr. PALLONE. Mr. Speaker, I yield back the balance of my time.

NAFTA TODAY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Michigan [Mr. BONIOR] is recognized for the remaining 30 minutes as the designee of the minority leader.

Mr. BONIOR. Mr. Speaker, I thank the gentleman from New Jersey [Mr. PALLONE], the gentlewoman from Texas [Ms. JACKSON-LEE], and the gentleman from California [Mr. FARR].

I want to commend them for their discussion here this evening, and echo their comments with respect to making sure that we have campaign finance on the floor of the House of Representatives, so all sides and all issues and all facets of this complex issue can be heard by the American people, and we can make some decisions that will move us away from this terribly corrosive system we are now engaged in.

Mr. Speaker, I would like to kind of shift gears here and talk about something that has been very important to I think the country, an issue that will be before this body very shortly. That is trade. I am joined by my distinguished colleague, the gentleman from Pennsylvania, [Mr. RON KLINK], who I think will also share some views and comments on NAFTA.

That is what I want to talk about today, because we are about to embark upon another fast-track agreement which will get us into a series of trade agreements with not only Chile but other Latin American countries, and other countries around the world. My concern is that it will be done without proper labor protections and environmental protections. That is why I think it is important to review the NAFTA debate.

Four years ago we had a major debate over the North American Free Trade Agreement. For those of us who fought the treaty back then, one that protects human rights and labor rights and environmental rights, that is what we wanted, we came to the floor of the House, and we are here again tonight to describe the flaws as we see it in NAFTA.

Four years ago, we had a vigorous debate that lasted months, and it culminated in a dramatic finish here on the House floor in a very important vote for the country, and, indeed, for the country of Mexico and Canada as well.

Then we watched as NAFTA took effect. We did not come to the floor night after night and say, it is not working, it is not working, it is not working. We hoped that we were wrong, that it, indeed, would work. But we knew, I think, not only in our minds but we knew in our hearts that the treaty was flawed and it could not work. Many of us saw problems. We saw major problems.

Those of us who fought for a better treaty back then are just as determined today to make sure that the faults of NAFTA are addressed today, because today this debate, as I said, is moving into a new phase. Supporters of NAFTA now want to expand it to new countries. Let me tell the Members, expanding it now would be like building a new room onto your house when your kitchen is on fire and your roof is collapsing.

Before we expand NAFTA, we have to fix it. There are a lot of things to fix. It is no longer a question of theory. We have had about 38 months to look, to digest, to understand, to take apart, and to see what effect it has had on workers here in this country and in Mexico, and in Canada. NAFTA has had 38 months to prove itself. We have seen the effects that NAFTA has had on our families and our jobs and our communities, and the news is not good. I think by any measure people have to understand that NAFTA has been a failure.

Let us look at our trade balance with Mexico, the simplest measure of performance. I have a chart right here. Before NAFTA, before NAFTA we had a $1.7 billion surplus. Thirty-eight months later we have a $16.2 billion trade deficit with Mexico.

NAFTA proponents will say trade has expanded 20 percent between the countries. That is true, but it is expanding in the wrong direction. In 1993, before NAFTA, we had this surplus. Now we have this deficit. That means that we are going in the wrong way, Mr. Speaker. Our trade deficit with Mexico is now at a record $16 billion.

NAFTA proponents will argue that the reason we have this deficit, which causes jobs, is because they had this thing called the peso devaluation. For some of the Members who are not familiar with what happened in Mexico right after NAFTA, the value of their currency, the peso, which was way overvalued, and we said so on the House floor, and we said it would be a terrible mistake to go ahead with the treaty, with the peso overvalued the way it was driven up by the speculators, we said that that was happening and was going to continue to happen, and it would fall apart, and it would have a dramatic effect on the workers.

That is exactly what happened. When the peso crashed, Uncle Sam came in to try to rescue them by providing them loans. In addition to that, we had the Mexican workers wake up one morning and 40 percent of the value of their savings, their life savings, the currency they had in their pocket, was gone through devaluation. You can imagine waking up and finding 40 percent of your worth just gone the next morning.

NAFTA proponents argue that the peso devaluation really was the problem, and that is why we have the deficit. But the facts do not bear that out. The trends were in place long before this peso devaluation.

If the peso devaluation were the only reasons, other nations would suffer the trade deficit as well, but when we look at the record in trade between Japan and Mexico, and the European countries and Mexico, we will find that they have maintained their surpluses before, during NAFTA, and after the peso crash. Our trade balance had become a deficit 4 months before the peso crash. It had been trending that way for several months prior to that. So the facts show that NAFTA is the cause of this deficit, not the peso devaluation.

Next, let us take a look at the job claim by NAFTA proponents. I will get this chart down here. I think this is pretty self-explanatory: Jobs Lost Under NAFTA.

Remember back in 1993, when we debated this, we all kept hearing that the proponents said we would create 200,000 jobs, 200,000 jobs. We heard that figure over and over again. NAFTA proponents practically guaranteed us that 200,000 more jobs would be created if we passed NAFTA.

□ 2015

But using their own formula, which is based on the numbers of jobs created through a certain dollar amount of trade, we have lost over 600,000 jobs or job opportunities since NAFTA took effect. And by using a very narrow definition by the Department of Labor, which includes only those workers who have applied and then been certified for NAFTA unemployment benefits, more than 110,000, 110,000 U.S. workers have already been certified under the NAFTA unemployment program.

Thousands more have filed for the benefits and have not been certified but some eventually will get them. So the figure on the job loss was not 200,000 created, as the NAFTA supporters told us time and time again. It is somewhere between 600,000 and 110,000 that we know of and have been certified. And not all workers qualify for those benefits, as I said.

Workers in more than 1400 factories in 48 States have applied for these NAFTA job retraining programs. But as we all know too well, these workers will not likely be moved into high-tech and high-wage jobs, as trade theory suggests.

In fact, listen to this number, 65 percent of workers who were laid off ended up with lower paying jobs; 65 percent of the workers displaced in this country who were laid off ended up with lower paying jobs.

When we debated NAFTA, many corporations stepped forward to say that jobs in the U.S. depended upon NAFTA's passage. They promised to create jobs in America. Corporation after corporation, multinational after multinational corporation said they were going to create jobs.

Next chart: Broken promises under NAFTA. Ninety percent of companies failed to deliver on their promise to create U.S. jobs if NAFTA passed, 90 percent. In the weeks to come, we will be going through all of these corporations, corporation by corporation, plant by plant, worker by worker, to let you know how this has unfolded. But tonight let me just give you one example.

Let us start at the end of the alphabet with Zenith, well-known TV maker. Here is what Zenith said in 1993 during the NAFTA debate. It said, Contrary to numerous reports that companies like Zenith Electronic Corporation will transfer all of their production facilities to Mexico as a result of NAFTA, the NAFTA offers the prospect of more jobs at the company's Melrose Park, Illinois facility.

Here is what Zenith did. Zenith announced late last year that it was laying off 800 of its 3000 workers at Melrose Park. In addition, 510 workers have been certified for NAFTA trade adjustment assistance at Zenith facilities in Springfield, MO and Chicago, IL.

So these are the real life facts and the real life effects of NAFTA, and we will be making sure that the public understands what other corporations have said and what they have not delivered.

Let me talk about what I think is the real crux and the problem with NAFTA and what it has done to the workers here in this country. I want to talk about the Mexican workers a little bit later as well.

What has really happened here in this country is the downward pressure on U.S. wages that has resulted from

the North American Free Trade Agreement, the downward pressure on wages.

There was a study done at Cornell University for the Department of Labor. And listen to this, they found that 62 percent of U.S. employers, 62 percent, threatened to close plants rather than negotiate with or recognize a union, implying or explicitly threatening to move jobs to Mexico, 62 percent. People wonder why 80 percent of the workers in this country have had their wages basically frozen or decline for close to the past 20 years. It is that bargaining chip. It is that downward pressure on wages. It is the leverage they have because of agreements like this and, I might also add, because people are not standing up for their collective right to join together and bargain.

Unions in this country made the middle class. At their zenith, at their height in the 1940's in this country, when almost 40 percent of the private sector employees in this country belonged to unions, you saw incomes rise, benefits rise, health care, pensions. Down to about 12 percent today, union membership. They do not have any power at the bargaining table today, the workers do not. The companies, they say to these folks, listen, you want a higher wage, you want a livable wage, you want health care benefits for your family, you want a guaranteed pension, I will tell you what, we cannot afford it, we are going south, you keep this up.

And yet you look at CEO salaries in America today. They are out of sight. They are paying this guy at Disney, we all grew up on Disney, loved it, watched it, Michael Eisner, $776 million, 10-year contract, $776 million. I mean, am I missing something here? Did Mickey Mouse negotiate a peace treaty in the Middle East? What enables somebody to accumulate $776 million?

So these are the discrepancies that are occurring here in this society between the highest income earners, the top people at these corporations, these multinationals and workers who are having their wages bargained down at the table.

Let us take another example. At the Connor Rubber near Fort Wayne, IN, in the midst of the union's first contract negotiations, the company decided to close the plant and move to Mexico. Same union pulled an organization petition at a neighborhood subsidiary of Connor Rubber. The union official who was organizing the subsidiary said that wages were lacking, their benefits were lacking, but they also wanted a job.

So this is having a dampening effects on wages in America. Fifty-seven percent of Americans now say their purchasing power is worse than it was before NAFTA, 57 percent.

And the situation in Mexico is even worse. As I said, the Mexican economy basically collapsed. The maquiladora, the area along the U.S. and Mexican border in Texas and New Mexico, Arizona and California, production has soared but wages have fallen by 25 percent. When we debated NAFTA, the maquiladora workers were making $1 an hour; now they are making 70 cents an hour. Workers who try to form unions are being fired or thrown in jail.

I was down there a month ago. I visited some of these villages and colonias in Tijuana and talked with some of these leaders and these workers. One of these leaders told me at his community colonia in the community house where there were lots of people, he said to me, Congressman, I went there and talked to the company about slowing down the line because a lot of the people who lived in this community were losing fingers and hands. Instead they sped the line up. So we organized and we stopped work, and they fired me. And they threw me in jail for trying to organize a union.

That is what we are up against and that is what is happening and that is what is going on.

NAFTA has not created to a consumer market in Mexico. It has created an export platform. As a nation we now ship more consumer goods to Switzerland than we do to Mexico. A good example is the auto industry. From 1994 to 1995, production in the maquiladora for the domestic Mexican market plummeted 72 percent, but production for exports to the United States grew by 36 percent. We are selling fewer cars to Mexico. Folks there do not have the money to buy it. When your income drops 40 percent overnight and when they are paying you 70 cents an hour, it is hard to afford to buy an automobile.

As a result, our trade deficit in the auto sector ballooned to more than $15 billion. And meanwhile the environment is suffering the consequences as well. Families along the border continue to live near and bathe in and drink water that the American Medical Association has called a cesspool of infectious disease, a cesspool of infectious disease.

Human health risks on the U.S. Mexican border. The estimated cost to clean up the border is $20 billion. Remember the debate we had here about the North American Development Bank which was set up to fix these environmental and health problems? After 38 months the bank has yet to make a single meaningful loan for the public good. They have made a loan to a private development for $2.5 million, but that is a far cry from the $20 billion in infrastructure needs that they need in order to fix the environment along the border.

What is more, NAFTA has helped create what some call a wave line border check. Listen to this: 11,000 trucks now pass over the border from Mexico every day, 11,000. For every truck that gets inspected, 199 do not. They are just waved through, for God knows what is on those trucks. They are just waved through.

Every single week we seem to see another story of corruption at the highest levels of the Mexican government. Is this tragic? Yes. Is it permanent? It does not have to be. We still believe that NAFTA can be a force for progress. We still believe we can create a consumer market in Mexico.

But before we ever think about expanding NAFTA to other countries, we need to fix a very flawed NAFTA here. We need to give workers the same kind of labor and health protections that we gave companies for things like intellectual property. We need to include labor and environmental standards in the core agreement, not in some flimsy side agreement. And we need to raise Mexico's standard to our level, not lower ours to theirs.

We need to make noncompliance subject to sanctions, not just consultations. And we need to remember this is not just about markets and trade barriers, this is about jobs and living standards. It is about human rights and human dignity.

Workers on both sides of the border are mistreated by multinational corporations and indifferent governments. But they remain brave and they remain hopeful. And until they have a voice to speak for themselves, we must continue to be their voice.

There are more people in this Congress, I might add to my colleagues, who voted against NAFTA four years ago than voted for it, and many who voted for it say that they would never vote for it again. We look forward to this debate.

I yield to the gentleman from Pennsylvania [Mr. KLINK], who has been so eloquent and strong on this issue of protecting jobs and expanding job opportunities and harmonizing Mexican benefits to our level instead of bringing ours down to theirs.

Mr. KLINK. Mr. Speaker, I thank my good friend, the gentleman from Michigan, the minority whip, for again leading us in this issue. And I just want to underline, first of all, before I start, some of the points that the gentleman made because they are very important.

No. 1, he pointed out the fact that we are not against free trade. Those of us who come here to the well and who have said this is a flawed NAFTA agree that a NAFTA agreement can be good. We can negotiate something that can work. We can have free trade with Mexico, with Canada, with Argentina, with Chile, with the Caribbean Basin, with Europe, but it has to be fair trade. And we got the short end of the stick.

His other point that he made at the very beginning is one that is very important. After we lost, it was a very close vote, it was a very hard fought vote, many of us put our sweat and our tears and our lives for many months into fighting for the working people of this country, something that we felt very strongly was going to be flawed, but when NAFTA passed, we went back to work doing other things. We did not come to the well of the House day after day, week after week, month after month, pointing to every small thing

that occurred and blaming it on NAFTA. We did not say that because so many people in America got a cold or the flu it was NAFTA's fault, just because a factory closed down here and closed down there, it was NAFTA's fault. We did not make that point.

We wanted to be wrong. We were hoping that the promises of 200,000 jobs that were made by the proponents of NAFTA would take place and that many of those jobs would occur in the gentleman's district in Michigan and my district in Pennsylvania and some of our other friends in Ohio and California and across this country.

□ 2030

That was our hope. Unfortunately, that has not occurred.

As my friend pointed out, what really we have seen is promises broken. All of those companies, many of those companies which came out making all kinds of promises, telling us all of the wonderful things that were going to occur, we called them the NAFTA poster companies. They would come out with fancy flyers saying we are going to create these jobs. Indeed, 60 of the 67 companies that made specific promises about jobs that would be created, in fact have not fulfilled those promises of job creation. In many instances they have eliminated jobs. Some of those companies are no longer even doing business with Mexico.

The gentleman's point about the fact that when NAFTA passed we had a small $1.7 billion a year trade surplus with Mexico, and now we have a booming trade deficit with Mexico, I would remind all of my colleagues this occurs, Mr. Speaker, at a time when we are including as exports to Mexico the factory equipment that we are sending down there by companies that have closed down their factories in this country and are moving that factory equipment and those jobs to Mexico. That counts as a surplus. That counts as goods that we are selling to Mexico. That is not legitimate goods and services. Those will, in fact, be used against us.

The increase of the U.S. trade deficit with Mexico and Canada has cost, we believe, about 420,000 jobs. Half a million jobs.

Mr. BONIOR. Good paying jobs, in many instances.

Mr. KLINK. The gentleman is correct. These were good paying jobs. And as the gentleman said, when these workers were displaced they did not get good paying jobs.

My State of Pennsylvania is one of the top two in NAFTA trade adjustment assistance applications. For those people that do not understand, that is a very complex procedure that you qualify or you apply for benefits based on the fact that you lost your job because of NAFTA. Not everyone who has lost their job because of NAFTA has qualified for NAFTA TA benefits or even applied for them. So this is only one part of the puzzle when we try to determine the precise number of jobs that we have lost in this country. That is very convoluted.

Mr. BONIOR. The gentleman makes a good point. And the other piece I want to talk about for just a second with him is, it was 60-some percent, I think it was 65 percent I mentioned, of people who lost their jobs as a result of NAFTA and jobs moving to Mexico, people who have found other jobs have found them at lower pay. If an individual was making maybe $12 an hour, they may have found another job but it may be at $7 or $8 an hour.

So what happens when that occurs in a family? Their standard of living is diminished considerably, so they go out and get another job. They have 2 jobs, 3 jobs, to make sure that income level in the family is where it had been. What does that do?

Mr. KLINK. If the gentleman will yield, that is when they find out they have less time to put into their family and their community.

Mr. BONIOR. That is correct. They are not there for soccer for their kids, they are not there after school when their kids come home, or to help with PTA and the other community efforts. That is the untold factor here that we are dealing with as a result of this downward pressure on wages and job loss.

I thank my colleague for raising that point.

Mr. KLINK. When we heard all of these predictions about the 200,000 jobs that were going to be created almost immediately by this NAFTA agreement, there was an assumption by both the Bush and the Clinton Administrations. This had been started during the Bush administration and then was finished by the Clinton administration. Both administrations made their predictions based on the fact that they anticipated we would have a trade surplus with Mexico for at least 15 years. Immediately, the year after NAFTA passed, we went into a trade deficit with Mexico.

The shift from a small surplus of $1.7 billion back in 1993 to a deficit of $16 billion in 1996 in trade with Mexico really has to be explained by the devaluation of the Mexican peso. And, as the gentleman said just moments ago, and I think he did a great job of explaining it, NAFTA was responsible for that devaluation.

Then what occurred in this country, and I do have a copy of the study from Cornell University that the gentleman talked about, it is called a Final Report, the Effects of Plant Closing or Threat of Plant Closing on the Right of Workers to Organize. He is absolutely right, 62 percent of the employers in this country, 62 percent of them said ''We will close our plant rather than to negotiate a contract with you'' or ''If you want to form a union, we are closing our plant. We can now go to Mexico.''

That happened all across this country, if we read this report, which the proponents of extending fast track so that we can expand this horrible agreement without fixing it, they do not want us to read this report.

Mr. BONIOR. Mr. Speaker, I thank my colleague for his comments, and I apologize to my friend from California. I know he wanted to make a comment about fast track, and I am sorry, I did not realize we were short on time.

I thank my colleague from Pennsylvania for coming out and talking to us this evening about his views on this issue, and we look forward to a hearty debate. And, again, I say to my friend from California, I look forward to participating with him in this as well.

LESSONS IN EDUCATION, THE IMPACT OF NEW SPENDING

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Michigan [Mr. HOEKSTRA] is recognized for 60 minutes.

Mr. HOEKSTRA. Mr. Speaker, before I begin with my comments, which are a series and talk about where we are going in education, I want to yield a few minutes to my colleague from California to talk about a project that I have some interest in and I may learn something tonight about, a patent bill that he has proposed and a number of my constituents have called me about.

So I want to yield some time to my colleague from California.

Mr. ROHRABACHER. Mr. Speaker, I thank the gentleman. There will be a vote on the floor of the House of Representatives next month, probably the middle of next month, that will mean a great deal not only to every Member of the House of Representatives but to every citizen of the United States of America.

As we just listened to our colleagues from the other side of the aisle talking about some of their observations of what has happened with the treaty with Mexico and some of the other economic dealings that we have seen in recent years, it is clear that there is an elite in the U.S. Government and in the United States and in our financial institutions who are not loyal to the interests of the people of the United States.

This lack of loyalty perhaps is due to the fact that they have a vision for a better world. They are trying to create a global economy and, thus, they are willing to sacrifice the interests of the American people. They are willing to sacrifice the standard of living, the freedom and the prosperity, and actually the national security of our country in order to build this more perfect world and a global economy.

I think that this has manifested itself in NAFTA and some of these other things, the GATT. But we will have a vote in one month on H.R. 400, which I call the Steal American Technologies Act. My legislation, H.R. 811 and 812, will be there as a substitute for this horrible piece of legislation that is the

latest example of this elite class who are trying to create a global trading system at the expense of the standard of living of the American people and the rights of the American people.

H.R. 400, the Steal American Technologies Act which is coming to this floor for a vote, is being pushed through the system by an army of lobbyists who have been hired by multinational corporations and huge American corporate interests, who have struck deals with those foreign corporations in order to change, fundamentally change the technological laws, the laws that govern technology in America.

The fact is we have had the strongest patent protection of any country of the world, and that is what has ensured the American people for these last 200 years the ability to have a higher standard of living than other countries of the world, because we were able to out-compete them. We had the technological edge. It was our inventors, the Thomas Edisons, the Cyrus McCormicks, the Wright brothers, all of these people who were protected by the strongest patent system in the world, who stepped forward to give the American people the standard of living and this great chance for opportunity to uplift their way of life and improve the standard of living of their children. But that law is changing.

Our country's national security was based upon our technological superiority, but the laws that governed us, that gave us the creativity and the technology to defeat our adversaries, economically as well as militarily, are trying to be changed and they are doing it in a sneaky way: H.R. 400, which I call the Steal American Technologies Act, which will be voted on in about 3 or 4 weeks.

What it will do is, number one, eliminate once and for all the guaranteed patent term, which has been the right of the American people for 200 years. It will, and hold on to your horses on this if you have not heard about this bill, it will mandate that every American inventor who files for a patent, whether or not that patent has been issued, that his patent application will be published after 18 months for the entire world to see.

This means every economic adversary, every enemy of the United States, everyone who would destroy our country and our way of life almost, have every one of our secrets in order to use our technology against us.

And, finally, H.R. 400, the Steal American Technologies Act, will actually abolish the Patent Office, which again has been part of our country since the founding of our Constitution, and resurrect it as what? As some corporate entity. A corporate entity, I might add, which will be able to accept gifts; gifts from foreign countries, from different people. We do not know what effect that will have on patent examiners, which have been the people who have made the decisions to protect us and to protect our rights as Americans to own what we create.

This will be one of the most important decisions this Congress will make. Two generations from now Americans will suffer, our security will falter, our way of life and our prosperity will go down and the American people will not know what hit them. It will be a Pearl Harbor in slow motion if this passes.

The only thing that will stop it, the only thing that will stop it is if the American people call their Member of Congress to offset these lobbyists that are hired by the multinational corporations and tell their Member of Congress to oppose H.R. 400, the Steal American Technologies Act, and to support H.R. 811 and 812, which are pieces of legislation that I have authored, Congressman ROHRABACHER, which will strengthen the patent system.

I want to thank my colleague for granting me this time from his time tonight. This is such an important issue for people to understand, that democracy will not work and America will not be strong unless our people get involved.

This whole effort, and I will close with this thought, it is a shocking thought, why are people trying to push something which is so evil and detrimental to the United States? Yes, they believe in a global economy, but part of their motive in reaching this global economy is they are trying to harmonize our law with Japan.

The elements that I just talked about in the law, which is changing in H.R. 400, are nothing more than an agreement that has been reached with Japan, a hushed-up agreement to change our strong patent law into their weak patent law. The harmonization of our law with Japan. It is absolutely an outrage. It is frightening to think it is happening and there are lobbyists all over this city from powerful corporations trying to push it through.

I appreciate the gentleman's giving me this time to warn the people out there who are listening and reading this in the CONGRESSIONAL RECORD. We can beat this but we have to act.

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague for sharing with us and look forward to learning more about this issue over the coming weeks. It is a critical issue.

I have had a number of my constituents calling me and saying get with the Congressman from California, sounds like he has a good thing going and it is something we have to watch out for. So I thank the gentleman for taking that time.

Mr. Speaker, I want to continue a series now that I have been doing for my colleagues that outlines a project which we call lessons in education. This is the fifth in a series. This is the fifth lesson, and it is about new spending and what the impact of new spending is.

The impact is that new spending equals a new tax burden. It is something that sometimes is lost on us here in Washington. It is lost on my colleagues, that as we come up with an idea for more new programs, more good programs, solving more problems from Washington, that the increased spending, the impact of that is that someone has to pay for it. So lesson 5 is, let us not forget that new spending equals a new tax burden on America's families.

These lessons in education, they are coming out of a process which we call Education at a Crossroads.

□ 2045

Me and my colleagues, especially BUCK MCKEON and FRANK RIGGS, who share subcommittees with me on the Committee on Education and the Workforce, are currently working on this project, Education at a Crossroads, what works and what is wasted. The purpose of our efforts is to do a survey around the country of education, what the results are. There is enough education out there today or there are enough issues out there today that we can say that at least in parts of our country today education is in a crisis.

You go to Washington, DC, right outside of this building, we are spending $9,000 per student. We get some of the lowest test scores in the country. We have had hearings in California where key people from universities come in and they say, you know what we need to do and what you need to do in Washington is you need to make sure that you continue funding our remedial education programs, and you kind of lean forward and say, these are kids entering higher education in California, what kind of remedial education do they need? And the answer is, well, they cannot read or write at an eighth grade level, so give us more money, and the answer is no, you do not need more money. As experts in education, you have got to get into the high schools, the middle schools and the grade schools and figure out why kids are not learning.

You go around the country and you compare our scores with international scores and we are not getting the kind of results we would like to get. So we know that there are some problems and some opportunities in education. We also then want to take a look at whether Federal programs are helping drive the creativity, the energy, the innovation that we need in education today, or whether Federal programs are a stifling wet blanket of rules and regulations on State and local efforts to move education into the 21st century.

Today I want to just make this additional report. The first lessons that we had is parents care the most about their children's education. That was lesson one. The exciting thing about going to New York, going to California, going to Phoenix, going to Chicago, going to Milwaukee, going around my district, going to Detroit, some of the toughest neighborhoods in the country, and talking about education is that there are lots of places where education is working. And the amazing

thing is where education is working is where parents and teachers and local administrators have gone in and taken their school back, and they have taken their school back at the expense of district administrators, State bureaucrats or Washington bureaucrats.

They have said, this is our school, these are our kids, we know their names, you do not, we are going to run this school the way that we want to run it, the way it needs to be run, because we know what our kids need, we know what our communities like, and we know how to bring the community, parents and teachers, together to service our kids, and we do not want to be locked in by State or Federal bureaucrats.

It is amazing the amount of innovation that takes place when parents and teachers and local administrators are given the freedom to move forward. So that was lesson one, recognizing the fact that people at the local level, parents and teachers, care more about our children and their future than what bureaucrats in Washington do.

Lesson No. 2. Good intentions do not equal good policy. Washington is full of good intentions. We have tried to do so many good things for our children that we have lost focus, that we are here to serve the kids and not smother them.

Over 20 to 25 years, we have developed 760 programs going through 39 different agencies and spending about $120 billion per year. Lots of intentions, lots of good intentions, poor execution, and actually now, when you take a look at it, poor results at the local level.

Lesson No. 3. More does not always equal better. It is kind of like when you have got a system and the system is not working. Only in Washington do you say, to fix the system, what we need to do is add a few more programs just like the ones that we have had and to fix the system, just put a little bit more money in it. When you put a little bit more money and a few more programs, you know, we think that is going to fix it.

No, what it is time to do is to step back, to take a look at this and to say, more does not always equal better, and more does not equal better when what we are doing today is not working.

Lesson No. 4. Education is not about government or bureaucrats. It is about kids. It is not about tax credits, it is not about Federal mandates. Education is first, last and always; education is always about children. And we have lost sight of that with too many Federal programs. I will go through it a little bit later when we take a look at where education in America has gotten to, at least at the Federal level.

This is done by a cottage industry, a cottage industry that grew up because it recognized that education in Washington had moved away from being for kids; it had moved into becoming a bureaucracy. And what are these binders? Cottage industry, an independent organization that said, hey, there is an opportunity out there, nobody knows how to get the Federal money, let us develop a guide to Federal funding for education telling where the dollars are, who to call, how to write your grants, not to write your grants about what is going on in your local school district or the problems that you have but how to write a grant so that the people who give the money out will give you money.

This is a license to steal from the American taxpayer, a license to come to Washington, mining for grants. This is about bureaucracy. This is where Washington has come. Washington has moved to becoming bureaucracy and has moved away from what it really should be, and that is a focus on our kids.

Today's lesson. Today we focus our attention that when we decide to increase spending, that when we increase spending, somebody has to pay for it, so that when we increase spending, we create additional family tax burdens.

Remember that what the President is taking a look at doing over the next 5 years, again good intentions but, remember, good intentions do not necessarily equal good results. More does not equal better. He wants to spend $50 billion more on education and develop a whole new series of programs. And, remember, if we spend $50 billion over 5 years, that is $10 billion a year for education. In the President's eyes, that is a positive move, but remember when the President adds new spending, the end result of adding $10 billion of new spending is that there are 5 million families that have to send an extra $2,000 to Washington each year for the next 5 years. What we are doing is we are moving families away from where we want to be, which is a government that can be supported by a one-wage-earner family and where a two-wage-earner family is an option. We are moving with this kind of reckless spending to a situation where a two-wage-earner family is going to be a requirement because one person is going to work to support the family, the other person has to work to support government. That is wrong.

The lesson is, new spending equals new family tax burden. Either we are going to pay for it because we are going to have to raise our taxes, but more likely we will do it the way Congress has done it for the last 29 years and the way this President is proposing that we do it, let us increase spending, let us not increase taxes, let us increase spending and let us pass along this new family tax burden on to our kids.

It is the wrong thing to do.

Take a look at this scenario in one of the programs the President is taking a look at. The President says, we need 1 million new tutors because, why? America's children cannot read.

Well, if we are going to have 1 million tutors to help our children learn to read, take a look at what the cycle here is. Kids cannot read. We have not taken a look at why kids cannot read, but kids cannot read. The solution is, let us pair a student up with a volunteer. You could say why do we not pair a student up with a parent but, no, let us pair them up with a government-sponsored volunteer which through AmeriCorps may cost about $27,000, but let us pair them up with a volunteer.

Well, if we are going to have 1 million new volunteers, we are going to have to have a way to manage this. Well, how do you manage 1 million people? Well, what we need is we need a bureaucracy to administer a program to finance and manage our new tutors. So we have got the kids, we have got the tutors, we need the bureaucracy to manage the tutors, to find them, but now you say, how are we going to pay for these tutors, how are we going to pay for the bureaucracy that manages the tutors? Well, we are going to probably have to increase taxes either today or on future generations, on our kids, to pay for the Washington bureaucracy the President needs to administer the program to finance the new tutors.

The tutors, the bureaucracy, the new tax burden. What then happens? We have got a new tax burden. What we are trying to do tonight is we are trying to inform America's families that, hey, you are being informed that you must pay more taxes to pay for the Washington bureaucracy the President needs to administer the program to finance the new tutors. So the family now needs and they are saying, wow, we have to pay more in taxes or we are going to be spending more money.

So what does this now do to the families? They are saying, wow, a tax burden for our kids, or for us. We need more money. Families are forced to send a second wage earner into the work force to take a job, often a low-paying job, just to pay the taxes to pay for the Washington bureaucracy the President needs to administer the program to finance the new tutors.

Now, what is the next step? You have more two-wage-earner families, because more families are forced to send a second wage earner into the work force to take a low-paying job just to pay the taxes to pay to the Washington bureaucracy the President needs to administer the program to finance the new tutors. More parents have less time to spend with their kids to teach them how to read.

Well, we have almost come full circle. Because more families are forced to send more taxes to Washington by creating a second wage earner into the work force to take a low-paying job just to pay the taxes to pay for the Washington bureaucracy President Clinton needs to administer the program to finance the new tutors, more parents have less time to spend with their kids and to teach them how to read.

As we have gone around the country and as experts will tell you, the most effective way to teach a child how to

read is to reinforce the learning at school with a parent at home or person in the family at home reading to the child.

It does not make any sense. We are going to go out and we are going to ask, in this case, to pay for the tutors. It is about $200 million a year. An average family if they have to pay more taxes, $2,000; that is either $2,000 that comes to Washington or it is $2,000 that stays with the family. One hundred thousand families are going to have to have a second wage earner paying $2,000 in taxes to fund the tutors.

It does not make any sense to have this kind of scenario in place, to have families having more two-wage-earner families, not by choice but by a requirement because Washington wants to do more for your kids and the only way Washington can do more for our kids is by putting more parents to work so that they spend less time with their kids, which makes it harder for them to learn how to read. Does this make any sense?

No, absolutely not. The time has come to tell the President no new spending. The American people must speak up and be heard on this. More new spending equals new family tax burden. It is time for the American people to stand up and to tell the President, no new spending. There are 760 programs through 39 different agencies spending $120 billion per year. If we need more education for different priorities, the money is there, and we need to tell the President that.

No, actually we do not need to tell the President that. The President knows that. The President has said that. What we need to do is we need to remind the President of what he told the American people not all that long ago.

□ 2100

A few months ago he was not talking about, the President was not talking about more spending for education. What did the President say on March 27, 1996? He did not say, give me $50 billion more; let's put 5 million more American families with two wage earners to pay for new taxes or new spending, the new tax burden by this education. He said exactly what we are trying to do with education at a crossroads. So this is not going back and telling the President he does not know. This means going back to the President and saying:

''We agree with you. At least we agree with what you said on March 27, 1996,'' where he said we cannot ask the American people to spend more on education until we do a better job with the money we have got now.

This was a speech to the National Governors Association, their education summit back in March 1996.

The President knows we have got plenty of money in education. The time is now to say, no more spending; we agree with you, Mr. President. We're not going to ask the American people to send more money to Washington on education until we take a very good look at what we're doing with the money that they are already sending here on education. Washington spending and taxes are linked. By asking for $50 billion and more spending, you are asking for $50 billion in more and new taxes, it's the wrong thing to do. There is plenty of money here in Washington. It's time to stop it, it's time to take a look and do an honest appraisal, an honest assessment of all of these Federal education programs. It's time to take a look at if we've got a bureaucracy like this or a bureaucracy that requires this kind of information to be published to go to the American people to tell them what's available in education funding, we've become too bureaucracy focused and not enough child focused.

Mr. Speaker, I just want to go on for a few more minutes. This is not about who cares about our kids. We all care about our kids. We all care about education. But there is a fundamental difference between President Clinton's approach of spending more money on more bureaucracy and increasing the tax burden on the American people to pay it in our approach. Education at a crossroads says we are going to reassess and clearly identify what is working and what is wasted in these 760 programs, over 39 different agencies, and we are going to focus on getting the money into the classroom.

The disappointing thing that we have today is we walk across the street when we come here to work. We walk across a street called Independence Avenue. In today's world and today's Washington spending, that is now Dependence Avenue. What is done in these buildings has a significant impact on American citizens around the country, whether it is Health and Human Services or whether it is Housing and Urban Development. These people in these buildings have way too much influence on what goes on in America.

We talk about $50 billion of more money going into this city and into these buildings just for education. What does that mean? It means more decisions, more control in Washington, a bigger Dependence Avenue and less independence and freedom at the local level. Every dollar of taxes that goes to this city comes from an American family and increases the family tax burden.

The first stop of these tax dollars; where is the first? The first stop is when you actually go to work and you earn it, but you do not keep it for very long. As a matter of fact, you do not keep—some of the money you never get. It was a wonderful invention called withholding.

Mr. Speaker, I have got nephews and nieces that just began their first jobs, and they are excited. They have got a job for $5 - $5.50 an hour. They work for 20 hours that first week. Pay day is the following Tuesday or the following Wednesday, and they are excited because they worked for 20 hours at $5 an hour, and they are going to get a check for a hundred dollars.

Twenty times five is one hundred. This is a good deal. It would be if they got $100. They get their first check, and they say:

''Well, where did this money go? You know, I've got $76, and it goes to all these strange acronyms that they have no understanding what they mean.'' But what we have got is we indoctrinate our children, when they get that first job, it is not really your money. You never see it, it never reaches your checkbook, it never reaches your wallet. It goes somewhere else.

And then what happens?

That check leaves their pocket and goes to this wonderful institution in Washington which is called the IRS, and what happens when it gets to the IRS? The tale of two visions. What happens in Washington when we get your money? One of the best examples is IRS wastes $4 billion, unsure if it can fix a computer problem.

Think about this, $4 billion. This is 2 million American families sending $2,000 to Washington for 1 year, 2 million American families sending $2,000 to Washington, and they are unsure if they can fix a computer problem. Well, I will tell you there are 2 million American families who could have spent a lot more time with their kids if they had not had to work and send $2,000 to Washington for this computer glitch.

After investing $4 billion in taxpayer dollars to try and remedy its inefficient and unreachable computer systems, the IRS has come to one conclusion. It is, unsure, if it can fix the problem. The agency expressed doubt that it was capable of developing modern computer systems, saying it lacked the intellectual capital for the job. It may be lacking the intellectual capital for the job, but the American taxpayers, because the IRS did not realize it could not do the job, 2 million American families had to send $2,000 to Washington. They had to provide the financial capital, and it all went down the drain.

Mr. Speaker, think about what happens when the money comes here to Washington. Another program; again this one is out of the education programs. Only in Washington a report is completed. The report says drug programs do not work.

OK. Thank you. Thank you for that analysis.

Now, based on that analysis and recognizing that drug programs do not work, what are you going to do about it? What is the Education Department going to do with the billions of dollars that they get every year for drug programs? Only in Washington, when you have a program that does not work, do you say please give me some more money. Only in Washington.

The program does not work, and what happens? We are going to spend more money on the failed programs.

Only in Washington does that make sense. Only in Washington does it make sense when something does not work to pour more money into it and ask more families to have a second wage earner to fund Washington government that does not work.

One final example out of our tale of two visions document. This is a monthly newsletter that we published. The State Department charging people with passport questions. IRS cannot run a computer system; the Education Department cannot run a drug program; the State Department has taken an entrepreneurial approach. They are going to develop customer service.

Think about this. This is your Federal Government that you are paying taxes for. They are going to develop an approach, and they are going to become customer focused. You are paying for this agency with your tax dollars. They are going to become customer centered.

Hallelujah.

But wait a minute. What does it mean when we say the State Department is going to be customer focused? The State Department has created a customer service, not 800 number, to provide you easy access service, but a 900 number for all inquiries regarding passports. This 900 number will cost the public a dollar five per minute to answer questions such as: How many forms of ID do I need to bring? How long does it take to get a passport? The State Department, at least they are consistent. They are also saying we want congressional offices to use the 900 number if they have questions for their constituents. I think that, you know, at least they are being entrepreneurial, but they are forgetting who paid for this in the first place.

The ironic thing would be, can you imagine if this spreads to the IRS, the agency that cannot understand its own regulations and cannot develop a computer system? And when you call it three times and ask three different people the same question, you get three different answers, and you are liable for it. Just would it not be wonderful if they develop a 900 number so that, when you ask the same question three times and get three different answers, you can pay three different times $1.05 per minute to get the wrong answer.

We also go through and not only highlight what we think is waste in government, but we also highlight real life tales of the opportunity vision, which is people in their communities going out and making a real difference.

There is a school in New York, Our Lady Queen of the Angels, spends $1,585. Think about it, $1,585 a year, about one-fourth of what city, State, and Federal governments spend on educating the child. Even by spending a quarter they have shown dramatic improvements in test scores each year, and they are well superior to other schools in their area.

This is not about money getting good results. It is putting in place the right kind of systems to drive the right kind of behavior that makes things successful.

Mr. Speaker, we have talked a lot about government spending. This is what happens to your taxpayer dollars. This is a problem. Let us move on to what happens when those dollars move into the education system.

There is a question about how many Federal programs there are. This exhibit is called the catalog of Federal domestic assistance. If you do not think we help and have a lot of programs in place, in very small type this lists all of the different Federal programs of assistance that we have, and it primarily lists just the names. And when we go to page FI–9 and go through FI–17, we find the section that is called education, 8 pages, and if you add all the programs up here just under this category you will find 660 different programs.

We then went to another organization, Government organization, CRS, and we said, you know, what do you think of this list? Is this an accurate list of government's involvement in education? And they said it is accurate, but as we take a look at it, we identify at least 116 other programs, and we know of no better source then the catalog of Federal assistance, so, you know, we are really not sure, but you are going to the right sources. You have asked us; we have identified at least 116 others, and this identifies 660, so yeah, you are somewhere in the neighborhood of 7 to 800 different education programs.

We talked about earlier this is the cottage industry that has grown up, and what is in one of these binders?

☐ 2115

What is in these binders are a description of the different programs, how to apply, program purposes, what is the flow of funds, who is eligible, who do you contact, what is the range of awards. The funding opportunity index, which is the sheet at the back of every binder, is this blue sheet. This is a blue sheet, it is kind of a crib sheet. It tells you as you are going through all of these different types of programs, and it gives you a rating system, it tells you how easy or how difficult it is to get money. It not only tells you how to get the money, but it tells you whether it is going to be an easy program. Like if it has one star, approximately one out of eight applications is funded, or fewer. Two stars, approximately one out of five to seven. One out of four, one out of three, one out of two.

So this has become a bureaucratic exercise. remember, this is not one binder, this is two binders. We get the two binders because it is 39 agencies, it is $120 billion of spending, and it is over 760 programs.

This is a problem. This is $120 billion of spending where we are not sure we are getting the kind of results. One-half of all adult Americans are functionally illiterate. Fifty-six percent of all college freshman require remedial education. Sixty-four percent of our 12th graders do not read at a proficient level. You would think as we increase the amount of spending that SAT scores would have gone up over the last three decades, right? $123 billion of spending. Wrong. They have gone down 60 points in the last three decades.

Last week we looked at two ways to approach education. There was the Washington-centered approach, which is this, when we have these kinds of binders sitting on your desk at the local level. What it means is that local administrators are sitting at their desks and they are gaming out how to get Federal money. The other thing that is happening, when they get these programs, you can imagine the binders and the rules and the regulations that come back and fill up the rest of the shelf.

When you get money from Washington, you do not get the money without strings attached. That is why, as we have gone around the country, people have said the problem with Washington money, and they will take the money because there is still a cost-benefit, that the cost of getting the money and administrating the programs is less than what they receive back, but it is not that big of a deal. What they tell us is, all over the place they tell us, we get 10 percent of our money from Washington, we get 50 percent of our rules and regulations from Washington.

We know that the system, a Washington dollar from a taxpaying family, through the IRS, through the Education Department, back to the local school district, we are estimating that somewhere in the neighborhood of 60 cents to 70 cents gets back to the child. That means somewhere in the neighborhood of 30 plus is taken up by bureaucrats. That means that the process here in Washington is bureaucratically focused, it is not focused on the children.

This is why I agree with what the President said in 1996. The issue here is not about spending more money. This is what the President said. We cannot ask the American people to spend more on education until we do a better job with the money we have now.

Think about it. Instead of increasing spending on education by increasing that dollar or that $120 billion to $130 or $135 billion per year, we can get that money if we just take a look at how we spend it today and we do a better job. Instead of only letting 70 cents get back to the classroom, let us set a real aggressive objective. Let us get 75 cents back to the classroom. That would get us an extra $5 billion into the classroom, closer to the children.

I do not think that is enough. One of my colleagues is going to be proposing legislation that says maybe we ought to move to 95 cents; that for every dollar that comes to Washington, the entire process of applying for it, administrating it, and getting it back to the

child and reporting back to Washington, that that entire process can only take 5 cents of the dollar.

We need to design a system where the bureaucracy and the bureaucrats only take 5 cents and the kids and the teachers and the parents and the local classroom get 95 cents. That is the difference between a child-centered approach and a Washington-centered approach.

A Washington-centered approach says, let us celebrate bureaucracy, let us give 30 cents to 40 cents of every dollar to the bureaucracy. A child-centered approach says the kid is the most important, let us get 95 cents to the child, and let us make sure that the bureaucracy does not consume a lot of the money.

As we go through this process, it is important to shrink down that bureaucracy, because we know bureaucrats will be paid and we know the bureaucracy will be funded. But we know, at least in the current system, and this is why the President is right, the current system is not working the way that it should. It is robbing from our kids each and every day. We need to be working with the President on examining and clarifying and improving the current system before we put an overlay of new programs that duplicate the system and do not improve on it.

I do not believe that the President has gone through this process. The President has not proposed sweeping reforms of our education programs, sweeping reforms of how we bring these dollars to the local district. He has not done that yet. He has not completed this work. So before we give him more money on education spending, we have to complete this work, because if we complete this work, I think that there is a high probability that we will be able to fund many of the initiatives that the President believes are essential, that is if we agree in concept that we should be doing that, we will be able to fund many of those programs out of the existing base and not out of new spending, not out of new spending which increases our family tax burden.

This process says, before we do new spending, we have to take a look at the 760 programs. Before we create the million new tutors that we talked about on Americorps, the President is right, we ought to take a look at why the current system is not working. Why do we need new spending on literacy when we already have 14 literacy programs? Why do we need to spend new money here on tutors and put it through an agency? Think about what we are doing here.

We are putting money into an agency, a new agency called the Corporation for National Service, started in the 1993–94 time frame, which when we audited or we tried to audit the books in 1996, we found the books were not auditable. Now, think of what that means. We are putting new spending, we are increasing the spending of an organization that spends $600 million per year by 25 percent, and they cannot keep their own books. Think about this. $600 million of your money and they cannot tell us where the money is going.

The reward in Washington is when we have an agency that does not know where its money is going, it does not know what kind of results it is getting at a local level, what happens? Good job. As a matter of fact, you are doing such a great job, we are going to give you another $200 million per year. Only in Washington.

We could make a joke about it and say, I am glad our tutors are going to be teaching our kids how to read, because they could not teach them how to do math because the agency back home obviously cannot, or back in Washington obviously cannot do math.

Now, that would be a sad enough state in and of itself, but there are some reasons why the corporation says it cannot audit its books. Some of the organizations that became part of the corporation in 1993 were old agencies that did not have the right accounting records and they had to upgrade those systems, so it was not a corporation starting from scratch. Three or four years later you would think, boy, you would think they would have gotten those problems ironed out. But it gets worse.

The Corporation for National Service in 1993 and 1994 was new spending, which means we had to go to the American families and increase their tax burdens. Remember in 1993 we had the biggest tax increase in American history. We put it into organizations that cannot keep their own books, and part of the Corporation for National Service is AmeriCorps. Part of AmeriCorps matches up kids who go out and do volunteer service, quote unquote volunteer service, we pay them about $27,000 on average, and part of that cost is a stipend that enables them to get a college tuition grant for about $4,000 or $5,000.

Now, you would think that in a new organization that is requiring kids to do service and saying if you do the work, you get a stipend, you get the scholarship, that we would set up a system that would match the kids to the dollars for their college tuition. The auditors come in, and this system started from scratch, no history, it started from scratch, and the auditors come in and they say, guess what? Same old tune. These books are not auditable.

So when we start paying out the scholarships, we will not be able to verify, or at least the auditors are telling us that the systems that the Corporation has in place, that should verify whether the individual has put in the required time, required hours to get the scholarship, we will not know whether that has actually occurred. The system does not have any integrity. When the system does not have integrity, it opens itself up for fraud and abuse.

This is what happens. In 1993, the President asked for significant new spending, significantly increasing the family tax burden, and we put it into agencies that are wasting your money and are making more of America's families have two wage earners rather than one. We are moving toward a government that is making a two-wage-earner family a requirement rather than an option.

That is, I think, why parents and families in America are frustrated. More and more of them are spending less time with their kids, and they are doing it because they need to send more money to Washington, and we come up with these convoluted schemes that say, yes, you are spending less time with your kids, so let us start a new program that gets tutors into your house or with your kids. But we are going to need $200 million more for that, which means that we are going to have to have more of you work, and so there is going to be more of you that are going to need tutors.

It is a vicious cycle. The problem is, it is a vicious cycle in the wrong direction, and if we went in the other direction and lowered taxes and lowered the tax burden and lowered spending, we could have more families where two wage earners was an option rather than a requirement.

□ 2130

The bottom line on all of this is why do we want a one-wage-earner family rather than a two-wage-earner family? Because it recognizes the fundamental thing in American society: That the most effective way to make a difference in an education, the most effective way to train and educate our children, is to have it at the local level.

This chart, where we equate new spending equals new tax burden, says Government programs with more new spending, more new spending in education, increases the family tax burden, so by having parents work longer, working harder, and sending more money to Washington, only in Washington do we believe that that will increase and improve education in America.

I think the bottom line out of tonight's discussion on education, Mr. Speaker, we have to go back and we have to hold the President accountable for what he said in 1996. Mr. President, please, do not come to Washington, please, do not come to Congress and ask for more money to pump into a system that only gets 70 cents to the classroom. Do not come to Congress with spending that will require 5 million families to pay $2,000 more in taxes so that you can do your education programs.

Let us work together, let us work together in a bipartisan way to take a look at what we are doing today. This is what you said: ''We cannot ask the American people to spend more.'' You were right, but then why did you ask us and why are you asking us to spend

$55 billion more? You said yourself, ''we cannot ask the American people to spend more on education.''

You are absolutely right, Mr. President, until we do a better job with the money we have now. You hit the nail on the head, we are not very good custodians of the $120 billion we are already spending on education. We can do a much better job. We need to find out what is working in education. We need to find out what is wasted in education. We need to identify the models that are working. We need to get rid of what is wasted and build on what is working, and when we do that, it is not an issue of more spending, it is an issue of being more effective.

When we do that, we will get to a surplus budget earlier, we will get to a point where we are not going to ask more American families to put another person to work, or for a person in an American family to work longer hours, to work overtime, so they can fund Washington bureaucracy. There is a better way to do this. You were right in March of 1996. If you would say this and repeat it in March 1997, you have a Congress that is willing and already working on this process, and willing to share the results with you.

This can be done. Our vision for our budget, our vision is to have a one-wage-earner family being able to support and fund this Government. We do not want any more spending. We want to get to a surplus budget as soon as we can, and we want to continue having a surplus so we can continue paying down the $5 trillion debt that we have built up for our kids.

It is simple: A one wage-earner family, a two- wage-earner family is an option. The budget for 1998 is a matter of choices. It is a choice between lessening the family tax burden or increasing Washington spending. It is about making those choices. It is about restraining spending. It is about saying no to new spending, and it is about doing a better job with the money we have now.

This President is asking for over $265 billion in new spending authority for the next 5 years. I really think that when we take a look at the $8 trillion we are going to spend over the next 5 years, that the Congress and the President can find savings of that $265 billion to fund some of those new priorities, those that we agree with. We can find $265 billion. We have just highlighted plenty of examples of where there is waste and abuse.

We do not need 760 programs. We do not need education coordinated through 39 different agencies. We do not need to be spending $130 billion instead of $120 billion. We do not need to be creating entrepreneurial opportunities and cottage industries. I love entrepreneurs in America, but this is not productive work, telling them how to get more money out of Washington.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1122, THE PARTIAL-BIRTH ABORTION BAN ACT OF 1997

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–32) on the resolution (H. Res. 100) providing for consideration of the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 91, PROVIDING AMOUNTS FOR THE EXPENSES OF CERTAIN COMMITTEES OF THE HOUSE OF REPRESENTATIVES IN THE 105TH CONGRESS

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–33) on the resolution (H. Res. 101) providing for consideration of the resolution (H. Res. 91) providing amounts for the expenses of certain committees of the House of Representatives in the 105th Congress, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative business and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FRANK of Massachusetts) to revise and extend their remarks and include extraneous material:)

Mr. SKAGGS, for 5 minutes, today.
Mr. SAWYER, for 5 minutes, today.
Mr. STENHOLM, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.
Mr. HINOJOSA, for 5 minutes, today.
Mr. WEXLER, for 5 minutes, today.
Ms. BROWN of Florida, for 5 minutes, today.
Ms. MCKINNEY, for 5 minutes, today.
Mrs. MEEK of Florida, for 5 minutes today.

(The following Members (at the request of Mr. JENKINS) to revise and extend their remarks and include extraneous material:)

Mr. PAUL, for 5 minutes, today.
Mr. WOLF, for 5 minutes each day, today and on March 20.
Mr. HANSEN, for 5 minutes, today.
Mr. CHAMBLISS, for 5 minutes, on March 20.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CLAY, to revise and extend his remarks after Mr. GOODLING, during consideration of H.R. 1, in the Committee of Whole today.

(The following Members (at the request of Mr. FRANK of Massachusetts) and to include extraneous matter:)

Mr. TOWNS.
Mr. HAMILTON.
Mr. NEAL of Massachusetts.
Mr. NADLER.
Mr. PALLONE.
Mr. GORDON.
Ms. MCCARTHY of Missouri.
Mr. MCGOVERN.
Mr. RUSH.
Mr. HASTINGS of Florida.
Mr. LIPINSKI.

(The following Members (at the request of Mr. JENKINS) and to include extraneous matter:)

Mr. COBLE.
Ms. ROS-LEHTINEN.
Mr. CRANE.
Mrs. JOHNSON of Connecticut.
Mr. GOODLING.
Mr. CASTLE.
Mr. EWING.
Mr. OXLEY.
Mr. KOLBE.
Mr. BRYANT.
Mr. BATEMAN.
Mr. DAVIS of Virginia.
Mr. SHAW.
Mr. FRELINGHUYSEN.

(The following Members (at the request of Mr. HOEKSTRA) to revise and extend their remarks and include extraneous material:)

Mr. RIGGS.
Mr. DELAY.
Mr. WELLER.
Mr. PALLONE.
Mr. HOUGHTON.
Mr. KENNEDY of Rhode Island.
Mr. ENGEL.
Mr. FAZIO of California.
Mr. LOFGREN.
Mr. GREEN.
Mr. RUSH.
Mr. HASTINGS of Florida.
Mr. FRELINGHUYSEN.
Mr. SHAW.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 22. Joint resolution to express the sense of the Congress concerning the application by the Attorney General for the appointment of an independent counsel to investigate allegations of illegal fundraising in the 1996 Presidential election campaign; to the Committee on the Judiciary.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 924. An act to amend title 18, United States Code, to give further assurance to the right of victims to attend and observe the trials of those accused of the crime.

ADJOURNMENT

Mr. HOEKSTRA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 36 minutes p.m.), the House adjourned until tomorrow, March 20, 1997, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2326. A letter from the Acting Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Revised Procedures for Commission Review and Approval of Applications for Contract Market Designation and of Exchange Rules Relating to Contract Terms and Conditions [17 CFR Parts 1 and 5] received March 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2327. A letter from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting notification of the Department's intent to conduct a multifunction cost comparison of the supply, maintenance, and transportation functions at Hickam Air Force Base [AFB], HI, pursuant to 10 U.S.C. 2304 note; to the Committee on National Security.

2328. A letter from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting notification of the Department's intent to conduct a cost comparison study of the cadet food services waiters and sanitation function at the U.S. Air Force Academy, CO, pursuant to 10 U.S.C. 2304 note; to the Committee on National Security.

2329. A letter from the Secretary of Defense, transmitting notification that the Secretary has approved the retirement of Lt. Gen. Steven L. Arnold, U.S. Army, and his advancement to the grade of lieutenant general on the retired list, and certification that General Arnold has served satisfactorily on active duty in his current grade; to the Committee on National Security.

2330. A letter from the Secretary of Defense, transmitting a report on the Joint Demilitarization Technology Program, pursuant to Public Law 104–201, section 227 (110 Stat. 2460); to the Committee on National Security.

2331. A letter from the Maritime Administrator, U.S. Maritime Administration, transmitting a copy of the Voluntary Intermodal Sealift Agreement, developed in accordance with the provisions of section 708 of the Defense Production Act, pursuant to 50 U.S.C. App. 2158(f)(1)(A); to the Committee on Banking and Financial Services.

2332. A letter from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Assessment of Penalties for Failure to Provide Required Information—received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2333. A letter from the Secretary of Energy, transmitting a draft of proposed legislation to amend the Energy Policy and Conservation Act to extend the expiration dates of existing authorities and enhance U.S. participation in the energy emergency program of the International Energy Agency; to the Committee on Commerce.

2334. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—National Vaccine Injury Compensation Program: Revisions and Additions to the Vaccine Injury Table—II [42 CFR Part 100] (RIN: 0906–AA36) received March 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2335. A letter from the Director, U.S. Information Agency, transmitting a draft of proposed legislation to authorize appropriations for fiscal years 1998 and 1999 for the U.S. Information Agency, and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on International Relations.

2336. A letter from the Director, Office of Government Ethics, transmitting the Office's final rule—Standards of Ethical Conduct for Employees of the Executive Branch; Exception for Gifts from a Political Organization (RIN: 3209–AA04) received March 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

2337. A letter from the Acting Deputy Assistant Administrator, Office of Diversion Control, Department of Justice, transmitting the Department's final rule—Consolidation, Elimination, and Clarification of Various Regulations (Drug Enforcement Administration) [DEA Number 139F] (RIN: 1117–AA33) received March 19, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2338. A letter from the Administrator, Federal Highway Administration, transmitting the Administration's status report entitled ''Progress Made in Implementing Sections 6016 and 1038 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA),'' pursuant to Public Law 102–240, section 6016(e) (105 Stat. 2183); to the Committee on Transportation and Infrastructure.

2339. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Response Plans for facilities Located Seaward of the Coast Line (Minerals Management Service) (RIN: 1010–AB81) received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2340. Secretary of Veterans Affairs, transmitting the fiscal year 1996 annual report of the Secretary of Veterans Affairs, pursuant to 38 U.S.C. 214, 221(c), and 664; to the Committee on Veterans' Affairs.

2341. A letter from the Acting Secretary of Labor, transmitting the quarterly report on the expediture and need for worker adjustment assistance training funds under the Trade Act of 1974, pursuant to 19 U.S.C. 2296(a)(2); to the Committee on Ways and Means.

2342. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Low-Income Housing Tax Credit—1997 Calendar Year Resident Population Estimates [Notice 97–14] received March 19, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2343. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Transfers to Foreign Entities Under Section 1491 Through 1494 [Notice 97–18] received March 19, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2344. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Guidance for Expatriates Under sections 877, 2501, 2107 and 6039F [Notice 97–19] received March 19, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2345. A letter from the Deputy Under Secretary for International and Commercial Programs, Department of Defense, transmitting the preliminary report on the investment strategy for the Dual Use Technology Program, pursuant to Public Law 104–201, section 203(g) (110 Stat. 2451); jointly, to the Committees on National Security and Science.

2346. A letter from the Director, Office of Management and Budget, transmitting the administration's legislative proposal regarding the allowability of executive compensation costs on covered Government contracts, pursuant to Public Law 104–201, section 809(e) (110 Stat. 2608); jointly, to the Committees on National Security and Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. MYRICK: Committee on Rules. House Resolution 100. Resolution providing for consideration of the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions (Rept. 105–32). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. House Resolution 101. Resolution providing for consideration of the resolution (H. Res. 91) providing amounts for the expenses of certain committees of the House of Representatives in the 105th Congress (Rept. 105–33). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SPENCE (for himself and Mr. DELLUMS) (both by request):

H.R. 1119. A bill to authorize appropriations for fiscal years 1998 and 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 1998 and 1999, and for other purposes; to the Committee on National Security.

By Mr. DINGELL (for himself, Mr. GEPHARDT, Mr. OBERSTAR, Mr. BORSKI, Ms. DEGETTE, Mr. MANTON, Mr. BROWN of Ohio, Mr. TOWNS, Mr. RUSH, Mr. CLEMENT, Mr. CLYBURN, Mr. WAXMAN, Mr. MARKEY, Mr. MASCARA, Mr. BOUCHER, Mrs. TAUSCHER, Mr. PASCRELL, Ms. FURSE, Mr. DEUTSCH, Mr. BLUMENAUER, Ms. ESHOO, Mr. KLINK, Mr. STUPAK, Mr. ENGEL, Mr. SAWYER, Mr. WYNN, Mr. GREEN, Ms. MCCARTHY of Missouri, Mr. CONYERS, Ms. RIVERS, Ms. KILPATRICK, Mr. BARRETT of Wisconsin, Ms. KAPTUR, Ms. DELAURO, Mr. OLVER, Mr. LIPINSKI, Mr. DOYLE, Mr. DEFAZIO, Mr. JOHNSON of Wisconsin, Mr. MENENDEZ, Mr. GORDON, Ms. BROWN of Florida, Ms. NORTON, Mr. WISE, Ms. MILLENDER-MCDONALD, Mrs. LOWEY, Mr. CUMMINGS, and Mr. RANGEL):

H.R. 1120. A bill to assist local governments in assessing and remediating brownfield sites, to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to encourage State voluntary response programs for remediating such sites, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL:

H.R. 1121. A bill to amend the Federal Credit Union Act to clarify existing law and ratify the longstanding policy of the National Credit Union Administration Board with regard to field of membership of Federal credit unions and to repeal the Community Reinvestment Act of 1977, and to provide for a reduced tax rate for qualified community lenders; to the Committee on Banking and Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOLOMON:

H.R. 1122. A bill to amend title 18, United States Code, to ban partial-birth abortions; to the Committee on the Judiciary.

By Mr. ACKERMAN:

H.R. 1123. A bill to amend the Internal Revenue Code of 1986 to permit loans from individual retirement plans for certain first-time homebuyer, education, and medical emergency expenses; to the Committee on Ways and Means.

By Mr. CRANE (for himself, and Mr. HAYWORTH):

H.R. 1124. A bill to amend the Internal Revenue Code of 1986 to provide that no capital gains tax shall apply to individuals or corporations; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania (for himself, Mrs. KELLY, Mr. WATTS of Oklahoma, Mr. WHITFIELD, Mr. BEREUTER, Mr. POMEROY, Mr. TIAHRT, Mr. GILMAN, Mr. KLINK, Mr. FATTAH, Mr. GREENWOOD, Mr. SANDLIN, Mr. ACKERMAN, Mr. SOLOMON, Mr. MANZULLO, Mr. PETERSON of Pennsylvania, Mr. FRELINGHUYSEN, and Mr. HOUGHTON):

H.R. 1125. A bill to amend title 38, United States Code, to provide that amounts collected with respect to the provisions of health care at a Department of Veterans Affairs medical center may be retained by that medical center; to the Committee on Veterans' Affairs.

By Mr. EVANS (for himself, Mr. FILNER, Mr. GOODE, Mr. ADAM SMITH of Washington, Mr. HINCHEY, Mr. MASCARA, Mr. LIPINSKI, Mr. TAYLOR of Mississippi, Mr. ACKERMAN, Mr. STUPAK, Mr. FROST, Mr. CALVERT, Mr. BALLENGER, Mr. VENTO, Ms. PELOSI, Mr. LIVINGSTON, Mr. REGULA, and Mr. UNDERWOOD):

H.R. 1126. A bill to provide that certain service of members of the U.S. merchant marine during World War II constituted active military service for purposes of any law administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. HANSEN (for himself, Mr. CANNON, and Mr. COOK):

H.R. 1127. A bill to amend the Antiquities Act to require an Act of Congress and the concurrence of the Governor and State legislature for the establishment by the President of national monuments in excess of 5,000 acres; to the Committee on Resources.

By Mr. HASTINGS of Florida (for himself, Ms. SLAUGHTER, Mr. EVANS, Ms. NORTON, Ms. PELOSI, Mr. OBERSTAR, Ms. HARMAN, Mr. CLEMENT, Mrs. MEEK of Florida, Mr. FOGLIETTA, Mr. FLAKE, Mr. SISISKY, Mr. GORDON, Ms. CHRISTIAN-GREEN, and Mr. SKEEN):

H.R. 1128. A bill to amend title XVIII of the Social Security Act to provide for coverage of periodic colorectal screening services under part B of the Medicare Program; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOUGHTON (for himself, Mr. HALL of Ohio, Mr. DAN SCHAEFER of Colorado, Mr. TORRES, Mr. GREENWOOD, Mr. FILNER, Mr. WALSH, Mr. ABERCROMBIE, Mr. HULSHOF, Mr. ANDREWS, Mr. BOEHLERT, Mr. MEEHAN, Mrs. MORELLA, Mr. MORAN of Virginia, Mr. PAYNE, Mr. BLUMENAUER, Mr. DELLUMS, Ms. RIVERS, Mr. BROWN of Ohio, Mrs. CLAYTON, Mr. BARRETT of Wisconsin, Mr. VENTO, Mr. LAFALCE, Mrs. TAUSCHER, Mr. LEVIN, and Mr. MCDERMOTT):

H.R. 1129. A bill to establish a program to provide assistance for programs of credit and other assistance for microenterprises in developing countries, and for other purposes; to the Committee on International Relations.

By Mr. GEJDENSON (for himself, Mr. POMEROY, Mr. BENTSEN, Mrs. KENNELLY of Connecticut, Mrs. LOWEY, Mr. GEPHARDT, Mr. BOSWELL, Mr. DELAHUNT, Mr. KUCINICH, Mrs. MALONEY of New York, Ms. MCCARTHY of Missouri, Mrs. TAUSCHER, Mr. LEWIS of Georgia, Mr. KILDEE, Mr. ANDREWS, Mr. GONZALEZ, Mr. BROWN of California, Mr. LAFALCE, Mr. FROST, Mr. SABO Mr. BORSKI, Mr. WISE, Mr. ACKERMAN, Mr. SAWYER, Ms. DELAURO, Mr. OLVER, Mrs. CLAYTON, Mr. FILNER, Mr. BALDACCI, Mr. STRICKLAND, Mr. BLAGOJEVICH, Ms. KILPATRICK, Mr. MCGOVERN, Mr. PASCRELL, Mr. SANDLIN, and Mr. UNDERWOOD):

H.R. 1130. A bill to provide for retirement savings and security, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Government Reform and Oversight, Transportation and Infrastructure, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. JOHNSON of Connecticut:

H.R. 1131. A bill to amend title 23, United States Code, to make funds available for surface transportation projects on roads functionally classified as local or rural minor collectors, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. KENNEDY of Rhode Island (for himself, Mr. GILMAN, Mr. BERMAN, Mr. SMITH of New Jersey, Mr. PORTER, Mr. LANTOS, Mr. EVANS, Mr. KENNEDY of Massachusetts, and Mr. HALL of Ohio):

H.R. 1132. A bill to limit U.S. military assistance and arms transfers to the Government of Indonesia; to the Committee on International Relations.

By Mr. KENNEDY of Rhode Island:

H.R. 1133. A bill to amend the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide exceptions for mentally disabled aliens from provisions which restrict welfare and public benefits for aliens; to the Committee on Ways and Means, and in addition to the Committees on Agriculture, Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAW (for himself, Mrs. KENNELLY of Connecticut, Mrs. JOHNSON of Connecticut, Mr. LEWIS of Georgia, Mr. ENGLISH of Pennsylvania, Mr. JEFFERSON, Mr. HOUGHTON, Mr. NEAL of Massachusetts, Mr. MCCRERY, Mr. COYNE, Mr. CARDIN, Mr. BAKER, Mr. BENTSEN, Ms. CHRISTIAN-GREEN, Mr. CLAY, Mr. CLYBURN, Mr. FOGLIETTA, Mr. FROST, Mr. GONZALEZ, Mr. MCCOLLUM, Mrs. MEEK of Florida, Mr. MICA, Mr. SNYDER, Mr. STARK, Mr. VENTO, Mr. WALSH, and Mr. WOLF):

H.R. 1134. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence; to the Committee on Ways and Means.

By Ms. WOOLSEY (for herself and Mr. GILCHREST):

H.R. 1135. A bill to provide for the protection of farmland at the Point Reyes National Seashore, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WEXLER (for himself, Mr. FOLEY, and Mr. MCCOLLUM):

H.J. Res. 64. Joint resolution proposing an amendment to the Constitution of the United States to prevent early release of violent criminals; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LIPINSKI introduced a bill (H.R. 1136) for the relief of Leland E. Person; which was referred to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. BONO.

H.R. 20: Mr. PORTMAN, Mr. LIVINGSTON, Mr. ISTOOK, Mr. KASICH, Mr. ENSIGN, Mr. MILLER of Florida, Mr. ENGLISH of Pennsylvania, Mr. GOODLING, Mr. CHRISTENSEN, Mr. CRAPO, Mr. KNOLLENBERG, Mr. SOUDER, Mr. NEY, Mr. FATTAH, Mr. PARKER, Mr. ENGEL, Mr. EHRLICH, Mr. QUINN, and Mr. MCKEON.

H.R. 21: Mr. FOGLIETTA.

H.R. 38: Mr. HALL of Texas.

H.R. 44: Mr. CONDIT and Mr. HALL of Texas.

H.R. 58: Mr. BONILLA, Ms. DANNER, Ms. KAPTUR, Ms. MCKINNEY, Mr. GILLMOR, Mr. FORD, Mr. CUMMINGS, Mr. SMITH of Michigan, Mr. KNOLLENBERG, Mr. MOAKLEY, Mr. CRAPO, Mrs. EMERSON, Mr. HEFLEY, Mr. GOSS, Mr. WHITE, Mr. LEWIS of Kentucky, and Mr. CANNON.

H.R. 65: Mr. GRAHAM, Mrs. KELLY, Ms. LOFGREN, Mr. MENENDEZ, Mr. CONDIT, Ms. PRYCE of Ohio, and Mr. HALL of Texas.

H.R. 75: Mr. MORAN of Virginia, Mr. THOMPSON, Mr. RANGEL, and Mr. SANDLIN.

H.R. 107: Mr. DOYLE, Mr. SANDLIN, Mr. FOX of Pennsylvania, and Mr. WELDON of Florida.

H.R. 127: Mr. KLINK, Mr. KUCINICH, and Mr. BLAGOJEVICH.

H.R. 143: Ms. FURSE, Mr. GIBBONS, and Mr. DAVIS of Virginia.

H.R. 145: Mr. PETERSON of Minnesota and Mr. VENTO.

H.R. 150: Mr. CLAY, Mrs. MORELLA, Mr. MCNULTY, Mr. PAYNE, Mr. DELLUMS, Mr. LAFALCE, and Mr. MCGOVERN.

H.R. 234: Ms. WOOLSEY, Mr. VENTO, Mr. MANTON, Mrs. CARSON, and Mr. OLVER.

H.R. 242: Mr. MANTON.

H.R. 303: Mr. BRYANT, Mrs. KELLY, Ms. LOFGREN, Mr. MENENDEZ, Mr. CONDIT, Ms. PRYCE of Ohio, and Mr. HALL of Texas.

H.R. 339: Mr. HILLEARY and Mr. BUNNING of Kentucky.

H.R. 382: Mr. DELLUMS.

H.R. 520: Mr. SENSENBRENNER, Mr. SCHIFF, Mr. BRYANT, Mr. BONO, Mr. ROHRABACHER, and Mr. RIGGS.

H.R. 521: Mr. MENENDEZ and Mr. CALLAHAN.

H.R. 551: Mrs. CLAYTON and Mr. FAZIO of California.

H.R. 552: Mr. FALEOMAVAEGA, Mr. MORAN of Virginia, Mr. MCGOVERN, Mrs. LOWEY, Mr. VENTO, Mr. LIPINSKI, and Mr. SHAW.

H.R. 598: Mr. FILNER.

H.R. 603: Mr. KLUG and Mr. UPTON.

H.R. 622: Mr. PACKARD and Mr. EVERETT.

H.R. 630: Mr. BONO, Mr. THOMAS, and Mr. FAZIO of California.

H.R. 631: Mr. FOLEY, Mr. WOLF, and Mr. STEARNS.

H.R. 640: Mr. TIAHRT.

H.R. 659: Mr. GILCHREST, Mr. WELLER, Mr. BUNNING of Kentucky, and Mr. MOLLOHAN.

H.R. 671: Mr. SENSENBRENNER and Mr. VENTO.

H.R. 680: Mr. TOWNS.

H.R. 687: Mr. FOGLIETTA, Mr. FATTAH, and Mr. FILNER.

H.R. 688: Mr. LATOURETTE and Mr. BUYER.

H.R. 716: Mr. BUNNING of Kentucky, Mr. COBLE, and Mr. LATHAM.

H.R. 737: Mr. BEREUTER.

H.R. 754: Mr. LIPINSKI, Mr. ROMERO-BARCELO, Mr. VENTO, Mr. MCNULTY, Mr. FROST, Mr. BLUMENAUER, Mr. BORSKI, and Mr. TIERNEY.

H.R. 768: Mr. HOLDEN, Mr. MANZULLO, Mr. BLUNT, Mr. PICKERING, Mr. GILLMOR, and Mr. STENHOLM.

H.R. 773: Mr. CLAY, Mr. BISHOP, and Mrs. LOWEY.

H.R. 786: Mr. MCINTYRE.

H.R. 807: Mr. SCARBOROUGH, Mr. DELAHUNT, Mr. BOEHLERT, Ms. RIVERS, Mr. PARKER, and Mrs. KENNELLY of Connecticut.

H.R. 811: Mr. LIPINSKI, Mr. MILLER of Florida, Mr. DAN SCHAEFER of Colorado, Mr. STUMP, Mr. DICKEY, and Mr. BARCIA of Michigan.

H.R. 815: Mrs. CARSON, Mr. YATES, Mrs. TAUSCHER, Mr. PASTOR, Mr. MENENDEZ, and Mr. ROTHMAN.

H.R. 857: Mr. WATKINS.

H.R. 880: Mr. LIVINGSTON, Mr. GOODLATTE, Mr. TIAHRT, Ms. KILPATRICK, Mr. REGULA, Mr. PETERSON of Pennsylvania, and Mr. LEWIS of Georgia.

H.R. 912: Mr. CALLAHAN.

H.R. 947: Mr. LATOURETTE, Mr. BILBRAY, Ms. RIVERS, Mrs. THURMAN, Ms. LOFGREN, Mr. BISHOP, Mr. JEFFERSON, Mr. MCDERMOTT, Ms. STABENOW, Mr. TORRES, Mr. COYNE, Mr. FATTAH, Mr. SABO, Mr. MALONEY of Connecticut, and Mr. CLYBURN.

H.R. 955: Mr. SMITH of New Jersey, Mr. BARTLETT of Maryland, and Mr. WICKER.

H.R. 990: Mr. VENTO.

H.R. 996: Mr. HASTERT and Mr. KENNEDY of Rhode Island.

H.R. 997: Mr. HASTERT and Mr. KENNEDY of Rhode Island.

H.R. 1032: Mr. DICKS, Mr. MENENDEZ, Mr. LEVIN, Mr. BOUCHER, Mr. MALONEY of Connecticut, Mr. KIND of Wisconsin, Ms. SANCHEZ, Mr. BALDACCI, Ms. KILPATRICK, Ms. STABENOW, and Mr. KENNEDY of Massachusetts.

H.R. 1033: Mr. ENGLISH of Pennsylvania, Mr. FOX of Pennsylvania, Mr. CANADY of Florida, Mr. HULSHOF, and Mr. HOSTETTLER.

H.R. 1067: Mr. DAVIS of Illinois.

H.R. 1074: Mr. RANGEL, Mr. GONZALEZ, Mr. DAVIS of Illinois, Mr. MARKEY, Ms. PELOSI, Ms. SLAUGHTER, Mr. CLYBURN, Mr. STARK, Ms. LOFGREN, Ms. CHRISTIAN-GREEN, Mrs. MINK of Hawaii, Mr. OWENS, and Mr. HASTINGS of Florida.

H.R. 1089: Mr. RANGEL.

H.R. 1090: Mr. PELOSI, Mr. FOX of Pennsylvania, Mr. REGULA, Mr. PARKER, and Mr. QUINN.

H.J. Res. 56: Mr. FILNER, Mrs. NORTHUP, and Mr. CUNNINGHAM.

H. Con. Res. 14: Mr. BARRETT of Wisconsin, Mr. JEFFERSON, Mr. MENENDEZ, Mrs. MEEK of Florida, and Mr. MALONEY of Connecticut.

H. Res. 37: Mr. MILLER of California, Mr. WYNN, and Mr. FARR of California.

H. Res. 98: Mr. BEREUTER.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

Vol. 143 WASHINGTON, WEDNESDAY, MARCH 19, 1997 No. 36

Senate

The Senate met at 10:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Sovereign God, we submit our lives to Your authority. Fill our minds with clear convictions that You are in charge of our lives and our work today. We commit it all to You.

May this commitment result in a new, positive attitude that exudes joy and hope about what You are going to do today and in the future. We leave the results completely in Your hands. Our need is not to get control of our lives, but to commit our lives to Your control. You know what You are doing and will only what is best for us and our Nation.

There is nothing that can happen that You cannot use to deepen our relationship with You. So when success comes, help us to develop an attitude of gratitude. When difficulties arise, help us immediately turn to You and receive from You an attitude of fortitude.

We place our hands in Yours and ask You to lead us. Through our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. BENNETT. Mr. President, on behalf of the majority leader, I announce that today the Senate will resume consideration of Senate Joint Resolution 22, the independent counsel resolution. By previous order, from 10:30 a.m. to 11:30 a.m., the Senate will conclude debate on Senate Joint Resolution 22, the independent counsel resolution, and Senate Joint Resolution 23, the Leahy resolution. Following debate on these resolutions, Senators should anticipate stacked rollcall votes at approximately 11:30.

Following disposition of these resolutions, the Senate may proceed to either the certification of Mexico or the nomination of Merrick Garland. Additional votes are, therefore, possible during today's session following the stacked votes.

The majority leader has asked me to remind Senators that this is the last week prior to our adjournment for the 2-week Easter recess, so he would appreciate Senators continuing to cooperate and adjusting their schedules accordingly for the scheduling of legislation and votes.

I thank my colleagues for their attention.

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF MERRICK B. GARLAND

Mr. BENNETT. Mr. President, as in executive session, I ask unanimous consent that at 3 o'clock today the Senate proceed to executive session to consider the nomination of Merrick B. Garland, to be U.S. circuit judge, and for it to be considered under the following time agreement: 3 hours equally divided in the usual form. I further ask unanimous consent that immediately following the expiration or yielding back of the debate time, the Senate proceed to a vote on the confirmation of the nomination, and immediately following that vote, the President be immediately notified of the Senate's action and the Senate resume legislative business.

It is my understanding this has been cleared on the Democratic side.

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

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. If the Senator will suspend, under the previous order the leadership time is reserved.

APPOINTMENT OF AN INDEPENDENT COUNSEL TO INVESTIGATE ALLEGATIONS OF ILLEGAL FUNDRAISING

Mr. BENNETT. Mr. President, under the previous order, we now have an hour of debate equally divided, and I have been designated as the manager to control the time on this side. I do not see a colleague yet who will control the time on the other side.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to Senate Joint Resolution 22 for 1 hour, with 30 minutes under the control of the distinguished Senator from Utah, 20 minutes under the control of Senator LEAHY, and 10 minutes under the control of Senator BYRD.

The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 22) to express the sense of the Congress concerning the application by the Attorney General for the appointment of an independent counsel to investigate allegations of illegal fundraising in the 1996 Presidential election campaign.

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, some general observations prior to getting into the details of this resolution, I think, are in order. As this matter has come before the Nation in the form of press reports, television commentary, newspaper analyses, et cetera, something that is very disturbing to me has happened. That is, a single cloak of suspicion regarding illegalities and improprieties has been cast over all aspects of anything relating to campaign financing, campaign fundraising, and campaign expenditures. Somehow, anything related to raising money or

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

Printed on recycled paper.

spending money in a campaign has now become tainted, and we find people in the press and people in this Chamber casting aspersions that, in my view, are inappropriate and uncalled for.

I would like to set the terms of the discussion in this fashion. I suggest that, of course, the first dividing line is between that which is legal and that which is illegal. Many times in the press reports no one is making this dividing line. They are attacking anything dealing with fundraising as if it were all the same and all in the same pot. We should make it clear, we should understand that many of the things that are done for political fundraising are perfectly legal and, in my view, perfectly appropriate, while there are other things that are clearly illegal, and obviously anything illegal is not appropriate.

If I may, I was disturbed by some of the comments made on this floor with respect to the actions of the majority leader, primarily by the minority leader. The suggestion was left in the minds of some people that the majority leader was being accused of doing something illegal or improper by urging people to attend a Republican fundraiser and urging people to support the Republican Party. Not only was it not illegal nor was it improper, it was perfectly appropriate for the majority leader of the Republican Party to engage in this kind of activity. Just as, to be completely fair about it, in my view it was perfectly appropriate and perfectly proper for the senior Senator from Connecticut [Mr. DODD], in his role as the general chairman of the Democratic National Committee, to engage in fundraising activity on behalf of the Democratic Party in the last campaign. The Senator from Connecticut has not been attacked on the floor, as the majority leader was, but he has been attacked in the press, as people have tried to cast the cloak of impropriety that I described over all fundraising activities.

I will stand here and defend the right of the senior Senator from Connecticut to do what he has done on behalf of the Democratic National Committee as being perfectly appropriate as well as legal, just as I defend the right of the majority leader for what he has done in fundraising activities that are perfectly appropriate as well as legal.

Now, on the legal side of the line there have been activities that have taken place that, in my view, while legal, are not appropriate. It is, perhaps, legal for the President to have had the kind of extensive contact with campaign donors in the White House that we have seen reported in the press. The President has suggested that every President has met donors in the White House, and therefore this is perfectly OK. I will agree, once again, that previous Presidents have on occasion met with donors to their party or to their particular campaigns while in the White House. It is my personal opinion that the scale and the organized effort that went into bringing people into the White House, whether it is for overnights in the Lincoln bedroom, organized and orchestrated by the President's own hand, or for the coffees, as they were called, has reached a level of unprecedented pattern of activity, and I consider it to be inappropriate.

I will stipulate that it apparently was not illegal. That does not mean we should not comment about it, we should not express our opinions about its appropriateness. But, clearly, it does not call for the appointment of an independent counsel. It is something we can talk about in the political arena. It is on the legal side of the line. If we think it is inappropriate, we should say so. If we think the pattern of activity in this area is just overwhelmingly improper, we have the right to say so. But we must recognize, once again, that some of that activity may clearly not have been illegal.

Drawing the line and coming over to the side of that which is illegal, I find, once again, there are degrees of illegality. Let me give you an example that has been heavily reported in the press: the receipt of a $50,000 check by Maggie Williams, the chief of staff to the First Lady, while Ms. Williams was in the White House. That apparently is illegal.

Naturally, we take breaking of the law seriously. I don't think we need an independent counsel, however, to investigate Maggie Williams accepting a $50,000 check while in the White House, and I don't think it is worth some of the furor that has been created in the press. If she broke the law in that instance, I think the Justice Department and the FEC, whoever is the appropriate legal authority, can handle that without any difficulty and does not require an independent counsel and, frankly, in my view, may not even require the tremendous hue and cry that has risen in this area in the press.

Again, I do not mean to minimize someone who violates a regulation or restriction, but there is a difference between violations that are either inadvertent, relatively innocent or springing out of a lack of understanding of the rules to those violations that, in my view, are truly sinister. We should not be talking about an independent counsel unless we have moved from the legal side of campaign funding and those things that are perfectly appropriate, toward those things that are perhaps inappropriate and improper, across the line to those violations that are inadvertent or relatively minor. We still don't have the necessity of calling for an independent counsel until we cross over into the territory of those infractions that are truly sinister and have serious implications about misuse of power in very high places.

It is my opinion that there have been enough violations in very high places in areas that I think are truly sinister that an independent counsel is, indeed, called for. But before I get into the details of that, I want to make my position perfectly clear that I do not think we should appoint an independent counsel because people in the press, or people in this Chamber, get all exercised about activities in the three areas I have just described. None of them is serious enough to justify an independent counsel. Let's focus on the fourth area I have described, which I consider to be the truly sinister areas.

Mr. President, with that general statement and overview, I am prepared now to turn to my colleague from Michigan and yield such time to him as he may require from his 30 minutes so that we keep the time balanced in this debate.

Mr. LEVIN. I thank my friend from Utah.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I thank the Senator for his invariable courtesy. I ask unanimous consent that I be yielded 10 minutes. Senator LEAHY is not yet here, but I ask that, I am sure with his approval.

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

Mr. LEVIN. Mr. President, we will be voting on two resolutions later this morning. The first resolution, that of the majority leader, is a clearly partisan document, for a number of reasons which I will get into in a moment. The second resolution, which Senator LEAHY and I have introduced, intends to carry out the spirit and the purpose of the independent counsel law without prejudging the Attorney General review and, unlike the first resolution of the majority leader, the alternative resolution includes allegations against Members of Congress. The majority leader's resolution, the first resolution we will be voting on, does not in its final clause, its action clause, make reference to congressional campaigns, but only to the Presidential campaign.

The second resolution avoids prejudging the Attorney General's review, urges that the review be carried out without any political favoritism or any political pressure, and, perhaps most important, includes in that review Members of Congress and allegations against Members of Congress.

The first resolution is a partisan document for a number of reasons. First, it mentions Democratic problems exclusively. Second, it omits what it should include, which is a review of activities of Members of Congress. And, third, it includes what it should omit, which is a prejudgment of the process of the law that it seeks to invoke.

The independent counsel law provides that the Attorney General, upon receipt of certain specific information from a credible source against certain groups, including Members of Congress, shall take certain actions. It doesn't prejudge that action. The independent counsel law doesn't say that the Attorney General, in the absence of specific information from a credible source, will seek an independent counsel. It is only when those first two steps are

taken where she determines that there is specific information from a credible source that then the independent counsel law says she shall seek or, in the case of Members of Congress or other than the specific covered officials, she may seek an independent counsel.

The purpose of this law, in which I have been so deeply involved with Senator Cohen as my Republican counterpart in now three reauthorizations, the purpose of this law is to get an independent investigation of top Government officials at either end of Pennsylvania Avenue free from the taint of politics. That is the purpose of this law, to try to remove the allegations which swirl too often in election campaigns, or otherwise, that could involve criminal activities, to remove the consideration of those allegations against certain individuals and groups from partisan politics.

The independent counsel law, as I said, covers really three groups. First, there are covered officials—the President, Vice President, Cabinet officials, a few named others. Where there is specific information from a credible source that a crime may have been committed by one of these covered officials, then the Attorney General, if she finds those things have occurred, she must seek an independent counsel.

The second group is other persons where she might have a conflict of interest.

And the third group is Members of Congress, where, in the case the first steps have been taken and there is specific information from a credible source, then she may, if she determines it is in the public interest, seek an independent counsel. It is that third group which is omitted from the majority leader's resolution.

The law specifically provides for certain congressional participation through the Judiciary Committee. This is very important as the Supreme Court, in upholding this law in the case of Morrison versus Olson, made special reference to the fact that the involvement of the Congress was limited because the Supreme Court ruled under the separation of powers doctrine that the Congress could not control the independent counsel process. And so the Supreme Court, in the Morrison case, pointed out that the involvement of Congress was limited to members of the Judiciary Committee writing a letter to the Attorney General which, in turn, would trigger a report from her within 30 days. That is what the independent counsel law provides.

This resolution goes way beyond that, because it would put the Senate on record, albeit in a nonbinding way, nonetheless the full Senate on record, which is far different than a letter from members of the Judiciary Committee.

I have indicated the partisan nature of the first resolution that we are going to be voting on. Let me just give a few examples of allegations made against Members of Congress or others than those that would be covered by this resolution, particularly in the area of tax-exempt organizations.

Just 2 months ago, the specially appointed investigative subcommittee of the House Ethics Committee released a unanimous bipartisan report relative to Speaker GINGRICH.

Here is what that bipartisan report found. This is a quote:

> The subcommittee found that in regard to two projects, Mr. Gingrich engaged in activity involving 501(c)(3) organizations that was substantially motivated by partisan, political goals.

The subcommittee also found—these are the words of the subcommittee—that ''it was clear that Mr. Gingrich intended''—I emphasize the word ''intended''—''that the [American Opportunities Workshop] and Renewing American Civilization Projects''—those are the 501(c)(3)'s—''have substantial partisan, political purposes.''

The subcommittee said—this is a bipartisan report—that ''In addition, he was aware that political activities in the context of 501(c)(3) organizations were problematic.''

Mr. President, it is illegal for 501(c)(3) organizations to participate in partisan activities. It violates the law. Yet, you have here a bipartisan subcommittee of the House that finds that Mr. GINGRICH, in regard to two projects, engaged in activity that was motivated by partisan goals and that he intended—he intended—that those projects—I am using their words—''have substantial partisan, political purposes'' and ''he was aware that political activities in the context of 501(c)(3) organizations were problematic.''

You talk about specific information from a credible source. Pretty specific, pretty credible, bipartisan subcommittee of the House of Representatives, part of the ethics committee. And yet, in the first resolution that we will be voting on, no suggestion to the Attorney General that she review the possibility that the public interest requires her to seek an independent counsel relative to Members of Congress. Only the Presidential election is in the ''action'' clause in the resolution before us. No reference to anything but Democratic activities in the ''whereas'' clause.

There are other tax exempts that should be considered by the Attorney General as provided for by the independent counsel—$4.5 million went from the Republican National Committee to a tax-exempt group called Americans for Tax Reform.

According to the Washington Post, 20 million pieces of mail were sent out by that organization, millions of phone calls in 150 congressional districts. They even put on television ads in States, and in one State against a colleague of ours, attacking him for not showing up for work. ''That is wrong,'' said the television ad. This is by an organization that is not supposed to engage in partisan activity, putting on television ads attacking somebody who is running for Congress, for the Senate, in this case.

A group using the same offices as Americans for Tax Reform, also a tax-exempt group, puts on an ad on television saying the following: ''When Clinton was running, he promised a middle-class tax cut. Then he raised my taxes. He was just lying to get elected. This year he'll lie some more . . .''

That is a tax-exempt group that is not supposed to be putting on partisan ads, but the resolution of the majority leader does not provide that the Attorney General will look into that kind of activity by tax exempts; only Democrats are mentioned and only the Presidential election is mentioned.

The PRESIDING OFFICER. The Senator's 10 minutes have expired. Do you wish to yield more time?

Mr. LEVIN. I thank the Chair, and I think I better reserve the balance of Senator LEAHY's time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Thank you, Mr. President.

May I inquire how much time I have remaining?

The PRESIDING OFFICER. Nineteen minutes and fifteen seconds.

Mr. BENNETT. I thank the Chair.

Mr. President, I am interested in the comments by my friend from Michigan. He is a distinguished lawyer. I have never had the experience of going to law school. But I must respond out of experience relating to the political circumstance.

He decries at length ''no reference to Members of Congress'' and gives us an example out of the life of NEWT GINGRICH, Speaker of the House, in saying, why does not the resolution call on Janet Reno to investigate the Speaker?

Mr. President, if Janet Reno were to decide that there was further action that needed to be taken with respect to Mr. GINGRICH, I doubt that she would run into any resistance in the White House to that decision. I doubt that the President would think that was not a good idea for her to do that or send her any kind of direction or subtle hints saying, ''Do not pursue Mr. GINGRICH.''

The reason we have an independent counsel operation is because the Attorney General is indeed subject to pressure from the White House. And there is no such pressure with reference to Members of Congress, particularly Members of Congress of the opposing party.

In this body, both the Senator from Michigan and I sat with Dave Durenberger. Dave Durenberger found out directly that there was no problem in the Justice Department coming after a Member of Congress.

There are Members in this body who were here when Harrison Williams, known as ''Pete,'' was pursued by the Justice Department and his own party and ultimately went to jail.

In the structure of our Government, with the separation of powers, there is

no pressure on the Attorney General in the executive branch that would prevent him or her from going after a Member of the legislative branch, but there is clear pressure within the executive branch that could prevent an Attorney General from going after a member of the executive branch. And that is why the independent counsel statute was created.

I think the omission from the majority leader's resolution with respect to Members of Congress is a recognition that the independent counsel was never intended to go after a Member of Congress and it would be inappropriate to go after Members of Congress to put that in. It would fundamentally change the nature of the independent counsel circumstance.

Now, Mr. President——

Mr. LEVIN. Would the Senator yield?

Mr. BENNETT. I would be happy to.

Mr. LEVIN. When the Senator says it was never intended that the independent counsel go after a Member of Congress, I must yield myself 2 minutes to answer that.

The law specifically provides that when the Attorney General determines it would be in the public interest, that indeed she ''may seek''—I am quoting the law—''an independent counsel for or relating to Members of Congress.''

It is very specific in the law. And I just used the exact words, reading. Members of Congress are included in this law. Indeed, it was the current majority in this body that insisted that Members of Congress be included in the law and wanted to make it mandatory, and now they are left out of the resolution of the majority leader.

The ultimate resolution was to make it discretionary where the Attorney General found it in the public interest to do so. But the majority in this body had determined that Members of Congress be included. They were included, left discretionary, but it is very precise.

If I can disagree with my dear friend, it is very precise that Members of the Congress are included in the independent counsel law when it is determined by the Attorney General it would be in the public interest.

I will use 1 more minute.

The pressure that the Senator from Utah talks about, which he presumes comes from the White House—if it does—is wrong. We should not compound any such alleged pressure if, in fact, it exists by putting pressure on her by this legislative body. Pressure from any source is wrong. If the White House pressures her, it is wrong.

By the way, she has shown tremendous independence, tremendous independence when it comes to the selection of a decision to seek an independent counsel. This Attorney General has shown no reluctance to seek the appointment of independent counsel.

So if there is pressure, there should not be pressure from any source, White House or Congress. That is exactly why this first resolution, it seems to me, runs so counter to the spirit of the independent counsel law, because it does explicitly put pressure on her. It jumps to a conclusion as to what she should find at the end of a process. We should not do it. If anybody else is doing it, they should not do it. We should not do it.

Mr. BENNETT. I thank my friend from Michigan for correcting my legal lack of understanding. And I do stand corrected and accept that instruction.

I say to him, and to any who feel, as he apparently does, that Mr. GINGRICH should be included in this, that I would be happy to have Mr. GINGRICH included in the resolution if indeed there were evidence suggesting there was something that had not already come out in the proceedings that have already gone forward.

The reason I am supporting this resolution is that I feel there is information that is being hidden within the executive branch, coming from somewhere. I do not know whether it is coming from the White House. I do not know whether it is coming from the executive office of the President. But from somewhere, there seems to be some kind of pressure being applied to the Attorney General to keep her from proceeding with the appointment of an independent counsel, as Members of this body individually have urged her to do, including Members of the Democratic side of this body, who have urged the Attorney General to proceed with the appointment of the independent counsel.

For example, the senior Senator from New York [Mr. MOYNIHAN] has said it is time for an independent counsel. I am sure my friend from Michigan would not stand to censure the senior Senator from New York for making that expression. He has expressed that freely, openly, and publicly as is his right.

All the resolution does that is offered by the majority leader is give other Members of the Senate the opportunity to make the same expression in a vote for a sense of the Senate—not binding, not with a force of law, simply making public the fact that they agree with Senator MOYNIHAN in his calling for a independent counsel.

Now, why is it that we feel there are things that need to be examined with an independent counsel that have not been? There are many, and our time is limited, but let me go quickly, Mr. President, to one example of something that I think calls out for the attention of an independent counsel. On the 13th of September, 1995, there was a meeting in the Oval Office, not in the Democratic National Committee, not in some other governmental office, in the Oval Office in the White House. President Clinton, of course, was there and with him were four other individuals—James Riady, not a Federal employee, an executive, indeed, an owner of the Lippo Group; Bruce Lindsey, who was a Government Federal employee and is the Deputy White House counsel; Joseph Giroir, Lippo joint venture partner and adviser and a former partner of the Rose Law Firm in Arkansas, again, not a Federal employee; and John Huang, a former executive with Lippo but at the time of the meeting he was a Federal employee. So here you have the President, two non-Federal employees and two Federal employees. The discussion is whether or not John Huang will move from his position at the Department of Commerce to become vice chairman of finance of the Democratic National Committee. So here is the discussion in the Oval Office, including the President, regarding the future role of John Huang, taking place in the presence of two of Mr. Huang's former associates in the private world.

Mr. Huang made that move from the Commerce Department to the Democratic National Committee where he raised, according to the Democratic National Committee, $3.4 million, $1.6 million of which has had to be returned by the Democratic National Committee because they have been determined to be either inappropriate or illegal.

Now, when you ask the question, do we know everything we need to know about Mr. Huang and his activities stemming from that meeting in the Oval Office presided over by the President of the United States, we have Mr. Huang taking the fifth amendment, refusing to tell us anything further on the grounds that it might incriminate him. He joins with Charlie Trie, Pauline Kanchanalak, Mark Middleton, and Webster Hubbell in taking the fifth amendment, saying they will not cooperate with the investigation on the grounds that it might tend to incriminate them. There are others who have not taken the fifth amendment but who have left the country, including John H.K. Lee, Charlie Trie, Pauline Kanchanalak, Arief and Soraya Wiriadinata, Charles DeQueljoe, and Mr. Riady.

Of the four people who were in that meeting along with the President, one has taken the fifth amendment and the other has left the country. Roughly half of the money that Mr. Huang raised has already been returned by the Democratic National Committee on the grounds that it was either illegal or inappropriate. I think this summarizes the fact that we need much further investigation into, (a), what was decided at that meeting, and (b), what was done subsequent to that meeting as a result of those decisions, but of the four non-Presidential participants in that meeting, half of them are unavailable to us to give us a version.

There are many more examples. I see my friend from West Virginia has arrived. I will reserve such additional time as I have to summarize this later, and I yield the floor.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from West Virginia.

Mr. BYRD. Mr. President, on March 11, this body voted 99 to 0 to adopt a resolution that provides more than $4.3

million to the Committee on Governmental Affairs for the sole purpose of investigating any and all improper or illegal activities stemming from the 1996 federal elections. The investigation will cover the presidential and congressional elections, and the results will be made known to the public early next year.

I believe that one of the primary reasons the resolution had the full support of the Senate was because of the various compromises that succeeded in making the scope of the investigation both bipartisan and fair. Absent those accommodations, the resolution would have been seen by the American people as nothing more than an attempt by one party to gain political advantage over the other.

That is why I am deeply concerned with the direction now being taken with this measure. Unlike the resolution that received the full support of the Senate on March 11, this resolution specifically targets for investigation by an independent counsel the President, the Vice President, unnamed White House officials, and the Democratic National Committee, and it does so based on nothing more substantial than ''reports in the media.''

Mr. President, the American people are painfully aware that both parties are guilty of abusing the campaign financing system currently in place. But this resolution would seek to exploit—apparently for paritsan political advantage—the actions of only a Democratic President and the Democratic Party. Now, where is the objectivity? Where is the objectivity in that proposition?

Even if we disregard fairness, there is simply no logical reason why the Senate needs to be spending its time on this resolution. The simple truth is that the law governing the appointment of an independent counsel already provides a process that the Attorney General must follow. That process is clearly laid out in the U.S. Code, and it does not—I repeat, does not—include sense of the Congress resolutions.

The fact is, Mr. President, that this is an unprecedented behest.

Never before has the Congress attempted to dictate the naming of an independent counsel. We have never passed any measure that would tell the Attorney General, as this resolution does, that she ''should'' apply for the appointment of an independent counsel. The reason we haven't done so is because that would unnecessarily politicize a procedure that was expressly designed to restore public confidence after Watergate by taking politics out of our criminal justice system.

Furthermore, I find it ironic that we are debating this resolution at the same time that the Justice Department's Office of Public Integrity is actively engaged in an investigation of the very matters that this resolution seeks to have investigated. Career prosecutors are, as we speak, already working as part of an independent task force looking into fundraising efforts in connection with the 1996 Presidential election. In addition, a Federal grand jury has already begun hearing testimony in connection with campaign contributions to the Democratic National Committee. But under the independent counsel statute, each of those efforts would cease. There would be no further authority for the Attorney General to convene grand juries or to issue subpoenas. Where is the logic? Where is the logic in that, Mr. President?

The decision to invoke the independent counsel process is, by law, a decision for the Attorney General alone to make. Let us let the law work as it was intended. We should not, through some misguided attempt at grandstanding, pass a resolution that serves no legitimate purpose except to score political home runs. Such a course tends to call into question the integrity of the Justice Department and of the entire independent counsel process.

This resolution has not had the benefit of committee examination and has been moved to the calendar by parliamentary device—I suppose through rule XIV. While that may be acceptable for some measures, and is acceptable for some measures, I feel that, on a matter this sensitive, a committee should have certainly had the opportunity to pass some judgment. The Congress is attempting to direct an Attorney General, when the law specifies the decision to invoke the independent counsel is and ought to be, by constitutional necessity, that of the Attorney General alone.

There is a mean spirit alive in this town currently, Mr. President, which is destructive, overly partisan and overtly partisan, and thoroughly regrettable. We seem to have completely forgotten about the mundane necessities of governing, like crafting a budget and dealing with the myriad problems that face the American people.

Instead, we are engaged in a feeding frenzy, like sharks that have tasted a little blood and hunger for more. If you have ever observed sharks being fed red meat, you know that it is not a pretty picture. And I am sure that the excesses of partisanship emanating from Washington these days and being witnessed by the American people are far from appetizing.

No one is suggesting that we turn our backs on corruption or fail to explore wrongdoing. But I implore some in this body to cool off and to try to get a sense of perspective on this entire matter.

Service in the U.S. Senate is a tremendous honor. Each of us has expended great personal effort to get here, including the straining of our personal lives in order to attain a wonderful prize, a seat in this great body. The benefits of winning that prize include the opportunity to participate in governing the greatest country on Earth, the United States of America, and through the quality of that governance, to inspire and to uplift our people.

So I urge each of my colleagues to focus on that opportunity and on the great and long tradition of this body. Let's put aside this and all other unwise techniques for embarrassing each other and do something for the good of the American people. If there are those who want to embarrass themselves by wrongdoing, they will be found out because there are processes already at work to ferret out that information and bring it to the full light of day. So let us leave the investigation of campaign abuses by both political parties in the hands of the very capable people charged with conducting them and avoid the allure of ''piling on'' for political advantage. It is time for us to remember our real duties and our heavy responsibility to legislate and to govern for the common good and, by that example, so encourage our President to do the same.

Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President, I will vote against both the Republican and the Democrat resolutions.

I hold that the Attorney General should appoint an independent counsel to investigate alleged improprieties by Democrats and by Republicans in fundraising for the 1996 Presidential and congressional campaigns. I believe the public will only be reassured if an independent counsel looks into what has been happening. The issues must be aired in an independent, nonpartisan setting. And if there have been violations of law, there must be consequences.

Last week, after much debate, the Senate agreed to fund the Governmental Affairs Committee probe into illegal and improper fundraising and spending practices in the 1996 Federal election campaigns. A unanimous Senate believed that a credible investigation requires that we look not only at our President, but also at ourselves. So, too, should an independent counsel.

Senate Joint Resolution 22 suggests that the scope of the independent counsel's investigation should be limited to the allegations of wrong-doing by Democrats in the 1996 Presidential campaign. There is no mention of an investigation of congressional campaigns.

Senate Joint Resolution 23 does not call for the appointment of an independent counsel. To say again, in my view, an independent counsel is the only entity capable of conducting an investigation without dissolving into partisan bias. And it is the only way of proceeding that avoids the appearance of conflict of interest.

Mr. BIDEN. Mr. President, I would like to offer just few comments to indicate why I believe the course chosen by the majority today relating to the independent counsel is unwarranted.

First, the official responsible for initiating the appointment of an independent counsel—Attorney General

Janet Reno—has maintained the highest standards of integrity and professionalism. Second, the Attorney General has proven her willingness to request the appointment of independent counsels in the past when she believed the statutory standard was met. And, third, the Attorney General has already undertaken a serious inquiry into the campaign fundraising issues and continues to consider, as the facts develop, whether to seek an independent counsel.

As we review the facts, we must remember that the independent counsel statute is triggered only upon receipt of specific, credible evidence that high-ranking Government officials listed in the statute may have violated our criminal laws. This is an appropriately high threshold that must be met before the process of appointing an independent counsel can go forward. This standard is not met by vague allegations. The law does not apply to unethical, improper, or unseemly conduct. Rather, the statute is triggered only after the Attorney General determines, after consulting with career Justice Department prosecutors and engaging in a serious, deliberative process, that the statutory test has been satisfied.

The conduct of the 1996 elections are being carefully scrutinized by the Department of Justice. A task force comprised of career prosecutors from the Public Integrity Section of the Criminal Division, supported by over 30 FBI agents, has been assembled to explore fully the range of issues that have been raised. This task force will determine which, if any, of the allegations warrant criminal investigation. Of course, if the task force receives specific evidence from a credible source that a person covered by the Independent Counsel Act may have violated the law, a preliminary investigation under the act would be initiated. But, to date, the Attorney General has determined that the Department has not received such evidence.

In short, we are at the early stages of the task force's operations where the job is best left to career investigators and prosecutors.

What is more, under the independent counsel statute, it is the Judiciary Committee—not the full Senate—which has the most proper oversight role of the independent counsel process. I argued last week that was unnecessary for the Judiciary Committee to make any conclusions at this time as to the propriety of appointing an independent counsel. But, a majority of the committee did exactly that last week. Now, the full Senate has been called on to embark on an even more unnecessary and unwarranted course by asking all Senators to—in effect—substitute their judgement for that of the career investigators and prosecutors. I do not believe that the members of the Judiciary Committee who spend so much of their time overseeing Justice Department activities could make such a judgement now—so, I certainly do not think it possible that all the other Senators who do not sit on the Judiciary Committee can prudently or accurately make this judgement.

Not only do we have a comprehensive task force already reviewing the 1996 campaign fundraising issues, but we also have an Attorney General who has repeatedly shown her independence, integrity, and willingness to call for an independent counsel. Since taking office, Attorney General Reno has requested the appointment of at least four independent counsels—Kenneth Starr, Donald C. Smaltz, David M. Barrett, and Daniel S. Pearson—to investigate wrongdoing of high executive branch officials and other individuals covered by the statute.

In short, the most prudent course today is to wait for the Justice Department's investigation to be completed. Then, and only then, can the need for appointment of an independent counsel can be evaluated based on a complete and full record.

I would also add that this is consistent with how I have proceeded in past cases. For example, in 1992, I, along with several other Democratic Senators on the Judiciary Committee sent a letter to then-Attorney General William Barr requesting that he call for an independent counsel to investigate the possibility that high-ranking officials engaged in obstruction of justice in the prosecution of a particular case. I did so only after Attorney General Barr had appointed a special counsel, indicating that the Attorney General had already concluded that criminal conduct may have taken place. I called for an independent counsel at that point to ensure that this investigation be carried out by someone whose independence was clear, rather than by a special counsel hired by the Attorney General.

Finally, we also need to keep in mind that there are some costs to appointing an independent counsel at this time. An inquiry is already well under way—FBI agents have been assigned to the task force and, according to press reports, subpoenas have been issued and a grand jury has been convened. Once an independent counsel is appointed, that inquiry must be shut down and the independent counsel will have to start from scratch. And as we know from past experience, independent counsel investigations can linger for years. So if we are interested in resolving this matter, and getting answers as soon as possible, we ought to allow the Justice Department to go forward and put our trust in Attorney General Reno to trigger the independent counsel statute only if and when she deems it necessary.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. How much time remains for the Senator from Vermont?

The PRESIDING OFFICER. The Senator from Vermont has 6½ minutes.

Mr. LEAHY. Mr. President, Senate Joint Resolution 22 does not advance the administration of justice and is not authorized by the independent counsel law. I believe it an inappropriate effort to subvert the independent counsel process.

We spent 4 days debating this. We have yet to confirm one single judge. We may possibly have a vote on a nominee to one of the almost 100 Federal judge vacancies before we go on our second vacation. We have not had 1 minute of debate on a budget resolution. We have not had 1 minute of debate on the chemical weapons treaty. We have not had 1 minute of debate on the juvenile crime bill. But we spent 4 days on this.

I would have thought that the day the President leaves for an international summit with the President of Russia would not be an appropriate time for attacking the President. I would have thought it a time for coming together to demonstrate to the rest of the world that Democrats and Republicans can work together and can at least show support for the President of the United States as he pursues the interests of the United States in his meetings with the President of Russia.

That is the way we have always done it. In my 22 years here, under the majority leadership of Mr. Mansfield, Mr. BYRD, Mr. Baker, Mr. Mitchell, and Mr. Dole, we have always, always followed the rule that we do not bring something onto the floor of this Senate attacking the President of the United States as he is about to go into a summit.

Apparently, as the distinguished Senator from West Virginia said, there is a meanness going through this town, and that rule that has always been followed, a bipartisan rule always followed with Democratic and Republican Presidents, always followed with Democratic and Republican leaders, is not going to be followed here today. I think that is unfortunate. I think it gives an unfortunate image to the rest of the world, and it certainly is not in the best traditions of the U.S. Senate.

It is also ironic that we are being asked to take this action today knowing that last Thursday the Republicans and Democrats on the House and Senate Judiciary Committees sent written requests to the Attorney General invoking the statutory provisions that provide a limited role for Congress in the independent counsel process.

And, of course, this resolution would call for an independent counsel only for the President—it is restricted to the 1996 Presidential campaign. This resolution carefully crafted so that it won't touch any of the Republicans or Democrats in the Senate or Republicans or Democrats in the House. In other words, we say we are like Caesar's wife, we are above all this, we are untainted by any scandals. But go after the President and the Vice President; and, incidentally, let's really slam the President as he heads off to negotiate with the only other President of a nuclear superpower. I think the resolution

takes too narrow a view if we are up to making demands upon the Attorney General for an independent counsel. The resolution shields congressional fundraising practices from investigation.

Boy, somebody is not reading the paper. It didn't make sense to try to shield us from an investigation when the same limits were proposed in connection with the funding resolution for the Governmental Affairs Committee, and it does not make sense or increase our credibility with the public now.

Indeed, today, the Washington Post had a front page story reporting that a lobbyist for a foreign government was shaken down last summer by the same Member of the House who now chairs their investigation into alleged campaign fundraising abuses. Incidentally, this was not only the lobbyist but, if this article is accurate, it even went to the ambassador of a foreign power.

We on the Judiciary Committee and in the Congress have done all that the statute allows with respect to the determination by the Attorney General. The 30-day period for the Attorney General's response has begun to run. We do not need to do anything further on this at this time.

We ought to get about the real business of the U.S. Senate and abandon this ill-conceived effort to instruct the Attorney General how to proceed. She doesn't need our guidance and I do not want to derail the investigations that are under way.

But if we have to engage in this kind of sideshow, as the President leaves for an international summit, let us at least restrain ourselves from seeking to pressure the head of our Federal law enforcement agency and instead pass the alternative form of resolution that urges her to resist political pressure and follow the law. Incidentally, unlike the original resolution, the alternative resolution, Senate Joint Resolution 23, does not shield the Congress from any investigation.

I reserve the remainder of my time.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I appreciate the admonition by the senior Senator from West Virginia and repeated by the Senator from Vermont with respect to meanness. I have made every attempt during this presentation to make sure that there is none in any of the things that I have said, and to remind Senators in my opening comments that I think many Members of this body have inappropriately been stigmatized by the press and others for doing that which is perfectly appropriate and perfectly legal.

I must once again make reference to what I consider to be an inappropriate attack on the motives of the majority leader that was mounted by the minority leader earlier during this debate. I think that is inappropriate. The majority leader is acting out his good motives, even though there may be some who disagree with him.

As to the argument that this resolution somehow exempts Members of Congress and somehow exempts members of the Republican Party from any action on the part of the Attorney General, I point out the effective language of the resolution which says, ''It is the sense of Congress that the Attorney General should make application to the Special Division of the United States Court of Appeals to the District of Columbia for the appointment of an independent counsel to investigate allegations of illegal fundraising in the 1996 Presidential election campaign.''

There is nothing in there that says she shall not exercise this right with respect to a Member of Congress, that she shall not go after a Republican nominee, that she shall not do any of the other things that are simply an expression that she should do it with respect to the Presidential campaign, and no reference in that resolve portion of even Democrats rather than Republicans.

With that, Mr. President, I yield the remainder of the time to the majority leader.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

ORDER FOR MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that immediately following the stacked votes today that there be a period of morning business until the hour of 3 p.m. today, with Senators permitted to speak for up to 5 minutes each with the exception of the following: Senator DASCHLE, or his designee, in control of up to 60 minutes; Senator BENNETT, or his designee, in control of up to 30 minutes; Senator BROWNBACK for up to 10 minutes; and, Senator CLELAND for up to 15 minutes.

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

Mr. LOTT. Mr. President, today after months of media exposes and the American people asking questions about exactly what is going on here, I think the question that we are trying to answer today is, ''Why hasn't Attorney General Reno appointed an independent counsel to investigate these matters?'' Members of both parties, Democrats as well as Republicans, have asked that question, and they can't get a satisfactory answer. They have called on the Attorney General under the law involving the independent counsel to appoint an independent counsel. Senator MOYNIHAN, Senator FEINGOLD, and I think others in both parties have said this is the way that we should proceed, and this independent counsel should be appointed.

That is why we brought before the Senate Senate Joint Resesolution 22 to express the sense of this body ''that the Attorney General should make application to the Special Division of the United States Court of Appeals for the District of Columbia for the appointment of an independent counsel to investigate allegations of illegal fundraising in the 1996 Presidential election campaign.''

I cannot understand how anyone who is familiar with the language of the independent counsel statute can disagree with this resolution. And I have gone back and read it and reread it. I have been around when this statute has been passed, and modified and passed again. Frankly, I have always had some reservations about it. But it is on the books, and it is clear when it should be activated.

That statute sets two thresholds for the process of appointing an independent counsel. The first is whether there have been credible and serious allegations of illegal acts by high officials. And it defines who these high officials may be.

That doesn't mean anyone has to be presumed guilty. As long as the allegations are credible and serious, the statute requires the Attorney General to take action.

Clearly, that first threshold has been met by what we already know from news reports about illegal foreign donations and the use of White House facilities for campaign fundraising.

I need not repeat all the instances others have cited during this debate. One expose has followed another. One admission has followed another. One explanation or excuse is followed by another. Without judging anyone involved, it is as clear as can be that the first threshold of the independent counsel statute has already been met.

But if anyone disagrees with that assertion let them consider the second threshold of the law, the second set of circumstances that permits the Attorney General to take action. That second threshold is the existence of a perceived conflict of interest on the part of an Attorney General who is appointed by the President and confronted with possible illegal activities involving the White House.

This provision was put in the independent counsel statute in 1978 in order to extricate Attorneys General from serious situations just like the one in which the Attorney General finds herself now. Confronted by myriad allegations of wrongdoing within the administration, of which she is a part, it is not her role to pass judgment on them, and it should not be. Under the law, it is her responsibility to trigger the court process by which an independent counsel takes over the role and does the job which the law deliberately takes out of her hands.

Listen to the Attorney General herself on this point when she testified, just 4 years ago, on the reenactment of the independent counsel statute:

> It is absolutely essential for the public to have confidence in the system, and you cannot do that when there is a conflict or an appearance of conflict in the person who is, in effect, the chief prosecutor.

In other words, the Attorney General herself.

Who did deny that this second threshold for applying the independent counsel has been more than met? Through no fault of her own, Attorney

General Reno is caught in an excruciating conflict of interest. If she were to aggressively investigate charges of misconduct by senior administration officials, she could be accused of excess zeal to protect her own reputation for integrity. If, on the other hand, she does not uncover wrongdoing, she would be accused of letting the guilty escape because of political considerations.

To shield the Attorney General—any Attorney General—from that predicament, and to protect the integrity of the entire Department of Justice, is the essential and primary purpose of the independent counsel statute.

If that is all so obvious, why then, the question might be asked, is the Senate considering this resolution today? The answer is that we are compelled to take this step, formally expressing the sense of this institution, for two reasons.

First—it is quite common, and, in fact, almost always when there are serious issues being debated that don't necessarily require a law to be passed—the Senate expresses its collective sense on the issue of national import. If we do not do that with regard to this matter, I think we will be slighting our duty.

Second, this resolution is a result of our rising frustration with what seems to be determined inaction on the part of the Attorney General to appoint, or start the process to appoint, an independent counsel. Like the American people, we must wonder what it will take to jar the Department of Justice to activate the independent counsel law. After all, the Department is not dealing with one or two frivolous allegations. It is dealing with a steady drip, drip, drip of revelations over a period of several months that has now become a tainted stream of suspicion.

There is only one way to clean it up, and that is through the appointment of an independent counsel. Let me remind my colleagues that the purpose of such an appointment is not just to prosecute the guilty but to clear the innocent. In neither case should that be seen as a partisan endeavor.

Nonetheless, many of our colleagues on the other side of the aisle find fault with this resolution. They say it ought to apply to the Congress as well. But the independent counsel statute already does apply to Members of Congress.

If the Attorney General has received credible and serious allegations of illegal activity by one or more Members of Congress, she is already fully empowered to ask the Federal court to name an independent counsel. And it has been done in the past. Believe me, it has been done. The conflict is not between the administration and the Congress. The Attorney General can take that action. The perceived conflict of interest is when you have the Attorney General of the same party of the people in control of the White House where allegations are being made.

I respectfully suggest that the effort being made here to include the Congress in this resolution is, once again, just a distraction. That is as polite a term as I can find for something that is irrelevant to the Nation's concern about what we have seen happening.

But what has been the modus operandi? Every time another new, serious allegation comes out, the alternative by the Democrats has been to attack the people who are going to be in critical positions. Senator FRED THOMPSON, who is chairman of Governmental Affairs, his motives were impugned when we were moving through with setting up the investigation for Governmental Affairs. Insinuations, well, this has 2,000 ramifications. And now today DAN BURTON, the chairman of the committee in the House who has a job to do, yes, attack him.

That has been the way it has been done for the last 4 years. Anytime you get accused by somebody or somebody has a job to do, go after them. That is what is at stake here—distraction, obfuscation, say, well, they do it, too. No. So much of what has happened here is not normal; it is not the way it has always been done.

That campaign is the heart of matter. The campaign has been the focus and the forum on other issues whereas what we are trying to get at is a very serious matter here, illegal foreign contributions. I mean even the word espionage has been suggested in all this. We are talking about staggering sums of money that have been raised and in unusual ways.

That campaign continues to generate media allegations about improper—we voted on that last week—as well as illegal conduct.

If anyone is tempted to take the position of a pox on both houses, I have news for them. It is not true that everybody in politics per se behaves alike or ignores the law or pushes the limits of legality. There are clearly things in the law that may be debatable, but they are legal and they are appropriate. If we want to go back and have a debate—and we will have a debate this year on campaign finance reform, but before we start trying to reform the law, I think we need to look at how do we find out what happened. Who did what? What has gone on here?

If anyone is tempted to take that position, I think they need to reconsider. We do not all do it, and I do not think that it is going to work to just try to shove it off by trying to drag the Congress into it. We are trying to get at what has happened.

The independent counsel, by the way, is not necessarily going to be a slap at the President. In fact, that is the way to quiet this thing down, have the process go forward, have an appropriate investigation, find out what happened, who did what, by an independent counsel.

As a matter of fact, I am going to presume that it may not reach to the President. I do not think all of these things involve the President. They may not come to that conclusion in the end. But this is the way to get at the bottom of what really has happened. So I urge my colleagues here today do not be distracted. We have a very clear resolution here that just says it is the sense of the Senate that the thresholds have been met to provide for an independent counsel and that we should do that, make it very clear what our position is and go on with the substantive business that we have to do around here.

Some people say, how are you going to deal with the budget, less taxes, less spending, less Washington, more freedom if you are going to be fighting on these other things? As a matter of fact, maybe now we are in a position to move on. We have a committee that has been funded. They can do their investigation, their hearings. If we have an independent counsel appointed, which clearly I think the law has provided for, and the threshold has been met, then we can go on about our other business.

I urge my colleagues to vote for Senate Joint Resolution 22, I believe it is, and then vote to table the other resolution that is pending, because it is no more than a distraction because the law already provides for that coverage.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, do I not have a minute, 40 seconds remaining?

The PRESIDING OFFICER. The Senator from Vermont has 1 minute, 42 seconds.

Mr. LOTT. Mr. President, if the Senator will yield 1 second.

Mr. LEAHY. On the Senator's time.

Mr. LOTT. On my time. Do I have any time left or has all time on this side expired?

The PRESIDING OFFICER. The leader continues to have leader time.

Mr. LOTT. I thank the Chair.

Mr. LEAHY. Mr. President, I have listened to the soothing words of my good friend from Mississippi, but they do not bring out the fact the Attorney General has already formed a task force of experienced prosecutors to investigate whether criminal conduct took place in the 1996 Federal election campaigns involving, as well, 30 agents from the Federal Bureau of Investigation with subpoena power and testimony reportedly being heard before a grand jury. If a preliminary investigation is begun under the statute and an independent counsel is appointed, all this investigation stops, clang, like that. And to say that we are looking at Congress is interesting. If you read Senate Joint Resolution 22, it speaks only of investigating allegations of illegal fundraising in the 1996 Presidential election campaign. If you look at Senate Joint Resolution 23, which the majority leader wants tabled, it

speaks of Members of Congress as well as Presidential elections. It is very clear they do not want it going to the Members of Congress question.

I still say I am disappointed not to hear why we have broken decades and decades and decades of tradition to bring up something obviously aimed directly at the President of the United States as he leaves for a summit meeting with the President of the only other nuclear superpower. It has never been done, it has never been allowed by majority leaders of either Republicans or Democrats with either Republican or Democratic Presidents. Perhaps at some point in this Congress we will go back to the traditions of comity that we have seen before. But, in the meantime, let us vote on this resolution, but let us also vote on Senate Joint Resolution 23, which would include the Congress. I call on all my colleagues to be courageous enough to speak up and say we will support investigations of ourselves as well as the President.

I yield the floor.

The PRESIDING OFFICER. All time has expired. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is on the passage of the joint resolution. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 32 Leg.]

YEAS—55

Abraham	Frist	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Burns	Hagel	Sessions
Campbell	Hatch	Shelby
Chafee	Helms	Smith, Bob
Coats	Hutchinson	Smith, Gordon H.
Cochran	Hutchison	Snowe
Collins	Inhofe	Specter
Coverdell	Jeffords	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Warner
Enzi	Mack	
Faircloth	McCain	

NAYS—44

Akaka	Feinstein	Levin
Baucus	Ford	Lieberman
Biden	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Breaux	Hollings	Murray
Bryan	Inouye	Reed
Bumpers	Johnson	Reid
Byrd	Kennedy	Robb
Cleland	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Torricelli
Dorgan	Landrieu	Wellstone
Durbin	Lautenberg	Wyden
Feingold	Leahy	

ANSWERED ''PRESENT''—1

Dodd

The joint resolution was passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 22), with its preamble, reads as follows:

S.J. RES. 22

Whereas 28 U.S.C. §§591 et seq., allows the Attorney General to make application to the Special Division of the United States Court of Appeals for the District of Columbia for the appointment of an independent counsel when there is specific and credible information that there may have been violations of Federal criminal law (other than a class B or C misdemeanor or infraction) and the investigation of such violations by the Department of Justice may result in a political conflict of interest;

Whereas this Attorney General has previously exercised that discretion to apply for the appointment of an independent counsel to investigate the Whitewater matter on the basis of a political conflict of interest;

Whereas there has been specific, credible information reported in the media that officers and agents of the Democratic National Committee and the President's reelection campaign may have violated Federal criminal laws governing political fundraising activities in connection with the 1996 Presidential election campaign;

Whereas, according to reports in the media, the Attorney General has found such allegations of sufficient gravity that she has created a task force within the Department of Justice and convened a grand jury to further investigate them;

Whereas there has been specific, credible information reported in the media that senior White House officials took an active role in and supervised the activities of the President's reelection campaign and the Democratic National Committee in connection with the 1996 Presidential election campaign;

Whereas there is specific, credible information reported in the media that the decision-making structure and implementation of fundraising activities carried out by the Democratic National Committee and the President's reelection campaign were supervised by White House officials, including the President and Vice President; and

Whereas it is apparent that any investigation by the Department of Justice allegations concerning the fundraising activities of the Democratic National Committee and the President's reelection campaign will result in a political conflict of interest because such an investigation will involve those senior White House officials who took an active role in and supervised the activities of the President's reelection campaign and the Democratic National Committee: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that the Attorney General should make application to the Special Division of the United States Court of Appeals for the District of Columbia for the appointment of an independent counsel to investigate allegations of illegal fundraising in the 1996 Presidential election campaign.

RELATIVE TO THE DECISION OF THE ATTORNEY GENERAL ON THE INDEPENDENT COUNSEL PROCESS

The PRESIDING OFFICER. The Chair lays before the Senate Senate Joint Resolution 23 for 2 minutes of debate equally divided.

The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 23) expressing the sense of the Congress that the Attorney General should exercise her best professional judgment, without regard to political pressures, on whether to invoke the independent counsel process to investigate alleged criminal misconduct relating to any election campaign.

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, the full scope of fundraising irregularities on both sides of the aisle and on both ends of Pennsylvania Avenue should be the subject of investigation.

Today, we have seen reports that a lobbyist for a foreign government was being shaken down and a foreign ambassador was contacted in this regard by the House Member who chairs the committee charged with investigating allegations of fundraising abuses.

The resolution that many just voted for carefully excludes any attention to congressional conduct. The resolution on which we are now prepared to vote lets the chips fall where they may. It includes congressional election campaign activities.

Having just voted to instruct the Attorney General to apply for an independent counsel to investigate those with the Presidential campaign, let us proceed to support—not dodge by trying to table—a resolution that would allow the Attorney General to proceed with respect to congressional fundraising abuses, as well. Otherwise, the American people are going to see this as a blatant political attack on the President as he goes to Helsinki that excludes any attention to ourselves.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, as my friends on the Democratic side of the aisle have so often reminded us during the debate, there is a mechanism going forward in the Governmental Affairs Committee to investigate all aspects of the 1996 campaign, congressional as well as Presidential. This is clearly not the function of an independent counsel.

The function of an independent counsel is to investigate allegations of the most serious and difficult kinds of lawbreaking. I know of no such allegations that would require a special counsel in the area outside of those that we have talked about during the debate. Therefore, I intend to vote against this resolution because it does not address the problem that we face. Whatever problem is there will be clearly handled, and handled competently, by the Governmental Affairs Committee.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I move to table Senate Joint Resolution 23 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table Senate Joint Resolution 23. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, under Federal law, the Attorney General may conduct a preliminary investigation to determine whether to apply to the special division of the Court of Appeals for the D.C. Circuit for appointment of an independent counsel whenever she receives specific information from a credible source constituting grounds for investigating whether a Federal criminal law was violated by a specified category of executive branch officials, or where she determines that there are grounds for investigating whether a criminal law has been violated, and conducting the investigation would create a conflict of interest. If, after conducting a preliminary investigation, the Attorney General determines that further investigation is warranted, she shall apply for the appointment of an independent counsel. The appointment of an independent counsel is a serious matter and one which the Attorney General should only initiate when necessary. That is why I, and many others, had refrained from joining the assortment of calls for Attorney General Reno to appoint an independent counsel in connection with the 1996 Presidential campaign.

Yet, last week, all 10 Republicans on the Judiciary Committee felt the time had come to request such an appointment. We sent a letter to the Attorney General, as we are authorized to do by the independent counsel statute, requesting that she make an application for an independent counsel.

I must confess, as I did then, to a degree of frustration with the Independent Counsel Act. Did I appreciate having to send our letter? Certainly not. However, the law sets forth a specific process by which Congress is to request that the Attorney General begin the process by which an independent counsel is appointed, and this process requires the Judiciary Committee to make what the other party will inevitably characterize as partisan charges in order to trigger the Attorney General's responsibilities. In order for Congress to trigger the most preliminary steps for the Department of Justice to take to consider the need for an independent counsel, the law essentially provides that the party not in control of the executive branch make specific charges when and if the Attorney General fails to act on her own. I would have preferred to have had the Attorney General seek an independent counsel on her own. But she has not done so. At the very least, I would have preferred that she conduct a preliminary investigation on her own. But she has refused to do even this. I would have preferred to have requested that she seek an independent counsel without having to set forth, in such a public manner as the law requires, the specific and credible evidence which warrants such an appointment. But in order for us to require the Attorney General to take certain minimal steps toward investigating whether an independent counsel is warranted, we were required by law to send our letter. In short, the Independent Counsel Act is the law of the land and, notwithstanding its relative flaws, we on the Judiciary Committee have an obligation to abide by it.

I am hopeful that Attorney General Reno, for whom I continue to have great respect, will appreciate the concerns set forth in our letter, and will agree that an independent counsel should be appointed forthwith to investigate these matters. Recent developments have, I believe, made clear that a thorough Justice Department investigation into possible fundraising violations in connection with the 1996 Presidential campaign will raise an inherent conflict of interest, and certainly raises at least the appearance of such a conflict, and that the appointment of an independent counsel is therefore required to ensure public confidence in the integrity of our electoral process and system of justice.

With respect to the proposed alternative resolution proposed by some of my colleagues on the other side of the aisle, Senate Joint Resolution 23, I must oppose this resolution. This resolution comes on the heels of a letter some of my Democrat colleagues have written to the Attorney General urging her, should she decide to apply for an independent counsel, to request an independent counsel who will investigate the ''full scope of fundraising irregularities.'' They argued in that letter that the Attorney General should ''avoid partisanship'' by instructing the independent counsel to investigate Republicans who have ''skirted the spirit'' of the law. I appreciate what my colleagues were doing with their letter and I appreciate what they are doing with this resolution. Their loyalty to their political party is duly noted. But, as I have said repeatedly, the appointment of an independent counsel is a serious matter and partisan proportionality should not be a consideration. Would these Senators have sent this letter had the majority not sent its letter? Would we be debating their resolution had the majority leader not turned to his resolution? I think we all know the answer to that question. Furthermore, neither their letter nor their resolution cite any congressional activities which independently warrant an independent counsel nor do they actually urge the Attorney General to appoint an independent counsel.

The resolution before the Senate expresses the Sense of the Congress that the Attorney General should do only as she pleases. But, it goes on to provide, if she does decide to initiate the independent counsel process, the Attorney General should be sure to include Members of Congress. It seems my colleagues want to have the best of both worlds. It appears from the language of their alternative resolution that they do not want to go on record as having asked for an independent counsel. But, heaven forbid, should an independent counsel be appointed, he or she should be instructed to initiate a partisan fishing expedition of Congress.

The Democrats' proposal that an independent counsel, if appointed, should have jurisdiction to investigate Members of Congress is insupportable under the independent counsel statute.

The entire purpose of the statute is to avoid the existence or appearance of a conflict of interest in Justice Department investigations. This conflict is inherent whenever an investigation involves any of the high-ranking executive branch officials enumerated in 28 U.S.C. 591(a), and may also arise—and indeed has been found by the Attorney General to have arisen—when an investigation involves other executive branch officials. 28 U.S.C. 591(c)(1). Such a conflict plainly does not, however, ordinarily exist with respect to Justice Department investigations of Members of Congress. As the Senate Report on the Independent Counsel Reauthorization Act states:

> . . . no inherent conflict exists in Justice Department investigations and prosecutions of Members of Congress. This conflict does not exist, because the Attorney General is not part of the legislative branch and is not under the control of any Member of Congress. The Department also has a long history of successful prosecutions of Members of Congress. . . . Public perception of a conflict of interest is also not a problem. . . . Also, in 1993, the Department of Justice testified that no inherent conflict of interests in its prosecuting Members of Congress. . . .

The statute does provide that the Attorney General may conduct a preliminary investigation with respect to a Member of Congress where first ''the Attorney General receives information sufficient to constitute grounds to investigate whether a Member of Congress may have violated'' a Federal criminal law, and second the Attorney General ''determines that it would be in the public interest'' to conduct a preliminary investigation. 28 United States Code 591(c)(2). Neither of these two required findings are even suggested by the Democrats' proposed resolution, nor does it appear that they could even arguably be present here.

First, the Democrats have made no specific allegations that a Member of Congress has violated a criminal law, thus warranting further investigation. Whereas the Attorney General has for over 3 months been conducting an extensive investigation into alleged fundraising violations by members of the

Democratic National Committee [DNC] and the executive branch, I am aware of no such investigation pertaining to Members of Congress, and the Democrats' proposed resolution does not even purport to make such allegations. The independent counsel statute plainly does not authorize the appointment of an independent counsel with jurisdiction to go on an undefined fishing expedition to dig up unspecified violations by Members of Congress.

Second, I can imagine no reason—and my Democrat colleagues have suggested none—why it would be in the public interest to initiate independent counsel proceedings with respect to Members of Congress. The legislative history clearly indicates that there are two instances when independent counsel proceedings are in the public interest under section 591(c)(2). The first is where there would be a real or apparent conflict of interest for the Attorney General to investigate a Member of Congress. While we could imagine that there might be instances in which an Attorney General would have a conflict in investigating Members of Congress of the same party, only in the most extraordinary circumstance would an Attorney General have a conflict in investigating Members of the other party. In any event, we are confident that this Attorney General is fully capable of investigating Members of Congress of both parties.

The third reason for initiating independent counsel proceedings with respect to Members of Congress is when ''there is a danger of disparate treatment if the case were handled by the Department of Justice,'' such that ''a Member of Congress were unfairly subjected to a more rigorous application of criminal law than other citizens.'' This danger, however, clearly does not arise with respect to allegations that laws regulating the fundraising activities of public officials have been violated; if the law only applies to public officials, there is no possibility of disparate treatment between Members of Congress and private citizens. In any event, my colleagues on the other side of the aisle have not even attempted to articulate why there would be a danger of disparate treatment if the Justice Department were to investigate Members of Congress.

In closing, Attorney General Reno has appointed four independent counsels to date. It is the sense of a majority of the members of the Judiciary Committee that the need to avoid even the appearance of a conflict of interest, and thereby to ensure the public's confidence in our system of justice, requires an independent counsel in connection with the 1996 Presidential campaign. However, the record does not warrant, nor does the law permit, the appointment of an independent counsel to investigate Congress. Accordingly, I urge my colleagues to oppose Senate Joint Resolution 23.

The result was announced—yeas 58, nays 41, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—58

Abraham	Frist	Moynihan
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Burns	Hagel	Sessions
Campbell	Hatch	Shelby
Chafee	Helms	Smith, Bob
Coats	Hutchinson	Smith, Gordon H.
Cochran	Hutchison	Snowe
Collins	Inhofe	Specter
Coverdell	Jeffords	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Warner
Enzi	Mack	Wellstone
Faircloth	McCain	
Feingold	McConnell	

NAYS—41

Akaka	Feinstein	Leahy
Baucus	Ford	Levin
Biden	Glenn	Lieberman
Bingaman	Graham	Mikulski
Boxer	Harkin	Moseley-Braun
Breaux	Hollings	Murray
Bryan	Inouye	Reed
Bumpers	Johnson	Reid
Byrd	Kennedy	Robb
Cleland	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Torricelli
Dorgan	Landrieu	Wyden
Durbin	Lautenberg	

ANSWERED ''PRESENT''—1

Dodd

The motion to lay on the table the joint resolution (S.J. Res. 23) was agreed to.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, it is my understanding that the Senate will be in a period of morning business now, is that correct?

The PRESIDING OFFICER. The Senator is correct.

MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for morning business until 3 o'clock.

CHEMICAL WEAPONS CONVENTION TREATY

Mr. KERRY. Mr. President, I rise for a few moments to speak with respect to the Chemical Weapons Convention treaty. I notice the majority leader is here. I wanted to try to get the majority leader's attention for a moment, if I can. Mr. President, I know that Senator BIDEN, who is the ranking member of the committee, has been in discussions and negotiations with a number of parties, and many of us who have been deeply involved in this issue for a long period of time are growing increasingly concerned.

I raised the subject of the Chemical Weapons Convention on the floor a couple weeks ago and signaled that a great many of us were growing sufficiently concerned that we are running out of legislative time on this important treaty that we were poised to consider coming to the floor and exercising whatever rights we have as Senators in order to try to guarantee a debate on it. For years, we have been making an effort to pass this convention or to pass a convention that regulates chemical weapons. The United States of America has made a policy decision not to produce them. So we are watching 161 nations who signed off on this, and 68 of whom have ratified it, come together without the United States to set up the protocol that will govern the verification and regulatory process for chemical weapons and their precursors for years to come. If we are not allowed in the U.S. Senate to debate this and have a vote, we will not have performed our constitutional responsibilities.

I know the majority leader—he and I have had a number of conversations on this personally. I would like to begin now at least to ascertain publicly, and on the record, where we may be going so that we don't lose this critical time. I would like to know if the majority leader can guarantee us that we are going to have an opportunity to vote up or down on this convention, or whether we have to begin to be a little more creative.

Mr. LOTT. Mr. President, if the distinguished Senator from Massachusetts will yield, I would be glad to respond.

Mr. KERRY. I yield, without giving up my right to the floor.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. As the Senator from Massachusetts recalls, this issue was reported by the committee in the last Congress, and I made a commitment in connection with other bills that we would bring it to a vote. In fact, I believe it was scheduled for a vote, or we were moving toward a vote. But for a variety of reasons—and there is no use rehashing the history of it—the Secretary of State called and asked that we pull it back and not force it to a vote last year. We honored that request.

This year, there have been a number of discussions. The President did call and ask that we meet with his Director of the NSC, Sandy Berger, to talk about how we could bring it to a conclusion. At his request, I did meet with him, and Senator HELMS met with him. Other Senators that are interested have been talking with the President's representative. And we continue to work on that. I think some good progress has been made as a result of those meetings. Some conditionalities have been more or less agreed to. Of course, until it is final, it is never final. Some have been agreed to, some are still being discussed, and some probably will have to have amendments or votes on them when it comes to the floor of the Senate.

The Senator is absolutely right. We have made a decision to destroy our chemical weapons. That is a fact. We are doing that. He is also right that a number of countries have ratified that

treaty; some very important ones have not. Not only the United States has not, but neither has Russia. The indications are that they may or may not. Of course, neither has Iran.

There are some real questions that are legitimate questions on both sides of this issue. One of them is, of course, the verification question. How do you verify what some of the rogue countries may or may not be doing? How do you deal with some of the questions about things like the poison gas that we have seen in Japan? How do you deal with an issue like tear gas being used in our country? Also, there are very important questions like constitutional questions with regard to search and seizure in our country. The administration representative indicated, yes, that is an area where there is concern, and we need to work on that. Work has been done, and we continue to work on it.

This week, I met with the chairman of the committee and talked through where we are and how we can continue to proceed on this matter. I have talked to other Senators on both sides of the aisle and both sides of the issue, as to how we can move it forward. I talked to Mr. Berger again and I urged him to do a couple things. One of those things is to seriously address, with the chairman of the Foreign Relations Committee, some very important parallel issues. Although they are not necessarily tied together on a parallel basis, they are related and of great concern. The State Department reauthorization. In the previous year, I think the State Department kind of indicated, no, we don't want to do anything. That is not a tenable position. I don't think that is the administration's position.

I think the new Secretary of State has indicated that she understands and wants to do some of these things and has been talking to the chairman about that. I am hoping that additional conversations are occurring on that today between the Secretary of State and the chairman of the committee. In another parallel issue, for this very afternoon I have been able to call together a meeting of the key players, Democrats and Republicans, House and Senate, on the U.N. reform matters. We met once with the Secretary of State. We are meeting today with the new U.N. Ambassador, and we are getting a process to see how we deal with the United Nations reforms and, of course, the money that the U.N. would like to have from the United States.

So, again, that is a parallel. A lot of people are involved. None of these issues are easily resolved. All of them are very important—what we do about chemical weapons, about the State Department reauthorization, U.N. reform, and with regard to what happens processwise. I know what you are asking there.

It is our hope that we will be able to get this issue up in April. It probably would involve some hearings in the committee. But action early on, when we come back, to get it to the floor in a way where everybody will be comfortable with what amendments will be offered. There is a possibility that a statute may be offered, or a regular bill, to be considered in conjunction with the Chemical Weapons Convention.

I have given a long answer, but I am saying this to make it clear to you that I am working aggressively to address the concerns on all sides of this issue. I will continue to do so. I know you are concerned, and other concerns are concerned. You may feel that you have to do more. But I have learned over the years that as long as everybody is talking, you are probably making progress, and we are talking. I have also learned that when you have a chairman that has legitimate concerns, you have to give that chairman time to deal with those concerns.

We are trying to do that.

Mr. KERRY. Mr. President, let me say to the distinguished majority leader that, first of all, I thank him for taking the time to have this colloquy. I think it is very important.

But let me say to the distinguished majority leader that during the years that I was the ranking member negotiating this with the distinguished chairman of committee, we traveled over all of this ground. We have had these hearings. The Foreign Relations Committee has had them. The Intelligence Committee has had them. The Armed Services Committee has had them. And we all know sort of what the clouds are that are there. There is no new sort of definition with respect to those clouds.

For this Senator—and I know I speak for several other Senators, and I think two or three of them are on the floor right now—we do not want to wind up in the situation which I have seen previously. I negotiated the agreement that brought us to the floor last year with a vote. We all know we got caught up in the politics of the Presidential campaign, and that predicated that it may not have been the best moment.

The problem is that we run out of time. The clock tolls on us automatically on April 29. We do not want to wind up in a situation where there is an ability on the floor to have so little time left that we can't work through the problems. Recognizing the road we have traveled here, I do not want to come back to a situation where we have kind of sat here while the negotiations are going on and then there is no window of opportunity to sufficiently let the legislative process work its will.

Mr. LOTT. Mr. President, will the Senator yield?

Mr. KERRY. I will in just a moment.

I would like to say to the majority leader that we would like to help the majority leader and others to leverage the reality here. What we would like to suggest is that there be sort of an internal date certain within the Senate—we would suggest that date be when we return—that, between now and when we return, the administration, the chairman, and the appropriate parties have to come to cloture. If they can't come to cloture——

Mr. LOTT. Closure.

Mr. KERRY. Come to cloture on these issues, and, if they can't come to that resolution, this should be on the floor of the Senate for us to deal with in a matter of legislative urgency.

I know, Mr. President, that there is a significant group of us prepared to exercise every right available to us with respect to the Senate business in order to try to guarantee that we have the opportunity to act on the Chemical Weapons Convention.

Mr. LOTT. Mr. President, if the Senator will yield, one thing is that I do not want to mislead the Senator with regard to the probability of hearings. I assume that was a possibility. I do not think it needs long hearings. But I think a day or two—and I have not asked for those or called for them, and the chairman may or may not feel that they are needed.

So I may have mislead when I was indicating that we are talking about another whole round of hearings. I agree with the Senator. I do not think a lot of hearings need to be done again.

But I wanted to clarify that point. I didn't mean to infer that we were going through a long list or that a decision has been made. But it is something that I have asked: Is there going to be a need for a hearing on a day or so before action could occur? It could.

There is another point. I want to commend the Senator from Arizona, Senator KYL, who has spent a lot of time and has worked on these issues when he was in the House Armed Services Committee and continues to be very interested in them. He is very knowledgeable when you talk about article X, article XI, and all of the ramifications. He knows what is in this convention. He has very legitimate concerns, some of which have been addressed in a way that I think the Senator from Massachusetts would agree with and find acceptable. Others are still open, and there is time to work on those.

I want to recognize the work of Senator KYL. He may want to respond or comment on some of what has been said here today.

I just wanted to make that one clarification.

Mr. KERRY. I appreciate that, Mr. President. I know that the Senator from Michigan, Senator LEVIN, is equally as versed and has had a long interest. I know that all of us believe very deeply that where there may be a legitimate question, we are and have been—and I think the administration has been—fully prepared to try to suggest legitimacy. But we can't allow an endless series of questions to be an excuse for putting us in the box where the U.S. Senate cannot perform its constitutional responsibility to advise

and consent on a treaty as important as this one.

So we are in the predicament here where we want to offer a good-faith effort to work through every single one of those particular issues. But we have to signal that we can't do so simultaneously taking away from ourselves our own rights to be guaranteed that the Senate ought to be able to have a vote.

Mr. DORGAN. Mr. President, will the Senator yield?

Mr. KERRY. I yield.

Mr. DORGAN. I appreciate the Senator yielding.

To the majority leader I would say the power of the majority in the Congress is a power to schedule. There are a number of us on our side of the aisle who have been patient to the edge of our abilities on this issue. And the question that is being asked is, Will we have an opportunity to consider the chemical weapons treaty on the floor of the Senate? What I heard the Senator from Mississippi say is that he hoped that would be the case. I very much would like to hear a commitment at some point today or tomorrow, before we leave, that we will when we return have an opportunity at a time certain to continue the chemical weapons treaty.

Mr. LOTT. As the distinguished Senator knows, if he will yield, Mr. President, the scheduling does to a large degree rest in the hands of the majority leader. But it is usually done in coordination with both sides of the aisle. Like on the Mexico certification, or decertification, issue, quite often it can be objected to. I mean that, if I today proceeded to call up the House-passed version with the idea of offering a bipartisan substitute to it, we would have to get agreement to do that. The other option is to just call up decertification, which we could do, and start the 10-hour process running.

The point, though, is that you have to work with a lot of different parties. And I intend to do that. I think the decision will come up in April, and we will work in the direction to say that we can get it up by a date certain. Once again, I think it might raise expectations beyond what is achievable.

But we are continuing to work on that, and we are going to do it this very day.

Mr. KERRY. Mr. President, I would like to reiterate.

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. KERRY. I ask unanimous consent that I be permitted to finish this colloquy.

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

Mr. LOTT. Will the Senator yield?

As further evidence, if I could, I gave the Democratic leader yesterday and members of our conference—and I presume it was given to the Democratic caucus—a list of items that we anticipate we will consider prior to the Memorial Day recess. It includes nuclear waste, supplemental appropriations, the TEAM Act, comptime, flextime, legislation regarding chemical weapons, the Chemical Weapons Convention treaty, and others.

It is on our list of things that we anticipate will be considered before we come back.

Mr. KERRY. Mr. President, the problem is that this particular convention stands in a different place from all of those other things which the majority leader has listed, and for obvious reasons. The other things don't have a drop-dead date on them which runs into the convention processes themselves, which are controlled by other countries—not by us.

So I think everybody understands how it works around here. We could wind up in a situation where we would have a very long debate. And if we need to have a very long debate, we want to make certain that we have the ability to adequately flesh out concerns for all Members and still not run up against that deadline, or drop-dead date.

So I think what we are really trying today to say to the majority leader is that this has to be the first priority when we come back, or clearly stated as to what the date will be with a date certain.

All we are trying to do is help the majority leader convey that message to parties on his side because otherwise, obviously, we are left no choice but to try to do whatever we can to leverage a date. We are not precluding nor predetermining an outcome. But we are asking for the Senate to be able to exercise its rights and privileges.

Mr. LEVIN. Mr. President, will the Senator from Massachusetts yield for a question? I wonder if the majority leader might listen because the drop-dead date issue is a critical issue on this, of course, and the Senate should be allowed to work its will in whatever way in time so that, if we ratify, our ratification will be relevant.

My question to the Senator from Massachusetts is this: We do not know precisely the drop-dead date in terms of Senate ratification, assuming it does ratify the treaty. But will the Senator from Massachusetts agree that it is some number of days in advance of April 29?

Mr. KERRY. Yes.

Mr. LEVIN. I am wondering whether the majority leader, if I could just ask, is aware of that fact. Could I ask the majority leader whether or not, on the time of the Senator from Massachusetts, if the Senate does in fact ratify it, that ratification needs to come some days in advance of the 29th in order to meet the 29th deadline?

Mr. LOTT. I am aware that when you have a treaty issue, there are actions that occur after the treaty that could take time. We will have to—at some point we could have a full debate about what that drop-dead date is. That is the point here. It is not a specific date in terms of having to take up the treaty to get the work done, but it is a fact if you assume some action must be taken, you have to back off that in order to get the work done.

Mr. LEVIN. I thank the Senator.

Mr. KERRY. I thank the majority leader for his time on this. We will obviously be discussing it in the next day or so, and I look forward to our coming forward to some kind of mutual agreement. I thank the Chair.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I just wanted to also comment on this issue and state that I think we are to the point where it is not responsible for the Senate to go on with its other business if we cannot get agreement among Senators to bring up this very important matter on a timely basis. I think clearly we can do other work while we wait for the time certain to bring up the Chemical Weapons Convention, but if we cannot get agreement to bring it up, then I do not think it is responsible for us to go ahead and proceed with business as usual.

Unfortunately, under the rules of the Senate, the only option available to those of us in the minority is to insist that this issue, which is time sensitive, be given attention by the Senate or at least get scheduled for attention by the Senate before we proceed to other matters, and I would expect to do that in the future. I do think the majority leader is trying to move ahead with this, but evidently there are objections being raised by others. I do not question that amendments will be offered. I do not question that real issues will be raised about different portions of the treaty. That is what we are designated to do under the Constitution, to debate those issues and vote on them. We do have a responsibility, though, to have a final vote on this treaty in a timely fashion, and I think until we can get agreement to do that, it is very difficult to proceed with business as usual.

I yield the floor, Mr. President.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The minority whip.

Mr. FORD. Mr. President, let me add my voice to this for just a moment. For many of us who have chemical weapons stored in our State—and there are a good many States—this piece of legislation becomes highly important because certain language we hope to be in this treaty will allow us to look for alternate sources other than burning or destroying by burning. And so particularly in my case, where we have the nerve gas, this treaty becomes vital to us. And to have it timely considered becomes a very important aspect of alternative sources under this international treaty.

So I am here pleading for my constituency to eliminate the so-called chemical weapons. We are being held up for reorganization of the State Department, reorganization of United Nations, this thing or that thing. We are

held up when we have a deadline of April 28 and we have people out there worried about chemical weapons and how you destroy them. We have the answer under this piece of legislation, but we cannot go forward with it.

Mr. President, I hope you will listen to my friend from New Mexico, that there is going to be an effort to bring this piece of legislation up because of the deadline. If we worried about deadlines, we would have a budget. We do not have a budget. But this is an international treaty, and it has a deadline. And for one, I do not want to miss it because of the chemical weapons that need to be destroyed and the way they are to be destroyed so that we might protect your constituents.

I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I seek recognition under the time allocated to Senator DASCHLE in morning business.

The PRESIDING OFFICER. The Senator has up to 60 minutes.

Mr. DURBIN. I thank the Chair.

COMPREHENSIVE CAMPAIGN FINANCE REFORM

Mr. DURBIN. Mr. President, over the last several days of debate in this Chamber we have heard those who favored the appointment of a special counsel say that time is of the essence, and that we should move forward and ask the Attorney General to make this appointment as quickly as possible. In fact, they were so determined to pass this resolution as a bon voyage gift to the President as he heads off to the Helsinki summit that we had to vote today. Today, before the President left, we had to make certain that this gesture was made. Many of us felt this was unnecessary and ill-timed and, frankly, unprecedented, that this type of embarrassment would be directed at the President as he left our shores to head off for a critical summit with the only other superpower with nuclear weapons in the world. And yet those who prevailed on the majority side were convinced that time was of the essence: let us move forward and do it now.

Catching that spirit, I come before the Senate today with the suggestion that we not stop with this resolution but go even further and plumb the depths of the real problem that we are examining here. It goes beyond the 1996 Presidential campaign. It goes beyond the Democratic Party. What we are focusing on is our very campaign finance system itself as used by Presidential candidates, congressional candidates, Democrats and, yes, Republicans.

And so today I am hoping that that same sense of urgency, that same commitment to truth, and that same perseverance that we find changes to win back the confidence of the American people will be demonstrated when I call a resolution before this body in a few moments.

You see, Mr. President, those who follow Federal election campaigns know that there have been some dramatic changes over the last few decades. Federal election campaign costs have increased from an estimated $2.65 billion in the 1996 cycle—that is a threefold increase over campaign spending just 20 years ago even adjusting for inflation—$2.6 billion on our campaigns. In the 1995-96 election cycle, the Democratic Party committees raised $332 million, a 73-percent increase over the $192 million raised just 4 years before. The Republicans outdid us, as usual, raising $549 million, a 74-percent increase over the $316 million that they raised 4 years earlier.

Take a look at congressional races. In 1976, all congressional races in the United States cost $99 million. By 1996, 20 years later, that $99 million had mushroomed to $626 million—more than a sixfold increase.

Soft money. Well, for those who do not follow this closely, it may be a curiosity to use these terms ''hard money'' and ''soft money,'' but politicians know what it is all about. Soft money is kind of the mystery money in politics. And has it grown. Take a look at the fact that since 1992, the amount of soft money in campaigns has tripled, from $86 million to $263 million.

Stepping aside from the whole debate about the nature of campaigns and whether they are too negative, too personal and too nasty, most everyone will concede that we are plowing more and more money into our political campaigns in America.

There is a curious thing that has to be noted, though. As political campaigns have become longer, more expensive, and more negative, voters have apparently decided not to participate in elections. Consider this. Between 1948 and 1968, 60 percent of the electorate showed up to vote in a Presidential election. Then from 1972 to 1992, we saw a 53 percent turnout, a decline after Watergate. Listen to what happened in 1996, the most expensive Federal election in our history for congressional candidates, senatorial candidates and Presidential candidates, heaping dollar upon dollar in this election process. The voters out there listened carefully and a majority of them decided to stay home. So, for the first time since 1948, we had fewer than 50 percent of the electorate turning out to vote in a Presidential election; 49 percent of the electorate turned out. Is it not interesting that the more money we plow into our election campaigns, the fewer voters turn out?

Consider if you had a company and you were designing a marketing program and you went to the owners of the company and said, ''We have just got the statistics and information back. After we spent millions of dollars on advertising, people are buying fewer products.'' It might raise some serious questions. Maybe your advertising campaign is not what it should be—and I think the voters tell us that when they see negative ads. But perhaps the fact that you are spending more on advertising is not helping the low regard people have for your product. In this case, the voters told us, in 1996, in the November election, that they had a pretty low regard for the product, the candidates, all of us.

I think there is a message here, an important message about the future of this democracy. We can talk about special investigations: Did someone violate the law in 1996, Democrat or Republican, and should we hold them accountable if they did? But if we do not get down to the root cause of the problem here, if we do not address what I consider to be the serious issue of campaign finance reform, I can guarantee the cynicism and skepticism among voters will just increase. So, we have heard a lot of talk today about the sense of urgency and the need to deal quickly with this whole question of campaign finance reform. Some of my colleagues have said, ''Oh, don't move too quickly now; let us make sure we make the right changes.''

Let me show a little illustration. How much time have we spent on the issue of campaign finance reform in the last 10 years? Mr. President, 6,742 pages of hearings; 3,361 floor speeches—add one for this one today; 2,748 pages of reports from the Congressional Research Service, 1,063 pages of committee reports; 113 votes in the Senate; 522 witnesses; 49 days of testimony; 29 sets of hearings by 8 different congressional committees; 17 filibusters; 8 cloture votes on one bill; 1 Senator arrested and dragged to the floor—with bodily injury, I might add—and 15 reports issued by 6 different congressional committees. And what do we have to show for it? Nada, zero, zilch, nothing. What we have to show for it is the call for an independent counsel to determine whether someone has violated the laws under the current system. I think there is a lot more to this.

I hope my colleagues join me in believing that if this process of investigation does not lead to reform, the American people will be disappointed. It is one thing to be hyperinflated with moral rectitude about the violations of campaign law. But that is not enough. Just cataloging the sins of the current system, that is not enough. The real test is whether we are prepared to change the system, reform the law, and return public confidence to our democratic process.

There are a lot of options out there. One of those that is frequently spoken of is the McCain-Feingold legislation, I believe the only bipartisan campaign reform bill before us. Two Republican Senators and, I believe, 22 Democratic Senators have come together in an effort to have campaign finance reform. I have cosponsored it. It may not be the best, or the only, but it is a good one. We should consider it as a starting point in the debate.

Yesterday, my colleague from Minnesota, Senator WELLSTONE, Senator

KERRY of Massachusetts, and others announced agreement to introduce a plan modeled after the Maine election law reform. It is a very interesting proposal which would really deflate the money in politics. Senator WELLSTONE is here to join me in this debate and describe that bill and his own thoughts on that subject.

There are lots of ideas, good ideas. We have to really dedicate ourselves with the same sense of urgency and with the same passion to reforming the system that we are dedicated to investigating wrongdoing under the current political finance system.

At this point, I yield to my colleague from Minnesota.

Mr. WELLSTONE. I thank the Senator from Illinois.

The PRESIDING OFFICER. Does the Senator seek recognition in his own right?

Mr. WELLSTONE. Mr. President, I do seek recognition.

The PRESIDING OFFICER. The Senator is speaking within the 60 minutes?

Mr. WELLSTONE. Of course, the Senator will stay within the 60 minutes. And, I say to my colleague from Oklahoma, far less than 60 minutes. I just wanted to add a couple of things to what the Senator from Illinois has just said.

First of all, I really appreciate the emphasis of the Senator from Illinois on representative democracy in our country. I think this is the central issue for this Congress. I think this is the most important issue in American politics. I have spoken before on the floor of the Senate about this. I am not going to repeat what I have said already.

But I really think, if we want to have people engaged in the political process, if we want people to register to vote and vote in elections, if we want people to believe in our political process, if we want people to believe in us, then I think we absolutely have to deal with this awful mix of money and politics. Because regular people—which I use in a positive way—in Illinois and Minnesota and Oklahoma and around the country, know that, No. 1, too much money is spent on these campaigns; No. 2, some people count more than others and there is too much special interest access and influence; No. 3, there is too much of a money chase and Senators from both political parties have to spend entirely too much time raising money.

I just ran for office. I had to raise the money.

And, No. 4, I think people in the country know that it is getting dangerously close to the point where either you are a millionaire yourself, or you have to be very dependent upon those that have the hugest amounts of capital for these expensive capital-intensive TV campaigns. Otherwise, you are disqualified.

In a democracy, people should not be, de facto, disqualified because they are not wealthy or because they do not have access to those people who have the wealth or the economical clout or the political clout in America. That turns the very idea of representative democracy on its head. That takes the very goodness of our country and turns it on its head. That takes the American dream and turns it on its head. I have said it before, but it is worth repeating, that if you believe in the standard that each person ought to count as one and no more than one, then you would be for reform.

My last point, because I could talk about this for a long, long time, my colleague was kind enough to mention the McCain-Feingold bill. He was kind enough to mention the bill that yesterday we agreed to introduce, Senator KERRY and I, and Senator GLENN and Senator REID; and Senator BUMPERS was there as well.

Mr. President, the point today is as follows. I think people—unfortunately, but the proof is going to be in eating the pudding—believe that what is going on in the Congress amounts to little more than symbolic politics. I think people believe we are going to have a committee investigation, an attempt to move some of these issues to the Rules Committee, maybe try and bury this here, maybe have hearings and hearings and hearings, then have a variety of different charges or countercharges made, maybe more polarization, maybe more accusations. Then, after all is said and done, it will be the same moving picture shown over and over and over again, where you have hearings, speeches, reports, witnesses, you name it, followed by the same hearings, the same speeches, the same calls to action, the same kind of investigations, followed by inaction. I do not understand, for the life of me, why we do not move forward. I think the purpose of this resolution is to say, set a date.

A good friend of mine, Jim Hightower, who was great on the Ag Committee, loves to say, ''You don't have to be 'Who's Who' to know what's what.'' People in this country have figured this out. It is time for reform. We know more than enough about what is wrong. We know more than enough about what is wrong with this game, the ways it is broken, and it is time to fix it.

So this resolution calls for a date certain. It is right on mark, and I am proud to support it.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I rise also to support the unanimous-consent request that will be propounded by the Senator from Illinois.

Almost the first question from our constituents that all of us, I suppose, when we reach the airport going back to our States, confront is, ''Well, what are you working on?'' I know what I would like to be working on. A moment ago we talked about the need for this Senate to work on the chemical weapons treaty, a treaty that has been in the works for a number of years, has been signed by many countries, and would end the spread of poisonous gas around our world and make this a safer world. I would like to be working on that, but we cannot get it to the floor of the Senate. I hope it will get here soon. The power of scheduling, of course, is not on this side of the aisle.

The Senator from Illinois raises the other issue that I would like for us to be working on, and that is the issue of campaign finance reform. No one who has been paying attention in this country can fail to understand the need for us to consider campaign finance reform. The Senator from Illinois is simply raising the question, and a recommendation is implicit, to say we would like, by a date certain, to have a commitment to consider campaign finance reform on the floor of the Senate. That is what the Senator from the State of Illinois is saying to the Senate with his resolution, a resolution that I think is timely, one that I support and one that I hope will allow us to reach an agreement with the majority party on a date certain to bring campaign finance reform to the floor of the Senate.

The Senator from Illinois held up a chart that shows the number of hearings that have been held, the number of pages of testimony, the number of witnesses. There doesn't need to be a great deal more discussion about whether we should be considering campaign finance reform. The system is broken, it ought to be fixed, and there isn't just one answer to fix it. There are a number of ideas, probably from both sides of the aisle, that can contribute to an approach that will address this in a way the American people believe we ought to address this issue.

So, this issue is not one that will simply go away. This is not an issue you can bury in the backyard somewhere and forget about it. Every day when you read the newspapers, you see stories, again, about this campaign or that campaign, about this administration or that Member of Congress. The American people, I think soon, will insist to know who in the Congress, in the House and the Senate, contributed to making campaign finance reform a reality and who stood in the way.

I guess the message here is for those who do not want to see any reform of our campaign financing system, our message is to them: Get out of the way, let us at least have a shot on the floor of the Senate in crafting, hopefully, a bipartisan approach, if we can craft it, a campaign finance reform proposal that gives the American people some confidence that the abuses we have read about, the excesses, the exponential growth in campaign spending in this country can come to an end.

I happen to feel very strongly that one of the ingredients that is necessary is spending limits. The Supreme Court had a decision in Buckley versus

Valeo—it was a 5 to 4 decision, I believe —in which they said it is perfectly constitutional to limit political contributions, but it is unconstitutional to limit political expenditures. Far be it for me to speak over the shoulder of the Supreme Court, but, by the same token, I don't understand that logic.

It seems to me, and we have had debate on this on a constitutional amendment just in the last days, it seems to me that part of the answer to this problem is to reasonably limit campaign expenditures for all politicians running for all offices in a fair and thoughtful way. We do not deserve the kind of campaigns that the American people are now getting.

There are other models around the world. I kind of like the British system, where they apparently sound a starting gun, or whatever it is, and for 30 or 45 days, they scramble and wrestle and debate and do whatever you do in campaigns, and the fur flies and the dust is all over, and then the bell goes off and it is over. It is over. Then they vote.

In this country, my Lord, what happens is years in advance of an election now, we have campaign activities cranking up for President and the Senate and Congress, and it never ends. It bores the American people to death, first of all, and second, they have become so long and so expensive, is it any wonder that 50 percent of the American people said when it comes time to casting a vote, they say, ''Count me out, I'm not going to participate''?

There are a lot of things we need to do to reform our political system and make it better. It seems to me job one is this issue of reforming the campaign finance system, the method by which all campaigns are financed in this country. The Senator from Illinois is simply saying today, let us have an opportunity, a commitment, a date by which the Senate will consider campaign finance reform. I am pleased to support him, and I hope others in the Senate will do the same. I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). Who seeks time?

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, there have been a lot of headlines in the last several weeks of embarrassment to both political parties. There have been a lot of questions asked about the system by which we raise funds at all levels. Questions were raised about the use of a telephone by the Vice President, and I do not know, frankly, what was legal and what was proper in that situation, but we all know that at least two Members of this body have acknowledged that they used their office telephones in campaigns gone by to raise money. They said they will never do it again, as the Vice President has said. But it raises a bipartisan challenge to us in limiting campaign fundraising activities in any public building.

There was a question raised as to whether or not an employee at the White House was handed a check for the Democratic National Committee which she then turned over to the committee, and whether that was legal or proper. We know 2 years ago a Republican Congressman on the floor of the House walked around handing out campaign checks from tobacco companies to their favorite candidates, and that, of course, raises a bipartisan question about the propriety of receiving or distributing campaign checks in a public building, on the floor of the House or the Senate. These are all legitimate and bipartisan questions.

This morning's Washington Post raised a question on the front page as to whether a Member of Congress was putting some pressure on a certain group to raise money for him in the last campaign, and the pressure went so far as to suggest that the Ambassador from the country involved was saying, ''This is unusual; we have never had this kind of pressure put on us.'' The same charges are made against the White House: Did they go too far in soliciting contributions? Again, a bipartisan problem and one we clearly should address.

For those who have tunnel vision on this and see all of the sins and wrongdoing only on the Democratic side, I think in all honesty, they know better. We are all guilty of this. We are guilty of this at the congressional level, at the Presidential level, Democrats and Republicans, and to merely turn that spotlight on one group or one party really does not get to the real challenge here. And the real challenge is, will we change the system?

The resolution that I am going to offer says to the Senate, let us make a commitment, both sides of the aisle, that by a time certain, we will bring to this floor campaign finance reform legislation and pass it by a time certain. I do not presume what that might include. I do not presume to suggest that any bill pending might be passed. We might come up with a new work product completely, totally, but I do suggest to you that unless and until we make this commitment to reform the system, the skepticism and cynicism will continue and may increase.

So, Mr. President, on behalf of myself and Senators DORGAN and WELLSTONE, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 65, a resolution calling on the Senate to commit to bring comprehensive campaign finance reform legislation to the floor by May 31 and to adopt, as a goal, the enactment of such legislation by July 4 of this year; that the resolution be agreed to and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Did you conclude, I ask my colleague from Illinois?

Mr. DURBIN. Yes.

Mr. NICKLES. I will just make a couple brief comments concerning campaign finance.

One, I share some of the concerns of my colleague from Illinois. I will be happy to work with him. I did object to the resolution saying we wanted to have it done by May 31 or July 4. But I am committed to making campaign reform. And I will work with my colleague and friend from Illinois and others to try and see if we cannot come up with a bipartisan package that would do just that.

It may not include everything that everybody has been talking about, but it will be constitutional, and, hopefully, may be passable through both Houses. It may not include everything. We may have to pass a couple pieces of legislation before we are done. But I have been charged with the responsibility on this side to try to put together a package that is saleable. I will work with my colleague and friend from Illinois to try to make that happen.

Mr. DURBIN. Will the Senator yield?

Mr. NICKLES. I will be happy to.

Mr. DURBIN. I thank my colleague from Oklahoma for his statement. And it may be progress. I hope it is.

Would the Senator be kind enough to tell me his thoughts as to whether or not we should accomplish significant and meaningful campaign finance reform this year so that the 1998 election cycle can be a cleaner, perhaps better managed election with more interest and participation by our voters across the country?

Mr. NICKLES. I will be happy to tell my colleague, if you are asking me what the effective date of the legislation will be, I am not sure. But I do think that we have an interest, and I would say a bipartisan interest, in trying to do some things together: Greater disclosure, trying to make sure that nobody is forced or compelled to contribute to any campaign against their will, maybe making some change in contribution limits, increasing individual limits, maybe reducing other limits. Possibly we can get a bipartisan coalition on that, and doing a few other things that we might be able to get agreement on.

But the effective date, well, that would be one of the things we will have to wrestle with. That is a challenge. Some of those things for disclosure, I expect could be effective certainly for the 1998 election. If you changed individual contributions, which I am contemplating offering as one suggestion, whether that should be effective immediately or effective post the 1998 election is something we will have to discuss.

Mr. DURBIN. Will the Senator yield further?

Mr. NICKLES. Yes.

Mr. DURBIN. Could the Senator give me some assurance by the majority leadership that this issue should come to the floor this calendar year?

Mr. NICKLES. I will just tell my colleague, I have been charged with the responsibility of trying to make sure that we are ready to do that. It is my hope and expectation that we will be ready to do that—not tie this down to a particular timetable—but I hope that we will be able to do it in the not-too-distant future. Maybe we will be able to meet the timeframe as suggested by my colleague from Illinois. I am not ready to give a date. But you are saying for this year. I hope that will be the case.

Mr. DURBIN. If the Senator would further yield.

I will return and my colleagues will return with similar resolutions in the hopes that we can reach a bipartisan agreement for a timetable to consider this issue. Absent that agreement, many of us are afraid that we will once again fall into this morass of hearings and speeches and a lot of jawboning and very little progress on the subject. I hope that my colleague from Oklahoma will join me in that effort.

Mr. NICKLES. I thank my friend.

VICTIM RIGHTS CLARIFICATION ACT OF 1997

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 924 just received from the House.

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

The clerk will report.

The bill clerk read as follows:

A bill (H.R. 924) to amend title 18, United States Code, to give further assurance to the right of victims of crime to attend and observe the trials of those accused of the crime.

The Senate proceeded to consider the bill.

Mr. NICKLES. Mr. President, I wish to thank my colleague and friend, Senator LEAHY, for his cooperation in bringing this bill to the floor. As I mentioned, the House passed this bill yesterday. It was by a vote of 418 to 9.

I also want to thank my colleagues, Senator HATCH, Senator INHOFE—who is an original cosponsor of this legislation with me—Senator GRASSLEY and Senator KENNEDY and their staffs for working together with our staff to make this bill possible.

And I want to thank the bipartisan and bicameral cooperation that we have had because we have negotiated with the House, came up with similar legislation to correct, I think, a mistake, a problem.

Mr. President, we introduce this legislation on behalf of the victims of the Oklahoma City bombing and other victims of crime. This legislation will clarify the rights of victims to attend and observe the trial of the accused and also testify at the sentencing hearing.

The Victim Rights Clarification Act is necessary because a Federal judge interpreted his sequestration power as authorizing the exclusion of victims of crime from trial who will only be witnesses at sentencing. The district judge presiding over the Oklahoma City bombing case basically gave the victims and their families two choices. They could attend the trial and witness the trial—or in this case we have closed-circuit TV for the families, since the trial is actually in Denver and many of the families are in Oklahoma City. So they have closed-circuit TV. They have two options: They can view the trial in Denver or in Oklahoma City, or they could participate in the sentencing phase of the trial.

Most of the families of the victims wanted to do both—or many wanted to do both. They should not have had to make that decision. This legislation will clarify that.

Such rulings as the judge made extend sequestration far beyond what Congress has intended. The accused has no legitimate basis for excluding a victim who will not testify during the trial. Congress thought it already adopted a provision precluding such sequestration in the victims' bill of rights. This bill clarifies the preexisting law so it is indisputable that district courts cannot deny victims and surviving family members the opportunity to watch the trial merely because they will provide information during the sentencing phase of the proceedings.

This bill also applies to all pending cases and in no way singles out a case for unique or special treatment. Rather, a serious problem has come to light and Congress has responded by clarifying the applicable Federal law across the country from this day forward.

The U.S. Supreme Court has specifically upheld the power of Congress to make ''changes in law'' that apply even in pending cases. In Robertson versus Seattle Audubon Society, a unanimous court explained that Congress can ''modify the provisions at issue'' in pending and other cases. This bill makes it clear that Federal crime victims will not be denied the chance to watch the court proceedings simply because they wish to be heard at sentencing.

This bill will be enforced through normal legal channels. Federal district courts will make the initial determination of the applicability of the law. In disputed cases, the courts will hear from the Department of Justice, counsel for the affected victims, and counsel for the accused. If the district court persists in denying a victim the right to observe a trial in violation of the law, both the Department of Justice and the victims can seek appellate review through the appropriate pleadings.

Once again, Mr. President, this is an important piece of bipartisan legislation that will clarify the intent of Congress with respect to a victim's right to attend and observe a trial and testify at sentencing.

I very much appreciate the support of my colleagues in both the Senate and the House who have made this bill possible today. I am very grateful for their assistance. I know that I am speaking on behalf of hundreds of victims and the families in Oklahoma City, that they are grateful for this legislation, and a special thank you to my colleagues, Senator INHOFE and Senator LEAHY and Senator KENNEDY and Senator HATCH, for making this bill possible.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I am pleased to join my friends, Mr. HATCH, the two Senators from Oklahoma, and Senator GRASSLEY, as an original cosponsor of the Victim Rights Clarification Act of 1997.

I am glad we are considering and passing this important legislation. They are doing this in an expeditious and bipartisan manner.

Two of the most important rights Congress can safeguard for crime victims are the right to witness the trial of the accused and the right to be heard in connection with the sentencing decision. The Victim Rights Clarification Act is not the first time Congress has addressed these two ideas. In 1990, we passed the Victims' Rights and Restitution Act, providing that crime victims shall have the right to be present in all public court proceedings related to the offense, unless the court determines the testimony by the victim would be materially affected.

In the Violent Crime Control Act of 1994, Congress included several victims' rights provisions. For instance, we amended rule 32 of the Federal Rules of Criminal Procedure to require Federal judges at the sentencing for crimes of violence or sexual assault to determine if the victim wishes to make a statement.

Last year, we enacted the Televised Proceedings for Crime Victims Act as part of the Antiterrorism and Effective Death Penalty Act of 1996. That responded to the difficulties created for victims of the Oklahoma City bombing.

Mr. President, I think this is important because so often what we set in the criminal procedures in the Federal court are then adopted by the State courts. During my days as a prosecutor, I felt victims should have complete access to the court during a trial and that victims should be heard upon sentencing. Frankly, I found many times when the person being sentenced had suddenly gotten religion, had suddenly become a model person, usually dressed in a better suit and tie than I wore as a prosecutor and was able to cry copious tears seeking forgiveness and saying how it was all a mistake, sometimes reality came to the courtroom

only when the victim would speak. I remember one such victim had very little to say, with heavy scars on her face that would probably never heal. That said more than she might.

I say that, Mr. President, because in enacting this legislation, we affect not only Federal courts directly, which of course I think is important, but I say to my colleagues in the Senate that after this is experienced in the Federal courts for a couple of years, we are going to find the same procedures followed by State courts all over this country. We saw it in the Federal Rules of Civil Procedure. We see it in the Federal Rules of Criminal Procedure. If they work in the Federal courts, they tend to work in the State courts.

I am glad to join with my friend from Oklahoma, the distinguished senior Senator from Oklahoma and his colleague, Senator INHOFE, in support of this legislation which shows how responsive Congress can be to victims' rights.

The Supreme Court has also spoken to whether victim impact statements are permissible in death penalty cases.

In the 1991 case Payne versus Tennessee, the Supreme Court made clear that a sentencing jury in a capital case may consider victim impact evidence relating to the victim's personal characteristics and the emotional impact of the murder on the victim's family.

The Court observed that it is an affront to the civilized members of the human race to say that at sentencing in a capital case, a parade of witnesses may praise the background, character, and good deeds of the defendant, but nothing may be said that bears upon the character of, or the harm imposed upon, the victims.

Unfortunately, the victims in the Oklahoma City bombing case are being categorically excluded from both watching the trial and providing victim impact testimony. Thus the victims are faced with an excruciating dilemma: If they sit outside the courtroom during the trial, they may never learn the details of how the justice system responded to this horrible crime. On the other hand, if they attend the trial, they will never be able to tell the jury the full extent of the suffering the crime has caused to them and to their families.

I do not believe that current law thrusts this painful choice upon victims in this country. However, recent court rulings reveal the need to clarify and even hone existing law. That is exactly what Congress is doing by passing the Victim Rights Clarification Act of 1997.

This important legislation will:

Clarify that a court shall not exclude a victim from witnessing a trial on the basis that the victim may, during the sentencing phase of the proceedings, make a statement or present information in relation to the sentence.

Specify that a court shall not prohibit a victim from making a statement or presenting information in relation to the sentence during the sentencing phase of the proceedings solely because the victim has witnessed the trial.

Just as importantly, the Victim Rights Clarification Act will not:

Apply to victims who testify during the guilt phase of a trial.

Eliminate a judge's discretion to exclude a victim's testimony during the sentencing phase that will unfairly prejudice the jury. Specifically, the legislation allows for a judge to exclude a victim if he or she finds basis—independent of the sole fact that the victim witnessed the trial—that the victim's testimony during the sentencing phase will create unfair prejudice.

Attempt to strip a defendant of his or her constitutional rights.

Overturn any final court judgments.

My cosponsors and I worked together to pass this legislation within a timeframe that could benefit the victims in the Oklahoma City bombing cases.

Our final legislative product, however, will not only assist the victims in the Oklahoma City bombing case, but crime victims throughout the United States.

In response to real people, real problems and real pain, Congress has demonstrated its ability to find a real solution—the Victim Rights Clarification Act of 1997.

Mr. HATCH. Mr. President, I rise today to speak briefly in support of H.R. 924, the Victims' Rights Clarification Act of 1997. A companion to this bill was introduced this past Friday by Senator NICKLES as S. 447, which is cosponsored by Senator INHOFE, myself, Senator LEAHY, and Senator GRASSLEY. I was proud to be an original cosponsor of this vital bill because it advances the rights of crime victims in the criminal justice process. This bill will ensure that victims of a crime who may be victim-impact witnesses at the sentencing phase of a trial are able to attend that trial and still testify at sentencing.

Mr. President, too often the victims of crime seem to be forgotten as the wheels of justice turn. In a sense, they are victimized twice—first by the criminal, and then by a justice system that too frequently treats them as irrelevant to the administration of justice.

This legislation clarifies that the victims and survivors of crime who might present testimony at sentencing about the effects of the defendant's act should not be prevented from observing the trial. It also clarifies that, conversely, observing the trial is not grounds for excluding a victim or survivor from presenting impact testimony at sentencing. In 1991, the Supreme Court ruled in *Payne* v. *Tennessee* [501 U.S. 808] ruled that victims and survivors may be given the right to provide testimony at sentencing about the victim and the impact of the crime on the victim's family. Since then, Congress has ensured that the Federal Rules of Criminal Procedure provide this right to victims of violent crimes when the defendant is tried in federal court.

Recent court decisions have made it evident that some clarification of this right is badly needed. These decisions have excluded from trials victims and survivors who might give impact testimony at sentencing.

Generally, witnesses may be excluded from viewing a trial until they have testified. The rationale for this rule, known as the rule on witnesses and embodied in rule 615 of the Federal Rules of Evidence, is the need to prevent witnesses from collaborating on their testimony, as well as the need to prevent each witness from shaping his or her testimony to the testimony that already has been presented. Those rationales do not apply, however, when victims testify at sentencing about the effect of the crime on their own lives. As a result of this bill, victims and survivors will be permitted to observe the trial and still testify about the effect of the crime on their lives, without running afoul of the policy underpinnings for excluding witnesses from viewing a trial.

Another rationale for application of the rule on witnesses, and one that has been advanced to prevent victims from both observing the trial and presenting impact testimony, holds that a victim may testify only about the effect of the crime on his or her life, not about the effect of the trial on his life. But, Mr. President, for the victim the trial is one of the effects of the crime and becomes forever a part of the victim's life.

Remember, this amendment deals only with victim impact testimony. By that point in the process, the defendant already has been convicted. In my view, it is not unfair for the law to treat the effect on a victim of viewing a trial as part of the effect of the crime, since the trial is a proximate, reasonably foreseeable consequence of the commission of a crime. As the result, a victim should be free to see the trial and still give victim-impact testimony at sentencing.

This bill will ensure that victims of crimes have an opportunity to alleviate some of their suffering through witnessing the operation of the criminal justice system. Moreover, this bill will accomplish this salutary result without having forced upon them the cruel choice of observing the trial or giving impact testimony at sentencing. Indeed, the bill before the Senate is a significant improvement over the legislation originally introduced in the other body because, unlike the original House bill, it specifically ensures that victims have the right both to attend the trial and provide impact testimony at sentencing. The opportunity to do both is critical to providing closure to victims and ensuring justice for victims, as well as defendants and society.

Mr. President, this provision is not controversial. I hope that it can be

passed by the Senate and sent to the President for his approval without delay.

Mr. INHOFE. Mr. President, I am pleased to join my colleagues, Senators NICKLES and LEAHY in getting through the Senate H.R. 924, the Victim Allocution Clarification Act. This is an important issue for victims and their families of the Murrah Federal Building bombing. Clearly, we would not have been able to get this through unless there was widespread support for clarifying congressional intent with respect to the rights of victims and their families.

Although the Victims Rights and Resolution Act of 1990 provided that victims have the right to be present at all public court proceedings, it conditioned that on a court determination that the testimony by the victim would not be materially affected if the victim heard other testimony at the trial. Recent courts decisions have held that victims cannot attend the trial and submit a victim's impact statement. H.R. 924 clarifies congressional intent by allowing the victim and their family to both attend the trial and submit a statement during the sentencing phase.

I believe this language has reached a delicate balance between protecting the rights of the victims while maintaining the constitutional protections of the defendant. As noted by Senator NICKLES, it is critical that we pass H.R. 924 before the trial in the Oklahoma City bombing case begins on March 31. I appreciate the efforts of all involved in getting through the Senate and House expeditiously.

Mr. NICKLES. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 924) was deemed read a third time and passed.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my friend and colleague, Senator LEAHY from Vermont. We have done something rather unusual. We worked together in a very bipartisan fashion to do some good work, and we did it very quickly. It is not often that Congress passes legislation this quickly, and we did so.

Also, I want to thank Senator DASCHLE and Senator LOTT because we wanted to expedite this. We would like to get it to the President before he leaves the country today. This trial happens to start on the 31st of this month.

I might mention that this is the third piece of legislation that we have passed that deals directly, or has had some impact, I guess, as a result of the Oklahoma City bombing. Last Congress, we passed legislation dealing with habeas corpus reform, one of the most significant improvements, I think, in our statutes dealing with criminal law in a long time. We wanted to have an end to endless appeals. I think the Oklahoma City tragedy gave us great momentum to make that happen. I remember several of the victims coming to testify, urging Congress to enact a crime bill, but also urging Congress to enact habeas reform because they wanted to see justice soon rather than later.

We also passed legislation to allow closed-circuit TV so victims would not have to go all the way to Denver. I was disappointed the decision was made that the trial would be held in Denver. Originally, the judge said the people would have to attend to witness the trial. This trial could last for months. We passed legislation basically mandating that closed-circuit TV would be allowed in this case and, hopefully, other cases. Hopefully, we will not have other cases, but if we have another case that might be identical to this, the victims and their families would not have to travel several hundred miles just to be able to witness the trial.

Finally, we passed this legislation, this important legislation, to allow victims and their families to be able to witness a trial and also, if they desire, to be able to testify during the sentencing phase. This would not have happened if we did not have bipartisan support.

Again, I thank my colleagues for making it happen. I am delighted. On behalf of hundreds of Oklahoma City families who are directly impacted, we say thank you to both our colleagues in the House and the Senate for passing this legislation today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

CAMPAIGN FINANCE REFORM NEEDED

Mr. CLELAND. Mr. President, I rise to speak on the floor of the U.S. Senate for the first time. I do so with mixed emotions. Following in the great tradition of this seat once held by such notables as Dick Russell and Sam Nunn, I am poignantly aware that freshman Senators should be seen and not heard. However, there is an issue building in this country which I feel obligated to comment on and regarding which I can no longer remain silent. This is the issue of reforming the way we finance our political campaigns at the Federal level, particulary seats in the U.S. Congress, and especially seats in the U.S. Senate.

There are many other issues facing our Nation to which we are all compelled to pay time and attention: issues such as eliminating the Federal deficit, taking care of those who have served this Nation in the Armed Forces, caring for our elderly and our young, improving our environment, and recommitting our educational system to excellence. However, as important as these issues are, in my opinion, they are all secondary to the basic issue before us—the need to recapture the public's faith in our democratic processes and our democratic institutions. Without that faith, all of these other endeavors will be undermined.

Confucius, the noted Chinese sage, once wrote that there were three things that make up a great nation: First, a strong defense; second a vigorous economy; and third, the faith of people in their government. Confucius noted that a great nation might do without a strong defense, or that a great nation might be able to do without a vigorous economy, but, Confucius noted that a great nation could not remain great without the faith of the people in their government.

Mr. President, I am committed to supporting programs and plans for a strong defense for our Nation. I serve on the Senate Armed Services Committee with great pride and a sense of awesome responsibility in this regard. I also am committed to a vigorous economy, and to upgrading the quality of education in America, in particular to creating hope for all of our qualified youngsters that they will have an opportunity to go to college or to receive vocational training. In furtherance of this objective, I am a cosponsor of S. 12, a program designed to provide a $1,500 tax credit and a $10,000 tax deduction to working families so they can see their children achieve the American dream. But I am especially committed to doing those things which we need to do to enhance the faith of people in this country in their own Government by cleaning up the campaign finance mess.

When I first came to Washington as a young college student in the fall of 1963, I was inspired by President Kennedy to get involved in public service. I especially enjoyed meeting and learning from Members of the Senate. I can vividly recall personal meetings with Senators Russell and Talmadge from Georgia, and a young Senator from West Virginia named ROBERT C. BYRD. In those days, my heart was stirred to devote my life to politics.

Many of us in this Chamber today got our first taste of politics in the early sixties. For me, that introduction was a positive one.

However, when I was sworn in here on the Senate floor on January 7 of this year, I could not help but think how differently our current leaders and our current institutions are perceived by today's public, especially our young people. I do not believe that our leaders or our institutions are of lesser caliber that those of my youth, but something has obviously gone wrong. We in public

office today face a hostile and cynical public, quite willing to take the worst possible reports about us and believe them instantly. One of the reasons for this attitude toward our public officials, I think, is the constant money chase that U.S. House and U.S. Senate campaigns have become. Additionally, when this money is spent on 30-second character assassination ads which have become the staple of American politics, can we expect our public to truly speak highly of us?

I believe the single most important step we can take in the Congress this year in restoring public confidence and faith in our democracy is to enact meaningful campaign finance reform. This is not a problem for Democrats. This is not a problem for Republicans. It is a problem for us all. We must act together in a bipartisan manner to clean up a system which has gotten completely out of control and which undermines both the operation and reputation of our entire national Government.

Throughout my early days in this body, I and all of my colleagues have been under a constant barrage of reports of campaign financing improprieties in the 1996 elections. I feel very strongly that our current campaign system has become a national embarrassment.

Will Rogers said back in the 1930's that, ''Politics has got so expensive that it takes lots of money to even get beat with.'' How true that is, especially today. In the 1960's a Georgia politician remarked, ''The only thing tainted about political money is that it 'taint mine and 'taint enough.''

The American public isn't laughing anymore. They are demanding a change in the attitudes of politicians on the question of campaign fundraising. We currently have a political system which is drowning in money and rife with real and potential conflicts of interest. Simply stated, we have too many dollars chasing and being chased by too many politicians too much of the time.

This unseemly money chase has taken its toll in terms of public confidence. The election year of 1996 witnessed both a record high in the amount of money spent in pursuit of Federal office—a staggering $800 million—and the second worst voter turnout in American history! In 1996, 10 million fewer voters went to the polls to cast their ballots in that Presidential year than went to the polls 2 years earlier. What's wrong with this picture? Some $220 million was spent on Senate races alone. In my Senate race in Georgia, I raised and spent some $3.5 million, but was outspent by a multimillionaire who spent over $10 million running for the Senate seat—$7 million of which was his own money. Is it any wonder that more and more of our citizens see that there is a for sale sign on more and more public offices in America? If we don't bring about reform of this process, limit expenditures, and establish rules for everyone to play by, the average citizen will have less and less chance to serve in this body or run for public office. Senator DASCHLE predicts that at the current pace of the money chase, in only 29 years the average Senate race will cost $143 million.

This is insanity.

We cannot allow the Congress of the United States, especially the U.S. Senate, to become a millionaires' club dominated by the rich and run by the powerful special interests. This system continues to take its toll on this body as the money chase continues. The exodus of distinguished, veteran legislators who have voluntarily departed from the U.S. Senate in the last 2 years is at an historic level. Even in my first 2 months in the Senate, I have seen noted Republican and Democratic legislators like DAN COATS, JOHN GLENN, and WENDELL FORD announce their retirement from this body partially because of the frustration of spending the next 2 years doing nothing but raising money for their upcoming campaign. Senator FORD spoke the thoughts of many when he said on his retirement:

> The job of being a U.S. Senator today has unfortunately become a job of raising money to be reelected instead of a job doing the people's business. Traveling to New York, California, Texas, or basically any State in the country, weekend after weekend for the next 2 years is what candidates must do if they hope to raise the money necessary to compete in a Senatorial election. Democracy as we know it will be lost if we continue to allow government to become one bought by the highest bidder, for the highest bidder. Candidates will simply become bit players and pawns in a campaign managed and manipulated by paid consultants and hired guns.

The essential first step in repairing the current system is passage this year of S. 25, the bipartisan McCain-Feingold campaign finance reform bill. I am very proud to be an original cosponsor of this proposal. It was the very first piece of legislation I attached my name to as a U.S. Senator. Briefly outlined, the bill would: ban soft money contributions to national political parties; ban contributions by political action committees to Federal candidates; establish voluntary spending limits, including limits on personal spending, and require that at least 60 percent of funds be raised from home State individuals for Senate candidates; provide candidates who abide by these spending limits with limited free and discounted television time and a discount on postage rates; require greater disclosure of independent expenditures; and prohibit contributions from those who are ineligible to vote in Federal elections, including non-American citizens.

Mr. President, the best endorsement I can think of for this measure is that had McCain-Feingold been in effect for the 1996 elections, we would not now need to divert our attention away from the many serious problems facing our country in order to devote time and energy toward the investigation of campaign finance abuses. I serve on the Governmental Affairs Committee which will be conducting this investigation. I fully support the purposes for which this investigation is intended, but I'm saddened it has to be undertaken in the first place. I only hope that this effort will result in meaningful campaign finance reform this year.

After we pass McCain-Feingold, we will need to turn to additional reforms in order to further improve our electoral process. I am working on legislation which would strengthen the Federal Election Commission. The proposal would do several things: Alter the Commission structure to remove the possibility of partisan gridlock; eliminate current restrictions on the Commission's ability to launch criminal investigations, and to impose timely, and effective penalties against violations of campaign law; and mandate electronic filing of all reports.

In addition, my proposal would expand the free air time provisions of McCain-Feingold in order to help level the playing field for challengers, and attack the single biggest factor in driving up campaign expenditures—expensive television costs. Finally, I am looking for methods to effectively enforce a shorter timeframe for the conduct of campaign-related activities.

Strengthening enforcement, expanding public access to information about candidates and their ideas, and reducing the length of the campaign season will, in my judgment, build upon the solid foundation which I hope we will create when we enact S. 25.

We have important work ahead, and often times there will be legitimate partisan, philosophical, and regional differences of opinion which should be voiced and acted upon. However, we have a shared interest, as Senators, but more importantly, as American citizens, in always acting to enhance the respect our citizens have for our great country and our democratic institutions, especially this body.

In that spirit, and with that commitment, I urge my colleagues to join in the cause of mending our broken campaign finance system. Let us create a new campaign finance system which instills public confidence rather than undermines it, and aids the governing process rather than hinders it.

President Grover Cleveland was right: ''A public office is a public trust.'' The current money chase we all engage in is severely eroding that trust. We must act to change a campaign finance system that is broken, or continue to see good men and women from all walks of life and from all political persuasions broken by it.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. FEINGOLD. Will the Senator yield for a brief comment?

Mr. BROWNBACK. Just for a brief comment. I have a limited period of time.

CONGRATULATIONS TO SENATOR CLELAND ON HIS MAIDEN SPEECH

Mr. FEINGOLD. I thank the Senator. All I wanted to do is be the first to congratulate the Senator from Georgia on his first speech as a Member of this body. I can't tell you how delighted we all are to have the Senator from Georgia here. The Senator from Georgia ran a tough race. I know the Senator from Georgia has run other races before.

The people of Georgia know well that the Senator from Georgia did not come to this campaign finance reform issue in the last few weeks, or just after the revelations of the last election. The Senator from Georgia has been a leader in Georgia and in the country for years in authoring and considering and moving forward the issue of campaign finance reform. I can't think of anything that made me happier than when the Senator from Georgia said his first bill would be to cosponsor our bipartisan effort. On behalf of my colleagues and myself, it is a great moment in the Senate to have the Senator from Georgia join us and to hear his first speech.

Mr. WELLSTONE. Mr. President, I wonder if I may have 30 seconds.

Mr. BROWNBACK. Yes.

Mr. WELLSTONE. Mr. President, I echo what my colleague from Wisconsin has said. I believe, I say to the Senator from Georgia, that when we pass the reform bill in this Congress—and we must and we will—the words uttered in the Senator's first speech on the floor of the Senate will be remembered and will be part of a good piece of history in this country. I thank my colleague from Georgia, and I thank the people from Georgia for sending him here.

Mr. BYRD. Mr. President, will the Senator yield for a brief comment? I ask unanimous consent that he retain his right to the floor and that the time consumed by me and by the two Senators preceding me not come out of the Senator's time.

Mr. BROWNBACK. I am happy to yield for a minute, if I could please, sir.

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

Mr. BYRD. Mr. President, I join with others of my colleagues in complimenting the distinguished Senator from Georgia on his maiden speech.

It used to be, Mr. President, that when a new Senator came to this body, he waited several months before he spoke. Then when he made his maiden speech, other Senators who had been notified that he was going to make a speech would come to the floor and gather around him and listen to his speech. In those days we did not have the public address system. So Senators generally moved toward the desk of the Senator who was speaking so they could hear him better.

I have enjoyed listening to the distinguished Senator. He comes here today as someone who is fresh off the campaign trail. I am sure that what he has had to say is something of importance, and I hope it will be read by our colleagues. He comes in the great tradition of Senators from Georgia. When I first came to Washington as a new Member of the Congress, we had Senator Walter George in the U.S. Senate, and Senator Richard Russell, who was my mentor in many ways, and it was I who introduced the resolution to name the old Senate Office Building in honor of Senator Richard Russell. Of course, there was also Sam Nunn, who followed in Senator Russell's footsteps.

I congratulate the distinguished Senator. He is a true American hero. I know that he will be an outstanding Member of this institution. I congratulate him.

I hope that all Senators will take note of what Senator CLELAND has said in his speech today. It will be well worth their time to read that speech.

I thank him.

And I thank the distinguished Senator from Kansas.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I want to recognize and congratulate the Senator from Georgia for joining the body. I am joining him on his first maiden speech.

I also thank the Senator from West Virginia for educating and sharing with us some of the culture and the history of the U.S. Senate, which I think is always beneficial for us to have and to be able to share with the American people the history, the ability, and the nature of this body as it was set up by the Founding Fathers and which has been maintained with most of its integrity since that time and age of what they set forward.

I think it is always positive for us to know the history and the nature and why we serve and how we should serve.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his very kind and overly charitable remarks.

Mr. BROWNBACK. They are not overly charitable at all.

(The remarks of Mr. BROWNBACK pertaining to the introduction of S. 471 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Florida.

Mr. GRAHAM. Mr. President, first, I wish to add to the remarks that have been made this afternoon in recognition of the first speech given as a Member of the U.S. Senate by our new colleague, the Senator from Georgia. He has represented this Nation with great distinction throughout his life, and we are gratified that he has now joined us in the Senate. I am confident that the remarks he made a few minutes ago will be illustrative of the contributions he will make throughout his Senate career. I am proud to call him a friend and colleague.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent that Ms. Delia Lasanta, a fellow in our office, be allowed privileges of the floor during consideration of the legislation that I will be introducing this afternoon with my friend and colleague, the Senator from Idaho [Mr. CRAIG].

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

(The remarks of Mr. GRAHAM and Mr. CRAIG pertaining to the introduction of S. 472 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Missouri.

COMMUNICATIONS DECENCY ACT

Mr. BOND. Mr. President, I rise today to join with a number of my colleagues to say there was a very important argument in the Supreme Court today over the constitutionality of the Communications Decency Act, which we passed last year. You will recall that we passed a bill to make it difficult to communicate pornography to children. The day it was passed and signed, the American Civil Liberties Union jumped in to say it was unconstitutional. I'm sorry, but I think the ACLU has it all wrong. I was very pleased to be one of a group of Senators, including the occupant of the Chair, who signed a brief in support of Congress' effort to impose reasonable regulations and restrictions to prevent the worst form of pornography from reaching our children.

Congress can regulate speech when there is a compelling reason. That has been clear. That has been held constitutional in many instances, and I suggest that there is no more compelling need than to protect our children and future generations from exposure to explicit pornographic pictures and messages, and from the people who send them.

The government, both the Federal Government and State and local governments, have engaged in efforts to regulate pornography. We regulate media available to children such as the sale of books and magazines, the viewing and sale of films, the use of telephone services to communicate adult messages, and the broadcast media. So, this has been done and it has been done for a very good and I believe a very compelling reason. The standard put forth in the Communications Decency Act is even more stringent than that, in terms of the limitations of it. The constraints are more severely limited than the constraints on the broadcast media. We have tightened up the definitions and made the ban much narrower.

The Internet is clearly the latest means of communications. Any of us

who have children knows how readily accessible the Internet is. If you are like I am, when you have a computer problem you ask your child how to fix it, because the children know how to make it work. My forehead still breaks out in perspiration and my hands shake when I try to send e-mail. But the kids can not only send the e-mail for you, they can tell you how to send it, fix the problems on it, and make things happen. We want to make sure that what they do not make happen is that they get access to things that are now banned to them through adult book stores, through broadcast media, through telephone communications. They should not be subject to the deviants, the pornographers, the child molesters who want to use the Internet in an interactive way to get access to our children.

There are, unfortunately, an abundance of examples of where perverts have used Internet communications to communicate with and to lure young children to locations away from their homes. They have used pornography as a tool. Not only have they polluted children's minds with this pornography, but they have used it as a tool for their own, very sick purposes.

In Louisville, I know there was a 12-year-old girl who was sent a bus ticket and left home without her parents knowing about it. These examples have happened time and time again. I believe this Congress had every right to say it is OK for adults to communicate anything they want but you cannot be sending material to children that is pornographic. You cannot be putting pornographic information on the kiddie chat rooms.

Contrary to what the ACLU will tell you, the Communications Decency Act does not ban speech or interrupt the free exchange of ideas. There is technology available that can keep children from gaining access to it. And if it takes a pornographer a little more difficulty to communicate pornographic materials to another consenting adult, so they do not get the information before children, I am not going to lose any sleep over it.

There is every reason that we can, under the Communications Decency Act, continue to use the Communications Decency Act for communicating medical information, discussing literature—these are not banned. If the purpose is getting pornography, for pornographic purposes or even personal whims of those who communicate it, to children, that the Communications Decency Act bans.

I think this should be upheld. I am proud to be one of the signers of the brief and we will all be watching to see this very important case resolved by the U.S. Supreme Court.

I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

THE BUCK MUST REST SOMEWHERE ELSE

Mr. COATS. Mr. President, yesterday, I took the floor to detail what I thought was an extremely disturbing and very potentially abuse of Executive power of the White House to improperly influence the outcome of the American Presidential election. As part of that chronology of events of information that we now know that has been printed and that we are aware of, I detailed the situation relative to the latest scandal that has been reported in the press, and that involves Mr. Lake, former National Security Adviser to the President, an individual nominated for the job as Director of the CIA.

Mr. Lake, as we all now know, withdrew his name from consideration the day after a major story broke about a problem involving the Democratic National Committee, the Central Intelligence Agency, the National Security Council, and the fundraising operation of the White House. I think this is probably the most damaging, or at least one of the most damaging allegations relative to the entire fundraising efforts by the Democratic Party for this last election. We now know that the Central Intelligence Agency was used by the Democratic National Committee to encourage access to the President by an individual who is an international fugitive and was a major donor to the Democratic Party.

The administration, in response to Mr. Lake's withdrawal, indicated that it was the confirmation process by members of the Intelligence Committee that is at fault in the withdrawal of the Lake nomination. The fault, Mr. President, I suggest, lies elsewhere. The Lake nomination was eventually undermined because Mr. Lake was forced to operate, or at least chose to operate or was forced to operate, in the very center, the very heart of a political fundraising machine whose abuses are revealed to us each day as we pick up the paper in the morning.

The White House blames partisan Republicans, and yet a major story in the New York Times today, titled ''Leading Democrat Tells of Doubt of CIA Nominee, White House Was Warned, Senator KERREY's Reservations May Have Persuaded Lake Not To Fight the GOP,'' hardly speaks to a partisan effort to dethrone Mr. Lake.

Legitimate questions were asked of Mr. Lake of what his role was as National Security Adviser to the President in terms of clearing certain individuals to come to the White House for various favors, coffees, Lincoln Bedroom stays, et cetera, and, on several occasions—at least two that we know of—the National Security Council issued very direct reservations and, in fact, warnings about certain individuals who, nevertheless, attended more than one meeting at the White House.

Mr. Lake's response was that he essentially was out of the loop; he did not know what was going on. Legitimate questions were raised: If you did not know what was going on with a 150-member staff that went to the very essence of the Presidency, of who sees the President, of what the involvement of these individuals is relative to fundraising for the election, if you are not aware of that going on, how are you possibly going to manage a multithousand-member agency with 12 separate divisions as important to the security of the United States as the Central Intelligence Agency?

So even though the White House blamed partisan Republicans, we now know that the vice chairman of the Intelligence Committee had raised his own concerns about Mr. Lake's qualifications and what his role was and the role of the National Security Council in terms of all this fundraising morass that the administration is caught up in.

Mr. President, fortunately, publications that are following the story are not buying the White House response. The New York Times editorial today states:

> In the end, Mr. Lake was undone by Mr. Clinton's reckless 1996 election campaign and the failure of top White House officials, including Mr. Lake, to insulate American foreign policy from fundraising efforts.

That is an extraordinary statement, Mr. President, and I want to repeat it. The New York Times editorial today refuting the White House response to Mr. Lake's withdrawal from nomination to be CIA Director, states:

> In the end, Mr. Lake was undone by Mr. Clinton's reckless 1996 election campaign and the failure of top White House officials, including Mr. Lake, to insulate American foreign policy from fundraising efforts.

Jim Hoagland, in today's Washington Post, states:

> [Lake] is not a victim of the system but of the President he served. His angry words try to obscure an embarrassment and the true dimension of one more political fiasco at the Clinton White House. One more close Clinton associate is badly damaged while the President cruises on with high but flagging approval ratings.

To continue:

> The system that did in Tony Lake is the one that allowed the fundraisers to trump Lake's staff repeatedly over access to the White House.
>
> In Washington the system is people—people who are supremely attuned to the wishes, needs, and whims of the boss. If Roger Tamraz, Chinese arms supplier Wang Jun, Thai trade lobbyist Pauline Kanchanalak and the others made it into the White House, it is ultimately because Bill Clinton communicated, in one form or another, that he did not want tight screening of campaign contributors. In the end, Tony Lake paid the price for Clinton's need not to know.

That from today's Washington Post. Then, finally, Maureen Dowd in the New York Times states:

> Although Mr. Lake's ''haywire'' line got all the attention—

That is referring to a process ''gone haywire'' that Mr. Lake stated—

> it was another sentence in his letter that provided the real reason for his withdrawal.

Quoting Ms. Dowd:

In addition, the story today about the activities of Mr. Roger Tamraz is likely to lead to further delay as an investigation proceeds.

Maureen Dowd goes on to state:

Mr. Lake would have had a tough time explaining why he was missing in action while the Democratic Party tried to use the CIA to pressure Mr. Lake's office to help get an accused embezzler and big donor access to the White House. The cold war might be over, but don't these agencies have something better to do than vet global hustlers and fat cats?

Sheila Heslin, an NSC Asia expert with a regard for ethics unusually high for the Clinton White House, offered to shield the President from the notorious Roger Tamraz. But like the ubiquitous Johnny Chung, who also got into the White House despite tepid NSC warnings, Mr. Tamraz had his run of the people's house.

So that's why Tony Lake pulled out:

She concludes—

He was not Borked. He was Tamrazzed.

Mr. President, former President Harry Truman had on his desk a sign that said, ''The buck stops here.'' Unfortunately, it seems that the sign posted throughout the White House and throughout this administration is ''The Buck Must Rest Somewhere Else; It Sure Doesn't Stop Here.''

Mr. President, we have a very serious situation before us. We have allegations, backed by substantial evidence, that the executive power of the White House was abused to improperly influence the outcome of an American Presidential election. We have serious questions about foreign governments' involvement at invitation by the Democratic Party and the Clinton administration, involvement in helping corrupt American elections. We have serious allegations, backed by considerable evidence, that the privilege of American citizenship has been distorted and undermined to serve the President's reelection. And now we are forced to ask, were American intelligence services manipulated by this administration as part of this fundraising machine?

All of this, Mr. President, speaks for the need for independent counsel, speaks for the need to move this process outside of the Congress because clearly the administration has taken the position that whatever is said by this Member or any other Member of the Republican Party is simply partisan politics, that everything that happens is directed from a partisan basis.

What we are trying to get at here, Mr. President, is the truth. What we are trying to do is examine what statutes were violated, trying to examine what ethics rulings were violated, trying to impose some standards on the way in which we conduct elections in this country and the way in which the White House is viewed and held by occupants of that White House and what its purpose should be.

Mr. President, for that reason, I supported the resolution to call for an independent counsel. I would hope that the Attorney General would pay close attention to the recently passed Senate resolution in that regard. I think these are serious issues and they must be addressed.

Finally, let me just say that the practice of this administration and this President of simply saying, the process is corrupt, that the Congress is partisan, that all of this has to do with politics and none of this has to do with ethics and legal violations, that that is a lame excuse and removal from accountability and responsibility that we expect in the leadership of this country.

Mr. President, I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, let me thank the Senator from Indiana for bringing together for us what is a perplexing issue.

I had watched from afar, because I am not a Member of the Intelligence Committee, the process of the interviewing of the nominee, Tony Lake. While I know there was considerable controversy and an unwillingness on the part of this administration to send forth the full FBI file, that was really the only argument I ever heard. Finally some of that file came, but certainly not all of it did, nor was there ever full disclosure.

Yet on the evening news last night I watched a very indignant President talking about the corruption of the procedure. And nowhere during all of this did I understand that there was any corruption, only a request for knowledge, for information to decide whether the No. 1 intelligence officer of this country was eligible to serve in that position.

The Senator from Indiana has told us the rest of the story. And the rest of the story is that Tony Lake is a refugee of this administration's mispractices, if not illegal acts. He is not a refugee of this Congress' failure to act, because we were doing what is our constitutional responsibility.

I, too, today voted for an independent counsel. Two weeks ago I called for an independent counsel, as I think most of us were growing to believe that anything we did here would be either tainted by the opposition or tainted by the media as somehow a partisan act.

What the Intelligence Committee of the Senate did was not partisan. It was constitutional. It was responsible. What the President did in his ''mea culpa, mea culpa'' last night was the first to the altar of the sinners to say ''not I'' when in fact the stories are now pouring out that somehow the process was corrupted and that Tony Lake, as an instrument of that process, grew corrupt along with it.

Just because the great Soviet empire and communism as a sweeping rave of ''isms'' around the world seems to be on the rapid decline, is foreign policy and the integrity of foreign policy in our country any less important? I would suggest that it is not.

When foreign countries wish to influence the most economically powerful country in the world for purposes of commerce or access to its decisionmaking, that in itself is of concern. And it has to be this Congress that understands that and this President that understands that and in no way allows foreign policy, decisionmaking, or any part of that process to be biased by undue influence. And yet day after day, now almost hourly, the stories pile up. Tony Lake is now part of that story.

Janet Reno must step aside from what appears to be at this moment a gross conflict of interest and do what is her statutory responsibility, and that is to appoint an independent counsel. Then let the chips fall where they may. And I do not know where they will fall. And I do not think the Senator from Indiana knows.

We are talking about allegations, allegations that were first launched, not by a politician, but by the media itself. It was an article in the Los Angeles Times back in the latter days of the last campaign that argued that somehow there appeared to be an issue of corruption or an issue of compromise or an issue of illegality as it relates to how this administration, most importantly, this President and his Presidential campaign had raised money.

Now Janet Reno, do your job. Call the independent counsel. Get on with the business of ferreting out whether there were illegal acts involved in the corruption of or the compromise of this President and this President's foreign policymaking.

And, thank goodness, through all of the winnowing process Tony Lake is now out of the picture and we can get on with the business of reviewing nominees who can meet the test of integrity and legitimacy in conducting what is still a very important part of this country's affairs, and that is our intelligence-gathering network, the eyes and ears of a government who is responsible for conducting the foreign policy of a nation that still remains critical to the security of our country and our financial and economic wellbeing.

I thank my colleague from Indiana for so clearly pointing these issues out. I yield back my time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. 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. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. We are in morning business until 3 o'clock, with a 5-minute limitation.

Mr. BYRD. Mr. President, I will need more than 5 minutes. May I ask the distinguished Senator from Nevada, does he wish to speak?

Mr. BRYAN. Mr. President, if I might respond, the Senator from Nevada needs about 5 to 6 minutes, but if that inconveniences the Senator from West Virginia, I am happy to wait. Whatever the Senator wishes.

Mr. BYRD. Mr. President, I ask unanimous consent I may speak for not to exceed 20 minutes.

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

Mr. BYRD. Mr. President, I ask unanimous consent I may yield to the Senator from Nevada for not to exceed 5 minutes, without losing my right to the floor.

Mr. BRYAN. I appreciate that. That would accommodate the Senator from Nevada.

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

Mr. BRYAN. Mr. President, let me preface my remarks by acknowledging the courtesy from the senior Senator from West Virginia. I appreciate his courtesy in allowing me to make a floor statement for a period not to exceed 5 minutes.

HOMEOWNERS' PROTECTION ACT OF 1997

Mr. BRYAN. Mr. President, yesterday in the Senate Banking Committee American consumers were dealt a major setback. The committee was expected to vote out legislation that would have ended a practice that costs hundreds of thousands of homeowners millions of dollars per year.

The Banking Committee was scheduled to vote out S. 318, the Homeowners' Protection Act of 1997 which is sponsored by Senators D'AMATO, DODD, DOMENICI, and myself. This bill would outlaw the practice of overcharging homeowners for private mortgage insurance they no longer need.

Unfortunately, Chairman D'AMATO was forced to cancel the markup because a number of Members put the interest of a small, yet highly profitable, industry over the public's interest. To make matters worse, this industry is clearly taking advantage of millions of Americans in an unconscionable manner.

The opponents of Chairman D'AMATO's legislation argue that the bill places too heavy a burden on this one industry. I do not share their opinion and believe the interests of millions of American homeowners should be put ahead of an industry that is clearly taking advantage of these same homeowners.

Those protecting the industry need to heed the advice of one of their colleagues, Congressman JAMES HANSEN. Let me share from Congressman HANSEN's observations:

> As a small businessman for most of my life . . . I have learned that if an industry polices itself, the government should not interfere. I firmly believe that the government should stay out of the private marketplace. However, when an industry does not follow even its own guidelines, I believe it is our responsibility to draw that line.

Now that comes, Mr. President, from one of our more conservative colleagues who serves in the other body.

I commend Chairman D'AMATO for his leadership in introducing this important legislation that will affect millions of homeowners. Let me indicate how important that is and how many people are affected.

In 1996, of the 2.1 million home mortgages that were insured, more than 1 million required private mortgage insurance. One industry group has estimated that at least 250,000 homeowners are either overpaying for this insurance or paying when it is totally unnecessary. At an average monthly cost of $30 to $100, unnecessary insurance premiums are costing homeowners thousands of dollars every year.

Now, clearly, private mortgage insurance serves a useful purpose in the initial mortgage lending process. It enables many home buyers who cannot afford the standard 20-percent downpayment on a home mortgage to achieve a dream of home ownership. While private mortgage insurance protects lenders against default on a loan, there comes a time when that protection afforded to the lender becomes unnecessary, and the point, it seems to me, is reached when the homeowner's equity investment in the residence gives the lender sufficient assurance against default.

The comfort level generally within the industry has been 20 percent. So it stands to reason that PMI is not necessary for risk management and prudent underwriting procedures once the homeowner has reached the 20-percent equity mark. Therefore, borrowers who amass equity equal to 20 percent of their homes' original value should be treated in the same way as borrowers who are able to make a 20-percent downpayment or more at the outset of the loan.

The Homeowners' Protection Act of 1997 would ensure that existing and future homeowners would not continue to pay for private insurance when it is no longer necessary. Specifically, this legislation would inform the borrower at closing about private mortgage insurance and outline how the servicer of the loan will automatically cancel the mortgage insurance, assuming the transaction is not exempt from cancellation when the loan balance reaches 80 percent of the original value.

Mr. President, there is no doubt that private mortgage insurance is an important tool in the American system of mortgage finance. However, retaining private mortgage insurance beyond its usefulness to the homeowner is a practice that should be ended. The Homeowners' Protection Act will prevent present and future homeowners from paying for private mortgage insurance that is no longer needed. This proposal will end the unfair practice and protect the consumer.

This legislation is supported by almost every consumer group, but also leading industry groups such as the American Bankers Association, the National Association of Realtors, and the National Association of Homebuilders.

I urge my colleagues to move forward on this important piece of consumer legislation and put the industry's objections below the overriding public interest. We must lift this unfair burden from American homeowners.

I thank the Chair. I thank my senior colleague from West Virginia for his courtesy. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

COMMISSION TO ELIMINATE THE TRADE DEFICIT

Mr. BYRD. Mr. President, I am pleased to join with the distinguished Senator from North Dakota, Senator DORGAN, in introducing an ambitious new effort on the matter of our nation's persistent and growing trade deficit. This legislation would establish a Commission to take a broad, thorough look at all important aspects of, and solutions to the growing U.S. trade deficit, with particular attention to the manufacturing sector.

The trade deficit, as my colleagues know, is a relatively recent phenomenon, with large deficits only occurring within the last 15 years. In the 1980's, the U.S. merchandise trade balance ballooned from a deficit of $19 billion in 1980 to $53 billion in 1983, and then doubled in a year, to $106 billion in 1984. Last year it stood at $188 billion, setting a new high record for the third consecutive year. Projections by econometric forecasting firms indicate long term trends which will bring this figure to over $350 billion by 2007. No one is predicting a decline in the near future. If we do nothing, within 2 years the merchandise trade deficit will equal the annual budget for national defense.

To reiterate, in 1996 the United States had the largest negative merchandise trade balance in our history, some $188 billion, and it is the third consecutive year in which the deficit has reached a new record high.

This legislation is committed to a goal of reversing that trend of the next decade. The goal of the commission is to "develop a national economic plan to systematically reduce the U.S. trade deficit and to achieve a merchandise trade balance by the year 2007.

While it is not clear what the particular reasons for this growing trade deficit may be, nor what the long term impacts of a persistently growing deficit may be, the time is overdue for a detailed examination of the factors causing the deficit. We need to understand the impacts of it on specific U.S. industrial and manufacturing sectors. Furthermore, we need to identify the gaps that exist in our data bases and economic measurements to adequately understand the specific nature of the

impacts of the deficit on such important things as our manufacturing capacity and the integrity of our industrial base, on productivity, jobs and wages in specific sectors.

Throughout the 1980's, my own State of West Virginia literally bled manufacturing jobs. We saw the jobs of hard-working, honest West Virginians in the glass, steel, pottery, shoe manufacturing and leather goods industries—and other so-called smokestack industries—hemorrhage across our borders and shipped overseas. While economic development efforts in my State have commendably encouraged our businesses to refocus to help recover from those losses, the lack of knowledge about the causes and impact of our trade deficit leaves West Virginia, and the nation as a whole, at a disadvantage in the arena of global competition.

We debate the trade deficit from time to time. We moan about it. We complain about it. But, if we do not understand the nature, of the long-term vulnerabilities that such manufacturing imbalances create in our economy and standard of living, we are surely in the dark. It appears to me that debate over trade matters too often takes on the form of rhetorical bombast regarding so-called protectionists versus so-called free traders. This is hardly a debate worthy of the name, given the problems we are facing. It is not an informed debate. We are talking past each other, and in far too general terms. It has been more of an ideological exchange than a real debate, primarily because we have not had sufficient analytical work done on the data bearing on this problem. Neither side knows enough about what is really transpiring in our economy, given the very recent nature of these persistent deficits.

Certainly we know that the deficit reflects on the ability of American business to compete abroad. We want to be competitive. Certainly we know that specific deficits with specific trading partners cause frictions between the United States and our friends and allies. This is particularly the case with the Japanese, and is quickly becoming the case with China. It is clear that the trade deficit has contributed to the depreciation of the dollar and the ability of Americans to afford foreign products. Less clear, but of vital importance, is the relationship of the trade deficit to other important policy questions on the table between the United States and our foreign trading partners.

Attempts by the United States to reduce tariff and nontariff barriers in the Japan and China markets, which clearly restrict access of U.S. goods to those markets, have been crippled by the intervention of other, more important policy goals. During the cold war, the United States-Japan security relationship had a severe dampening effect on our efforts to reduce these myriad barriers in Japan to United States exports. The same effect appears to have resulted from our need for the Japanese to participate in our treasury bill auctions. This becomes a closed cycle—the need to finance the trade deficit with foreign capital, resulting in regular involvement of the Japanese Government in our treasury bill auctions, seems to dampen our efforts to push the Japanese on market-opening arrangements. Naturally, without reciprocal open markets, the trade imbalance remains exaggerated between the United States and Japan, prompting further need for Japanese financial support to fund the national debt. Of course, this is a vicious circle. Thus, some argue that the need for Japanese involvement in financing our national debt hurt the ability of our trade negotiators to get stronger provisions in the dispute settled last year over the Japanese market for auto parts.

Similar considerations appear to prevail in negotiating market access with the Chinese in the area of intellectual property. While our trade negotiator managed a laudable, very specific agreement with the Chinese in 1995 in this area, the Chinese were derelict in implementing it, leading to another high-wire negotiation last year to avoid sanctions on the Chinese, and to get the Chinese to implement the accord as they had promised. Again, it is unclear whether the Chinese will now follow through in a consistent manner with the implementing mechanisms for the intellectual property agreement belatedly agreed to in the latest negotiation. The highly trumpeted mantra about how the U.S.-China relationship will be one of, if not the most important, U.S. bilateral relationship for the next half century, has a chilling effect on insisting on fair, reciprocal treatment, and good faith implementation of agreements signed with the Chinese government.

The Chinese government has again recently reiterated its desire to become a member of the World Trade Organization and certainly her interest in joining that organization is a commendable indication of her willingness to submit to the rules of that organization regarding her trading practices. There is legitimate concern however, that insufficient progress has been made by the Chinese on removing a wide variety of non tariff discriminatory barriers to U.S. goods and services, as she committed to do in the 1992 bilateral Market Access Memorandum of Understanding [MOU]. Indeed, in the 1996 report by the United States Trade Representative entitled foreign trade barriers, the amount of material devoted to the range of such barriers on the part of China is exceeded only by the material on Japan, indicating that we have a continued persistent problem that needs serious attention along these lines.

It will only be when we truly understand the specific impacts of these large deficits on our economy, particularly our industrial and manufacturing base, that the importance of insisting on fair play in the matter of trade will become clear.

Finally, the legislation requires the Commission to examine alternative strategies which we can pursue to achieve the systematic reduction of the deficit, particularly how to retard the migration of our manufacturing base abroad, and the changes that might be needed to our basic trade agreements and practices.

These are the purposes of the Commission that Senator DORGAN and I have proposed in this legislation.

I commend the distinguished Senator from North Dakota for his studious approach to this question. He is as knowledgeable, if not more so, than certainly most other Senators, and perhaps any other Senators, as far as I am concerned, on this subject. I am pleased to join him in offering this proposal for the consideration of the Senate.

I hope that many of our colleagues will join us, and that we can secure passage of the proposal in the near future.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

NOMINATION OF MERRICK B. GARLAND, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA

The PRESIDING OFFICER. The Senate will proceed to executive session.

The clerk will report the nomination.

The assistant legislative clerk read the nomination of Merrick B. Garland, of Maryland, to be U.S. circuit judge for the District of Columbia Circuit.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, before we get to the specific discussion of the merits of Merrick B. Garland, let me make an important point. There have been some suggestions made that this Republican Congress is not moving as rapidly or as well as it should on judges, or at least last year did not move as well or as rapidly as it should have on judges.

With regard to judicial vacancies, the important point I would like to make before getting into factual distortions that are being made about the judiciary confirmation process is this. Federal judges should not be confirmed simply as part of a numbers game to reduce the vacancy rate to a particular level.

While I plan to oversee a fair and principled confirmation process, as I

always have, I want to emphasize that the primary criteria in this process is not how many vacancies need to be filled but whether President Clinton's nominees are qualified to serve on the bench and will not, upon receiving their judicial commission, spend a lifetime career rendering politically motivated, activist decisions. The Senate has an obligation to the American people to thoroughly review the records of the nominees it receives to ensure that they are qualified and capable to serve as Federal judges. Frankly, the need to do that is imperative, and the record of activism demonstrated by so many of President Clinton's nominees calls for all the more vigilance in reviewing his nominees.

So I have no problem with those who want to review these nominees with great specificity. The recent allegations by my colleagues on the other side of the aisle and in the media that there is a Republican stall of judges is nothing short of disingenuous.

The fact is that last Congress under Republican leadership the Federal courts had 65 vacancies—as you see, the Federal courts had 65 vacancies—which is virtually identical to the number of vacancies—63—there were at the end of the previous Congress when the Democrat-controlled Congress was processing Clinton judges.

Historically speaking, this is a very low vacancy rate. In contrast, at the end of the 102d Congress, when Senator BIDEN chaired the Judiciary Committee and President Bush was at the White House, there were 97 vacancies—as you can see, back in the 102d Congress, 97 vacancies—in the Federal system for an 11.46 percent vacancy rate, nearly twice the vacancy rate than at the adjournment of the 104th or last Congress. That rate was, of course, 7.7 percent at that time.

The vacancies have risen since the end of Congress so that there are now 95 vacancies, or a vacancy rate of just over 11 percent. But a little perspective reveals that this is by no means a high level for the beginning of a Congress. In fact, it is far lower than the vacancy rates at the beginning of Democrat-controlled Congresses, like the 102d when the vacancy rate at the beginning of that Congress was 14.89 percent, and the 103d Congress at 12.88 percent. In the 104th, it was down to 8.27 and now it is 10.07.

Moreover, we just reported two judges out of the committee this past Thursday—Merrick Garland for the DC circuit and Colleen Kollar-Kotelly for the DC district court. We had a hearing on four judicial nominees just yesterday. I hope that will put to rest any of the partisan allegations that have been seen deployed about delaying tactics to hold up nominees.

In fact, this is the most prompt reporting of judges to the floor in recent Congresses. When the Senate was under the control of the other party, the first hearing on judicial nominees in the new Congress was typically not held until mid-March or April and candidates were not reported to the floor until after these hearings.

In the 100th Congress, the first hearing was not held until March 4, 1987. In the 101st Congress, the first judges hearing was not held until April 5, 1989. And in the 102d Congress, when there was a vacancy rate of 15 percent in the courts, the first hearing was not held until March 13, 1991.

So I think some of the arguments made against what we have been doing are just fallacious and I think done for partisan reasons. We ought to get rid of the partisanship when it comes to judges and go ahead and do what is right. I have tried to do that.

Now let us talk about the number of judges confirmed last year. Democrats have been critical of the fact that only 17 judges were confirmed last year. The fact is that President Clinton had already had so many judges confirmed that he only nominated 21 judges last year. During President Clinton's first term, he had 202 judges confirmed—more than President Bush, 194; President Reagan, 164 in his first term; President Ford, 65 in his term. I might say that as a result there were very few vacancies to fill at the end of the 104th Congress, and the courts were virtually at full capacity.

In fact, at the close of the last Congress, there were only 65 vacancies in the entire system, which is a vacancy rate of 7.7 percent. In fact, the number of vacancies under my chairmanship at the close of the 104th Congress, 65 vacancies—when a Republican Senate was processing Clinton's nominees—was virtually identical to the number of vacancies at the end of the 103d Congress, 63, when a Democrat-controlled Senate was processing President Clinton's nominees. At that point the Department of Justice proclaimed that they had nearly reached full employment in the 837-member Federal judiciary. That is in an October 12, 1994, Department of Justice press release.

When the Democrats left open 7.44 percent of Federal judgeships after President Clinton's first 2 years, we had approached ''full employment'' of the Federal judiciary. But, when Republicans are in control, a virtually identical vacancy level becomes an ''unprecedented situation,'' the ''worst kind of politicizing of the Federal judiciary.'' Those are comments that were made by my friend, Senator LEAHY. And ''partisan tactics by Senate Republicans,'' according to the New York Times. This is nothing short of disingenuous.

In contrast, at the end of the 102d Congress when Senator BIDEN chaired the Judiciary Committee and President Bush was in the White House, there were 97 vacancies in the Federal system for an 11.46 percent vacancy rate—nearly twice the vacancy rate than at adjournment of the 104th Congress, which was 65 vacancies at a 7.7 percent vacancy rate.

What about the judges who were left unconfirmed at the end of last August?

It is true, 28 nominees did not get confirmed last Congress. There is no use kidding about it. We had 28 who did not make it through. But this was at a point where there were only 65 vacancies in the court, or, in other words, a full Federal judiciary. There is some extra consideration here. Compare this to the end of the 102d Congress when, notwithstanding 97 vacancies in the Federal system, the Democratic Senate left 55 Bush nominees unconfirmed.

Let us talk about the present vacancies. Due to an unprecedented number of retirements since Congress adjourned, there are currently 95 vacancies in our Federal system or a vacancy rate of 11.25 percent as of March 1 of this year. That is the most recent report from the Administrative Office of the Courts. Notice that when the 105th Congress convened on January 7, 1997, there were 85 vacancies, or a 10.7 percent vacancy rate. But a little perspective reveals that this is by no means a high level for the beginning of the Congress. In fact, it is lower than the vacancy rates at the beginning of the Democratically controlled 102d and 103d Congresses, where the vacancy rates were 126 vacancies in the 102d, at a 14.89 percent vacancy rate, with 109 vacancies in the 103d, for a 12.88 vacancy rate.

So, there is little or no reason to be this critical or this irritated with what has gone on. I pledge to the Senate to do the very best that I can to try to confirm President Clinton's judges, if they are not superlegislators, if they are people who will uphold the law and interpret the law and the laws made by those who are elected to make them. Judges have no reason on Earth to be making laws from the bench or to act as superlegislators from the bench and to overrule the will of the majority of the people in this country when the laws are very explicitly written—or at any other time, I might add.

Having said all that, we are bringing our first two nominees this year to the floor, one of whom is in contention. I think unjustifiably so.

Madam President, I rise to speak on behalf of the nomination of Merrick B. Garland for a seat on the U.S. Court of Appeals for the District of Columbia Circuit. On March 6, 1997, the Judiciary Committee, including a majority of Republican members, by a vote of 14 to 4, favorably reported to the full Senate Mr. Clinton's nomination of Merrick B. Garland. Based solely on his qualifications, I support the nomination of Mr. Garland and I encourage my colleagues to do the same.

To my knowledge, no one, absolutely no one disputes the following: Merrick B. Garland is highly qualified to sit on the D.C. circuit. His intelligence and his scholarship cannot be questioned. He is a magna cum laude graduate of the Harvard Law School. Mr. Garland was articles editor of the law review, one of the most important positions for any law student at any university, but in particular at Harvard; a very difficult position to earn. And he has

written articles in the Harvard Law Review and the Yale Law Journal, two of the most prestigious journals in the country, on issues such as administrative law and antitrust policy.

His legal experience is equally impressive. Mr. Garland has been a Supreme Court law clerk, a Federal criminal prosecutor, a partner in one of the most prestigious Washington firms, Arnold & Porter, Deputy Assistant Attorney General in the Justice Department's Criminal Division, and, since April of 1994, Principal Associate Deputy Attorney General to Jamie Gorelick, at the Justice Department, where he has directed the Department's investigation and prosecution of the Oklahoma City bombing case. And he has done a superb job there.

Mr. Garland's experience, legal skills, and handling of the Oklahoma City bombing case have earned him the support of officials who served in the Justice Department during the Reagan and Bush administrations, including former Deputy Attorney General George Terwilliger, former Deputy Attorney General Donald Ayer, former head of the Office of Legal Counsel, Charles Cooper, and former U.S. attorneys Jay Stephens and Dan Webb—all Republicans, I might add, who are strong supporters of Mr. Garland, as I believe they should be, as I believe we all should be.

Oklahoma Governor Frank Keating, who himself was denied one of those judgeships by our friends on the other side—even though I think most all of them admitted he would have made a tremendous judge, but has since done well for himself in becoming the Governor of Oklahoma and has distinguished himself. I might add his nomination, back in 1992, for the 10th Circuit Court of Appeals in the 102d Congress, was never voted on by the Judiciary Committee. He languished in the committee for quite a length of time. But Governor Keating has endorsed Mr. Garland's nomination, praising in particular his leadership in the Oklahoma City bombing case. As he should be praised.

Mr. Garland was originally nominated in September 1995. His nomination was favorably reported by the Judiciary Committee but not acted on by the Senate during the 104th Congress, much to my chagrin, because I think he should have passed in that last Congress. But to my colleagues' credit, and certainly to the leader's credit, the new majority leader, he has cooperated with the Judiciary Committee in bringing this nomination to the floor.

At the time of Mr. Garland's original nomination to fill the seat vacated by Judge Abner Mikva, who went on to become White House Counsel, concerns were raised by several, including several distinguished judges here in Washington, as to whether the D.C. circuit needed its full complement of 12 judges due to a declining workload on the Court. I support Senator GRASSLEY's efforts to study the systemwide caseloads of the Federal judiciary and am fully prepared to work with Senator GRASSLEY as chairman of that Subcommittee on the Courts, on legislation to authorize or deauthorize seats wherever such adjustments on the allocation of Federal judges are warranted, based upon court caseloads.

With respect to the D.C. circuit, however, the retirement of Judge James Buckley, in August 1996, last year, now leaves only 10 active judges on the 12-seat court. Accordingly, the Garland confirmation does not present the Senate with a question whether the 12th seat on the D.C. Circuit should be filled, and I have made it clear to the administration that I do not intend to fill that seat unless and until they can show, and I believe it will take quite a bit of time before they could show it, that there is a need for the filling of that seat. In fact, I would be, right now, for doing away with that seat. If at some future time we need that extra, 12th seat, fine, we will pass a bill to grant it again. But right now it is not needed.

I would just say, rather, with the two current vacancies, Garland will be filling only the 11th seat. So the 12th seat is not in play anymore, which was the critical seat.

The confirmation of Merrick B. Garland to fill the court's now vacant 11th seat is supported by D.C. Circuit Judge Laurence Silberman, a Reagan appointee who himself testified against creating and/or preserving unneeded judicial seats on his circuit, meaning the 12th seat, and who has stated that, ''it would be a mistake, a serious mistake, for Congress to reduce''—that is, the Circuit Court of Appeals for the District of Columbia—''down below 11 judges.''

I am aware that there may be some who take the position that the D.C. circuit's workload statistics do not even warrant 11 judges. With all due respect, I think these arguments completely miss the mark, and caution my colleagues to appreciate that certain statistics can, if not properly understood, be misleading.

The position that the D.C. circuit should have fewer than 11 judges is belied not just by the statements of Judge Silberman, who himself wanted to get rid of the 12th seat, but also by the fact that comparing workloads in the D.C. circuit to that of other circuits is, to a large extent, a pointless exercise.

There is little dispute that the D.C. circuit's docket is, by far, the most complex and time consuming in the Nation. Justice Department statistics show that whereas in a typical circuit, 5.9 percent of all cases filed are administrative appeals, which are generally far more time consuming than other appeals, and 26.7 percent are prisoner petitions which tend to be disposed of far more quickly than other appeals. While that is true in other circuit courts, 45.3 percent of the cases filed in the D.C. circuit over the past 3 years have been complex administrative appeals and only 7 percent easily disposed of prisoner petitions.

Moreover, most of the administrative appeals heard in the D.C. circuit involved the Federal Energy Regulatory Commission, the Federal Communications Commission and the Environmental Protection Agency and are much more complex and time consuming than even the immigration and labor appeals, which comprise most of the administrative agency cases filed in other circuits.

In short, simply comparing the number of cases filed in the D.C. circuit to the number filed in other circuits, and even comparing the number of agency appeals, is not a reliable indicator of the courts' comparative workloads.

As Senators, we have a responsibility to the public to ensure that candidates for the Federal bench are scrutinized for political activists. A judge who does not appreciate the inherent limits on judicial authority under the Constitution and would seek to legislate from the bench rather than interpret the law is a judicial activist, and nominees who will be judicial activists are simply not qualified to sit on any Federal bench, let alone the Federal circuit court of appeals or any Federal circuit court of appeals.

As chairman of the Judiciary Committee, I will continue to carefully scrutinize the records involved in cases of judicial nominees and to exercise the Senate's advise-and-consent power to ensure we keep activists off the bench. In addition, I will continue to speak out both in the Senate and in other forums to increase public awareness of harm to our society posed by such activists. Although we can never guarantee what the future actions of any judicial nominee will be or any judge, for that matter, and it may be difficult to discern whether a particular candidate will be an activist, I do not believe there is anything in Mr. Garland's record to indicate that, if confirmed, he could amount to an activist judge or might ultimately be an activist judge.

Accordingly, I believe Mr. Garland is a fine nominee. I know him personally, I know of his integrity, I know of his legal ability, I know of his honesty, I know of his acumen, and he belongs on the court. I believe he is not only a fine nominee, but is as good as Republicans can expect from this administration. In fact, I would place him at the top of the list. There are some other very good people, so I don't mean to put them down, but this man deserves to be at the top of the list. Opposition to this nomination will only serve to undermine the credibility of our legitimate goal of keeping proven activists off the bench.

I fully support his nomination, and I urge my colleagues to strongly consider voting in favor of confirmation.

I hope that we will also confirm the nominee Colleen Kollar-Kotelly, although we will only be voting on

Merrick Garland today, that is my understanding. I hope we will put both these judges through. I do not know of any opposition to the nominee Colleen Kollar-Kotelly, and I know very limited opposition at this point to Mr. Garland. Like I say, I do not think there is a legitimate argument against Mr. Garland's nomination, and I hope that our colleagues will vote to confirm him today.

I reserve the remainder of my time.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I am delighted the Senate is finally considering the nomination of Merrick Garland to the U.S. Court of Appeals, the District of Columbia Circuit. I compliment my good friend, the senior Senator from Utah, for his kind remarks about Mr. Garland.

Like the distinguished chairman of the Senate Judiciary Committee, I too believe that Merrick Garland is highly qualified for this appointment and would make an outstanding Federal judge.

My concern that I have expressed before is that this is the first and only judicial nomination scheduled for consideration in these first 3 months of the 105th Congress. The Senate is about to go on vacation for a couple of weeks. It will be the only judgeship considered, as I understand it. In the past, the Senate has not had to wait the Ides of March for the first judicial confirmation. The Federal judiciary has almost 100 vacancies now and, with the Ides of March, we are getting only one vacancy filled.

I, too, am sorry we have not proceeded to confirm and schedule the nomination of Judge Colleen Kollar-Kotelly to the district court bench. Here is one nominee we could go with, and we ought to be able to do that today, too.

The Senate first received Merrick Garland's nomination from the President on September 5, 1995. We are now way into March of 1997. So we have this nomination that has been here since 1995. All but the most cynical say this man is highly qualified, a decent person, a brilliant lawyer, a public servant who will make an outstanding judge, but his nomination sat here from 1995 until today.

This is a man who has broad bipartisan support. Governor Keating of Oklahoma; Governor Branstad of Iowa; William Coleman, Jr., a former member of a Republican President's Cabinet, former Reagan and Bush administration officials, Robert Mueller, Jay Stephens, Dan Webb, Charles Cooper—all have supported Merrick Garland. So this is not a case of somebody out of the pale. In fact, the Legal Times titled him, ''Garland: A Centrist Choice.'' I will put those recommendation letters in the RECORD later on.

So why, when you have somebody who, in my 22 years here, is one of the most outstanding nominees for the court of appeals, has that person been held up? What fatal flaw in his character has been uncovered? None, there is no fatal flaw. There was not a person who spoke against, credibly spoke against, his qualifications to be a judge, but he was one of the unlucky victims of the Republican shutdown of the confirmation process last year. I liken it to pulling the wings off a fly. This is what happened.

The Judiciary Committee reported his nomination to the Senate in 1995—in 1995. But here we are in 1997, and we finally get to vote on it.

Madam President, we have 100 vacancies on the Federal bench. At this rate, by the end of this Congress, with normal attrition, we will probably have 130 or 140. We had an abysmal record last session dealing with Federal judicial vacancies.

We ought to show what we have here. Here, Madam President, are the number of judges confirmed during the second Senate session in Presidential election years:

In 1980, 9 appeals court judges, 55 district court judges.

In 1984, 10 appeals court judges, 33 district court judges.

In 1988, 7 Court of Appeals judges, 35 district court judges.

In 1992—incidentally, 1992, Democrats were in charge with a Republican President—11 appeals court judges, 55 district court judges.

So what happens when you switch it over, put in a Republican Senate and Democratic President? Do you see the same sense of bipartisanship? Not on your life.

It is 11 appeals court judges, 55 district court judges with a Republican President and a Democratic Congress. Switch it to a Democratic President and a Republican Congress—zero, nada, zip, goose egg for the court of appeals judges and only 17 for the district court judges. Not too good.

We have some other charts here. Chief Justice Rehnquist spoke on this. A Chief Justice speaks only in a restrained fashion, when he does. But look what he said. Look at what Chief Justice William Rehnquist said about the pace we have seen in this Senate:

> The number of judicial vacancies can have a profound impact on a court's ability to manage its caseload effectively. Because the number of judges confirmed in 1996 was low in comparison to the number confirmed in preceding years, the vacancy rate is beginning to climb . . . It is hoped that the administration and Congress will continue to recognize that filling judicial vacancies is crucial to the fair and effective administration of justice.

The administration is sending up judges, but it is like tossing them down into a black hole in space. Nothing comes back out.

In fact, 25 percent of the current vacancies have persisted for more than 18 months. They are considered a judicial emergency jurisdiction.

There are 69 current vacancies in our Nation's district courts. Almost one in six district court judgeships is or soon will become vacant.

I compliment the distinguished majority leader and my good friend from Utah, the chairman of the Senate Judiciary Committee, in scheduling this one nominee to the Federal Court of Appeals, but there are still 24 current vacancies on the Federal courts of appeals. That number is rising.

We are way behind the pace of confirming the judges we have seen in our past Congresses. In fact, let us take a look at—I just happen to have a chart on that, Madam President. I know Senators were anxiously hoping I might.

Number of judges confirmed in past Congresses: 102d Congress, 124; 103d Congress, 129; 104th Congress, 75. So far in the 105th Congress, none. I assume that is going to change later this afternoon when we finally do confirm one judge. But look at this: 102d Congress, 124; 103d Congress, 129 confirmed; 104th Congress, 75 confirmed. The 105th Congress, zippo.

I think we ought to take a look at this next chart. We have 94 judicial vacancies. Just put the old magnifying glass—I used to be in law enforcement, Madam President. We actually used these things. Of course, we were kind of a small jurisdiction and I am just a small-town lawyer from Vermont. We do the best we can. But the magnifying glass shows zero. I am pleased by the end of this afternoon I can put a ''1'' in there, and let us hope that maybe we will get some more. Let us hope maybe we will get some more.

We can joke about it, but it is not a joking matter. We have people with their lives on hold. When the President asks some man or woman to take a Federal courtship, their entire practice is put on hold—it is kind of a good news/bad news situation. The President calls up and says, ''I've got good news for you. I'm going to nominate you for the Federal bench. Now I have bad news for you. I'm going to nominate you for the Federal bench.'' He or she finds their law practice basically stops on the date of that nomination. They cannot bring on new clients. Their partners give him or her a big party and say, ''Please move out of your office,'' because they know it is going to take a year or 2 or 3 to get through the confirmation process.

This is partisanship of an unprecedented nature. I have spoken twice on this floor today on what happens when we forget the normal traditions of the Senate. Traditionally—certainly not in my lifetime—no Democratic majority leader or Republican majority leader of the Senate would bring up a resolution for a vote directly attacking the President of the United States—directly or indirectly attacking the President of the United States—on a day when the President is heading off to a summit with other world leaders, especially with the leader of the other nuclear superpower, Russia. Yet, that tradition, which, as I said, has existed my whole lifetime, was broken today.

The other thing is that no matter which party controls the Senate, no

matter what party controls the Presidency, we have always worked together so that the President, having been elected, can, subject to normal—normal—advise and consent, can appoint the judges he wants. And that tradition has been broken.

If we are going to go against these basic tenets of bipartisanship, then the Senate will not be the conscience of the Nation that it should be. The Senate will suffer. And if the Senate suffers, the country suffers.

I withhold the balance of my time.

PRIVILEGE OF THE FLOOR

Madam President, if I might just for a moment, I ask unanimous consent that Tom Perez of Senator KENNEDY's staff be granted floor privileges.

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

Mr. LEAHY. Madam President, I ask unanimous consent that a number of letters I referred to be printed in the RECORD.

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

STATE OF OKLAHOMA,
OFFICE OF THE GOVERNOR,
Oklahoma City, OK, February 19, 1996.

Senator BOB DOLE,
U.S. Senate, Washington, DC.

SENATOR DOLE: I endorse Merrick Garland for confirmation to the United States Court of Appeals for the D.C. Circuit. Merrick will be a solid addition to this esteemed court.

A Harvard Law School graduate in 1977, a former Assistant United States Attorney and a former partner in Washington's Arnold and Porter Law Firm, Merrick will bring an array of skills and experience to this judgeship. Merrick is further developing his talents and enhancing his reputation as the Principle Associate Deputy Attorney General.

Last April, in Oklahoma City, Merrick was at the helm of the Justice Department's investigation following the bombing of the Oklahoma City Federal Building, the bloodiest and most tragic act of terrorism on American soil. During the investigation, Merrick distinguished himself in a situation where he had to lead a highly complicated investigation and make quick decisions during critical times.

Merrick Garland is an intelligent, experienced and evenhanded individual. I hope you give him full consideration for confirmation to the United States Court of Appeals for the D.C. Circuit.

Sincerely,

FRANK KEATING,
Governor.

OFFICE OF THE GOVERNOR,
Des Moines, IA, October 10, 1995.

Senator CHARLES E. GRASSLEY,
Hart Senate Office Building, Washington, DC.

DEAR CHUCK: I am writing to ask your support and assistance in the confirmation process for a second cousin, Merrick Garland, who has been nominated to be a judge on the U.S. Court of Appeals for the District of Columbia.

Merrick Garland has had a distinguished legal career. He was a partner for many years in the Washington law firm of Arnold and Porter. During the Bush Administration, Merrick was asked by Jay Stephens, the U.S. Attorney for the District of Columbia, to take on a three year stint as an Assistant U.S. Attorney. As I'm sure you know, Jay Stephens is the son of Lyle Stephens, the Representative from Plymouth County that we served with in the Iowa Legislature.

Recently, he has been overseeing the federal investigation and prosecution efforts in the Oklahoma City bombing, having been sent there the second day after the blast occurred. He was serving in the position as principal Associate Deputy Attorney General.

I am enclosing a number of news clippings about Merrick Garland. I would especially encourage you to review the Legal Times and article entitled: Garland, A Centrist Choice.

As always, I appreciate all of your efforts. Hope all is going well for you.

Sincerely,

TERRY E. BRANSTAD,
Governor of Iowa.

O'MELVENY & MYERS,
Washington, DC, October 11, 1995.

Hon. ORRIN G. HATCH,
Chairman, Senate Committee on the Judiciary, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR ORRIN: As you know, President Clinton has nominated Merrick B. Garland, Esquire, to fill the judicial vacancy on the United States Court of Appeals for the District of Columbia Circuit caused by the retirement of Chief Judge Mikva.

I write this letter to indicate my full support and admiration of Mr. Garland and urge that you soon have a hearing of the Senate Committee on the Judiciary and thereafter support him to fill the vacancy.

Mr. Garland has a first-rate legal mind, took magna cum laude and summa cum laude advantages of education at Harvard College and Harvard Law School. In private practice, he became and has the reputation of being an outstanding courtroom lawyer. In addition, on several occasions, he satisfied his urge to be a public servant by two law clerkships, one for Mr. Justice William J. Brennan and the other for the late Judge Henry J. Friendly. He has also served in the Justice Department on several occasions. I have known Merrick Garland as a lawyer and as a friend and greatly admire his personal integrity, learning in the law and his desire to be a great public servant. His legal, social and political views are those most Americans admire and are well within the fine hopes and principles of this country, which you have often expressed in conversations with me as to the type of person you would like to see on the federal judiciary, particularly on the appellate courts.

I first got to know Mr. Garland when he was Special Assistant to Deputy and then Attorney General Civiletti, as my daughter, Lovida, Jr., was the other Special Assistant. I still see him and his wife from time to time and they are the type of Americans whom I greatly admire.

As is stated at the outset of this letter, I hope you will see to it that Mr. Garland soon has his hearing and that you, at and after the hearing, will actively support him for confirmation. If you have any questions, please give me a call and I will walk over to see you.

Take care.

Sincerely,

WILLIAM T. COLEMAN, Jr.

VENABLE, BAETJER AND HOWARD, LLP,
Baltimore, MD, September 7, 1995.

Re Merrick B. Garland.

Hon. BARBARA A. MIKULSKI,
U.S. Senate, Hart Senate Office Bldg., Washington, DC.

DEAR SENATOR MIKULSKI: I just wanted to call your attention to the fact that Merrick B. Garland has been nominated by President Clinton for appointment to the United States Court of Appeals for the DC Circuit.

Merrick is an outstanding lawyer with a very distinguished career both in private practice at Arnold & Porter and in government service, first as a special assistant to me when I was Attorney General and then later as an Assistant United States Attorney for the District and, most recently, as Chief Associate Deputy Attorney General to Jamie Gorelick. Additionally, his academic background was outstanding, culminating in his clerkship to Supreme Court Justice Brennan. In every way, he is a superb candidate for that bench, and I just wanted you to know of my personal admiration for him.

Kindest regards.

Sincerely,

BENJAMIN R. CIVILETTI.

MCGUIRE WOODS, BATTLE & BOOTHE, III,
Washington, DC, October 16, 1995.

Re Nomination of Merrick B. Garland to the U.S. Court of Appeals for the District of Columbia Circuit.

Hon. ORIN G. HATCH,
Chairman, United States Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR HATCH: I have been asked to express my views to you on Merrick Garland's nomination to sit on the Federal Court of appeals in the District of Columbia. First, I believe Mr. Garland is an accomplished and learned lawyer and is most certainly qualified for a seat on this important bench. Second, my experience with Mr. Garland leads me to the conclusion that he would decide cases on the law based on an objective and fair analysis of the positions of the parties in any dispute. Third, I perceive Mr. Garland as a man who believes and follows certain principles, but not one whose philosophical beliefs would overpower his objective analysis of legal issues.

I know of no reason to suggest that the President's choice for his vacancy on the Court of Appeals should not be confirmed. As you, of course, have demonstrated during your tenure as Chairman, the President's nominees are his choices and are entitled to be confirmed where it is clear that th4e nominee would be a capable and fair jurist. I believe Mr. Garland meets that criteria and support favorable consideration of his nomination.

Sincerely yours,

GEORGE J. TERWILLIGER, III.

JONES, DAY, REAVIS & POGUE,
Washington, DC, October 10, 1995.

Re Merrick B. Garland.

Senator ORRIN G. HATCH,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR HATCH: I first met Merrick Garland in the mid–1970's, when we overlapped as students at the Harvard Law School. While I have not known him well, I have been well aware that his academic background is impeccable, and that he is reputed to be a very bright, highly effective and understated lawyer.

During January of 1994, while he was serving in the Department of Justice, I had occasion to deal with him directly on a matter of some public moment and sensitivity. I was struck by the thoroughness of his preparation, the depth of his understanding of the matters in issue, both factural and legal, and his ability to express himself simply and convincingly. I was still more impressed with his comments, from obvious personal conviction, on the essential role of honesty, integrity, and forthrightness in government.

Our discussions at that time were followed by further conversations on several later occasions. I have also had an opportunity to

observe from a distance his performance in the Department and to discuss that performance with people closer to the scene. I am left with a distinct impression of him as a person of great skill, diligence, and sound judgment, who is driven more by a sense of public service than of personal aggrandizement.

My own service in the Justice Department during the last two Republican Administrations convinced me that government suffers greatly from a shortage of people combining such exceptional abilities with a primary drive to serve interests beyond their own. Merrick Garland's nomination affords the Senate chance to place one such person in a position where such impulses can be harnessed to the maximum public good. I hope that the Senate will seize that opportunity.

Very Truly Yours,

DONALD B. AYER.

SHAW, PITTMAN, POTTS & TROWBRIDGE,
Washington DC, November 9, 1995.

Hon. ORRIN HATCH,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: I write to express my support for President Clinton's nomination of Merrick Garland to the position of circuit Judge of the United States Court of Appeals for the District of Columbia. I've known Merrick since 1978, when we served as law clerks to Supreme Court Justices—he for Justice Brennan and I for Justice (now Chief Justice) Rehnquist. Like our respective bosses, Merrick and I disagreed on many legal issues. Still, I believe that Merrick possesses the qualities of a fine judge.

You are no doubt well aware of the details of Merrick's background as a practicing lawyer, a federal prosecutor, a law teacher, and now a high-ranking official of the Department of Justice. This varied background has given Merrick a breadth and depth of legal experience that few lawyers his age can rival, and he has distinguished himself in all of his professional pursuits. He is a man of great learning, not just in the law, but also in other disciplines. Not only is Merrick enormously gifted intellectually, but he is thoughtful as well, for he respects other points of view and fairly and honestly assesses the merits of all sides of an issue. And he has a stable, even-tempered, and courteous manner. He would comport himself on the bench with dignity and fairness. In short, I believe that Merrick Garland will be among President Clinton's very best judicial appointments.

Sincerely,

CHARLES J. COOPER.

Washington, DC, November 25, 1995.

Hon. ORRIN G. HATCH,
Chairman, Senate Judiciary Committee, Senate Dirksen Building, Washington, DC.

DEAR MR. CHAIRMAN: I write with regard to the nomination of Merrick Garland to the Court of Appeals for the District of Columbia.

I have known Mr. Garland since 1990 when he was an Assistant United States Attorney and I was the Assistant Attorney General for the Criminal Division in the Department of Justice. Over the Years I have had occasion to see his work in several cases.

Based both on my own observations and on his reputation in the legal community, I believe him to be exceptionally qualified for a Circuit Court appointment. Throughout my association with him I have always been impressed by his judgment. Most importantly, Mr. Garland exemplifies the qualifies of fairness, integrity and scholarship which are so important for those who sit on the bench.

If I can be of any further assistance, please do not hesitate to call me.

Sincerely,

ROBERT S. MUELLER, III.

PILLSBURY MADISON & SUTRO,
Washington, DC, November 28, 1995.

Hon. ORRIN G. HATCH,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

Hon. CHARLES E. GRASSLEY,
Chairman, Senate Judiciary Subcommittee on Administrative Oversight and the Courts, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HATCH AND GRASSLEY: I am writing with respect to the nomination of Merrick Garland to serve as a judge on the United States Court of Appeals for the District of Columbia Circuit. I understand you have significant reservations about filling the existing vacancy on the District of Columbia Circuit at this time. In the event you consider filling the vacancy at this time, I commend Merrick Garland for your consideration.

I have known Mr. Garland for nearly ten years. We met initially during my service as Deputy Counsel to the President while Mr. Garland was assisting in an Independent Counsel investigation. During the course of that contact, I was impressed with Mr. Garland's professionalism and judgment. After I was appointed United State Attorney for the District of Columbia, Mr. Garland expressed to me an interest in gaining additional prosecutorial experience, and applied for a position as an Assistant United States Attorney. I hired Mr. Garland for my staff, and initially assigned him to a narcotics unit where he had an opportunity to assist in investigating a number of significant cases and to gain valuable trial experience. Mr. Garland quickly established himself as a dedicated prosecutor who was willing to handle the tough cases. He conducted thorough investigations, and became a skilled trial attorney.

Subsequently, after gaining significant trial experience, Mr. Garland was assigned to the Public Corruption section of the U.S. Attorney's Office. There he had an opportunity to investigate and try a number of complex, sensitive cases. In the Public Corruption section, Mr. Garland demonstrated an excellent capacity to investigate complex transactions, and approached these important cases with maturity and balanced judgment. He was thorough and thoughtful in exercising his responsibility, and he always acted in accord with the highest ethical and professional standards.

During his service as an Assistant United State Attorney, Mr. Garland distinguished himself as one of the most capable prosecutors in the Office. He brought to bear a number of outstanding talents. He was bright. He had the intellectual capacity to parse complex transactions. He built sound working relationships with agents and staff based on mutual respect. He was willing to work hard to get the job done. He was dedicated to his job. He exercised sound judgment, and approached his work with professionalism and thoughtfulness. He exhibited excellent interpersonal skills, and was delightful to work with. In sum, his service as an Assistant United States Attorney was market by dedication, sound judgment, excellent legal ability, a balanced temperament, and the highest ethical and professional standards. These are qualities which I believe he would bring to the bench as well.

I appreciate the opportunity to provide these comments for your consideration.

Sincerely,

JAY B. STEPHENS.

WINSTON & STRAWN,
Chicago, IL, October 10, 1995.

Hon. ORRIN G. HATCH,
Chairman of the Judiciary Committee, Russell Senate Office Building, Washington, DC.

DEAR SENATOR HATCH: It is my understanding that Merrick Garland's name has been submitted to the Senate Judiciary Committee to fill a vacancy on the D.C. Circuit Court of Appeals. Merrick is a very talented lawyer, who has had an outstanding career in both the private and public sectors.

In particular, he has exhibited exceptional legal abilities during his recent term of office in the U.S. Department of Justice. Throughout the United States, Merrick has been recognized as a person within the Clinton Department of Justice who is fair, thoughtful and reasonable. He clearly possesses the ability to address legal issues and resolve them in a fair and equitable manner.

Accordingly, in my opinion, Merrick will be an outstanding addition to the D.C. Circuit Court of Appeals, and I strongly recommend his confirmation by your committee. If you have any further questions, please do not hesitate to contact me.

Very truly yours,

DAN K. WEBB.

AMERICAN BAR ASSOCIATION, STANDING COMMITTEE ON FEDERAL JUDICIARY,
Washington, DC, September 21, 1995.

Re Merrick Brian Garland, United States Court of Appeals for the District of Columbia Circuit.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR HATCH: Thank you for affording this Committee an opportunity to express an opinion pertaining to the nomination of Merrick Brian Garland for appointment as Judge of the United States Court of Appeals for the District of Columbia Circuit.

Our Committee is of the unanimous opinion that Mr. Garland is Well Qualified for this appointment.

A copy of this letter has been sent to Mr. Garland for his information.

Sincerely,

CAROLYN B. LAMM,
Chair.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Thank you very much.

I am here today to speak on a subject that is most important to all of us in America, the Federal judiciary.

I had the honor for 12 years to serve as a U.S. attorney, and during that time I practiced in Federal court before Federal judges. All of our cases that were appealed were appealed to Federal circuit courts of appeals. And that is where those final judgments of appeal were ruled on. I think an efficient and effective and capable Federal judiciary is a bulwark for freedom in America. It is a cornerstone of the rule of law, and it is something that we must protect at all costs. We need to be professional and expeditious in dealing with those problems.

I must say, however, I do not agree that there has been a stall in the handling of judges. As Senator HATCH has so ably pointed out, there were 22 nominations last year, and 17 of those were confirmed. We are moving rapidly

on the nominations that are now before the Judiciary Committee.

There is one today I want to talk about, Merrick Garland, because really I do not believe that that judgeship should be filled based on the caseload in that circuit, and for no other reason.

But I think it is important to say that there is not a stall, that I or other Senators could have delayed the vote on Merrick Garland for longer periods of time had we chosen to do so. We want to have a vote on it. We want to have a debate on it. We want this Senate to consider whether or not this vacancy should be filled. And I think it should not.

Senator HATCH brilliantly led, recently, an effort to pass a balanced budget amendment on the floor of this Senate. For days and hours he stood here and battled for what would really be a global settlement of our financial crisis in this United States. We failed by one vote to accomplish that goal. But it was a noble goal.

That having slipped beyond us, I think it is incumbent upon those of us who have been sent here by the taxpayers of America to marshal our courage and to look at every single expenditure this Nation expends and to decide whether or not it is justified. And if it is not justified, to say so. And if it is not justified, to not spend it.

In this country today a circuit court of appeals judge costs the taxpayers of America $1 million a year. That includes their library, their office space, law clerks, secretaries, and all the other expenses that go with operating a major judicial office in America. That is a significant and important expenditure that we are asking the citizens of the United States to bear. And I think we ought to ask ourselves, is it needed?

I want to point out a number of things at this time that make it clear to me that this judgeship, more than any other judgeship in America, is not needed. Let me show this chart behind me which I think fundamentally tells the story. We have 11 circuit courts of appeal in America. Every trial that is tried in a Federal court that is appealed goes to one of these circuit courts of appeal. From there, the only other appeal is to the U.S. Supreme Court. Most cases are not decided by the Supreme Court. The vast majority of appeals are decided in one of these 11 circuit courts of appeal.

Senator GRASSLEY, who chairs the Subcommittee on Court Administration, earlier this year had hearings on the caseloads of the circuit courts of appeals. He had at that hearing the just recently former chief judge of the Eleventh Circuit Court of Appeals, which has the highest caseload per judge in America. Total appeals filed per judge for the year ending September 30, 1996, was 575 cases per judge. He also had testifying before that committee Chief Judge Harvey Wilkinson from the Fourth Circuit Court of Appeals. They are the third most busy circuit in America. They have 378 cases filed per judge in a year's time. Both of those judges talked to us and talked to our committee about their concerns for the Federal judiciary and gave some observations they had learned.

First of all, Judge Tjoflat, former chief judge of the eleventh circuit, testified how when the courts of appeals get larger and those numbers of judges go up from 8, 10, 12, to 15, the collegiality breaks down. It is harder to have a unified court. It takes more time to get a ruling on a case. It has more panels of judges meeting, and they are more often in conflict with one another. It is difficult to have the kind of cohesiveness that he felt was desirable in a court. Judge Wilkinson agreed with that.

I think what is most important with regard to our decision today, however, is what they said about their need for more judges. Judge Tjoflat, of the eleventh circuit, said even though they have 575 filings per judge in the Eleventh Circuit Court of Appeals, they do not need another judge. Even Judge Harvey Wilkinson said even though they have 378 filings per judge in the fourth circuit, they do not need another judge. He also noted, and the records will bear it out, that the Fourth Circuit Court of Appeals has the fastest disposition rate, the shortest time between filing and decision, of any circuit in America, and they are the third busiest circuit in America. That is good judging. That is good administration. That is fidelity to the taxpayers' money, and they ought to be commended for that.

When you look at that and compare it to the situation we are talking about today with 11 judges in the D.C. circuit, they now have only 124 cases per judge, less than one-fourth the number of cases per judge as the eleventh circuit has. What that says to me, Madam President, is that we are spending money on positions that are not necessary.

The former chief judge of the D.C. circuit, with just 123 cases per judge, back in 1995 said he did believe the 11th judgeship should be filled but he did not believe the 12th should be filled. As recently as March of this year, just a few weeks ago, he wrote another letter discussing that situation. This is what he said in a letter addressed to Senator HATCH:

> You asked me yesterday for my view as to whether the court needs 11 active judges and whether I would be willing to communicate that view to other Senators of your committee. As I told you, my opinion on this matter has not changed since I testified before Senator GRASSLEY's committee in 1995. I said then and still believe that we should have 11 active judges. On the other hand, I then testified and still believe that we do not need and should not have 12 judges. Indeed, given the continued decline in our caseload since I last testified, I believe the case for the 12th judge at any time in the foreseeable future is almost frivolous, and, as you know, since I testified, Judge Buckley has taken senior status and sits part time, and I will be eligible to take senior status in 3 years. That is why I continue to advocate the elimination of the 12th judgeship.

So that is the former chief judge of the D.C. circuit saying that to fill the 12th judgeship would be frivolous, and he noted that there is a continuing decline in the caseload in the circuit.

Madam President, let me point out something that I think is significant. Judge Buckley, who is a distinguished member of that court has taken senior status. But that does not mean that he will not be working. At a minimum, he would be required as a senior-status judge to carry one-third of his normal caseload. Many senior judges take much more than one-third of their caseload. They are relieved of administrative obligations, and they can handle almost a full judicial caseload. It does not indicate, because Judge Buckley announced he would be taking senior status, that he would not be doing any work. He would still be handling a significant portion of his former caseload. I think that is another argument we ought to think about.

Finally, the numbers are very interesting with regard to the eleventh circuit in terms of the declining caseload mentioned by Judge Silberman in his letter to Senator HATCH. We have examined the numbers of this circuit and discovered that there has been a 15 percent decline in filings in the D.C. circuit last year. That is the largest decline of any circuit in America. It apparently will continue to decline. At least there is no indication that it will not. If that is so, that is an additional reason that this judgeship should not be filled.

I think Senator LEAHY, the most able advocate for Mr. Garland, indicated in committee that it would be unwise to use these kinds of numbers not to fill a judgeship, but it seems to me we have to recognize that, if you fill a judgeship, that is an appointment for life. If that judgeship position needs to be abolished, the first thing we ought to do is not fill it. That is just good public policy. That is common sense. That is the way it has always been done in this country, I think. We ought to look at that.

So what we have is the lowest caseload per judge in America, declining by as much as 15 percent last year, and it may continue to decline this year. The numbers are clear. The taxpayer should not be burdened with the responsibility of paying for a Federal judge sitting in a D.C. circuit without a full caseload of cases to manage.

Let me say this about Mr. Garland. I have had occasion to talk with him on the phone. I told him I was not here to delay his appointment, his hearing on his case. I think it is time for this Senate to consider it. I think it is time for us to vote on it. Based on what I see, that judgeship should not be filled. He has a high position with the Department of Justice and, by all accounts, does a good job there. There will be a number of judgeship vacancies in the D.C. trial judges. He has been a trial

lawyer. He would be a good person to fill one of those. I would feel comfortable supporting him for another judgeship.

Based on my commitment to frugal management of the money of this Nation, I feel this position should not be filled at this time. I oppose it, and I urge my colleagues to do so.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Thank you, Madam President. First, let me associate myself with the remarks of my distinguished colleague from Alabama who has just spoken. My position is quite the same as his with respect to this nominee. Certainly, I must begin by saying that I believe Mr. Garland is well qualified for the court of appeals. He earned degrees from Harvard College and Harvard Law School and clerked for Judge Friendly on the U.S. Court of Appeals for the Second Circuit and for Justice Brennan on the Supreme Court and, since 1993, he has worked for the Department of Justice. So there is no question, he is qualified to serve on the court.

Like my colleague from Alabama, my colleague from Iowa, and others, I believe that the 12th seat on this circuit does not need to be filled and am quite skeptical that the 11th seat, the seat to which Mr. Garland has been nominated, needs to be filled either. The case against filling the 12th seat is very compelling, and it also makes me question the need to fill the 11th seat.

In the fall of 1995, the Courts Subcommittee of the Judiciary Committee held a hearing on the caseloads of the D.C. circuit. Judge Silberman, who has served on the D.C. circuit for the past 11 years, testified that most members of the D.C. circuit have come to think of the D.C. circuit as a de facto court of 11. In other words, even though there are 12 seats, theoretically, it is really being thought of as an 11-member court by its members. In fact, in response to written questions, Judge Silberman pointed out that the courtroom, normally used for en banc hearings, seats only 11 judges. In other words, that is what they can accommodate.

When Congress created the 12th judgeship in 1984, Congress may have thought that the D.C. circuit's caseload would continue to rise, as it had for the previous decade. But, in fact, as my colleague from Alabama has pointed out, exactly the opposite has occurred; the caseload has dropped. It is the only circuit in the Nation with fewer new cases filed now than in 1985. During the entire period, the D.C. circuit has had a full complement of 12 judges for only 1 year.

In a letter to Senator GRASSLEY, Judge Silberman wrote that the D.C. circuit can easily schedule its upcoming arguments with 11 judges and remain quite current. Further, Judge Silberman noted that while the D.C. circuit, unlike most others, has not had any senior judges available to sit with it, the court has invited visiting judges only on those occasions when it was down to 10 active judges.

Additionally, according to the Administrative Office of the U.S. Courts, it costs more than $800,000 a year to pay for a circuit judge and the elements associated with that judge's work. In light of recent efforts to curtail Federal spending, again, I agree with my colleague from Alabama that it is imprudent to spend such a sum of money unless the need is very clear.

Senators GRASSLEY and SESSIONS have made sound arguments that the D.C. circuit does not need to fill the 11th seat. Their arguments are reasonable and not based upon partisan considerations. Similarly, my concerns with the Garland nomination are based strictly on the caseload requirements of the circuit, not on partisanship or the qualifications of the nominee.

I would not want the opposition to the nomination, therefore, to be considered partisan in any way. Thus, although I do not believe that the administration has met its burden of showing that the 11th seat needs to be filled, in the spirit of cooperation, and to get the nominee to the floor of the Senate, I voted to favorably report the nomination of Merrick Garland from the Judiciary Committee when we voted on that a couple of weeks ago. But, at the time, I reserved the right to oppose filling that 11th vacancy when the full Senate considered the nomination. That time has now come, and being fully persuaded by the arguments made by Senator SESSIONS and Senator GRASSLEY, I reluctantly will vote against the confirmation of this nominee.

Based on the hearing of the Courts Subcommittee, caseload statistics, and other information, as I said, I have concluded that the D.C. circuit does not need 12 judges and does not, at this point, need 11 judges. Therefore, I will vote against the nomination of Merrick Garland.

If Mr. Garland is confirmed and another vacancy occurs, thereby opening up the 11th seat again, I plan to vote against filling the seat—and, of course, the 12th seat—unless there is a significant increase in the caseload or some other extraordinary circumstance.

Madam President, I want to thank Senator GRASSLEY for his leadership in this area, as chairman of the subcommittee, and for allowing me to speak prior to his comments, which I gather will be delivered next.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, I rise today to express my views of the pending nomination. As chairman of the Subcommittee on Administrative Oversight and the Courts, I have closely studied the D.C. circuit for over a year now. And I can confidently conclude that the D.C. circuit does not need 12 judges or even 11 judges. Filling either of these two seats would just be a waste of taxpayer money—to the tune of about $1 million per year for each seat. The total price tag for funding an article III judge over the life of that judges is an average of $18 million.

Madam President, $18 million is a whole lot of money that we would be wasting if we fill the vacancies on the D.C. circuit.

In 1995, I chaired a hearing before the Judiciary Subcommittee on Administrative Oversight and the Courts on the D.C. circuit. At the hearing, Judge Lawrence Silberman—who sits on that court—testified that 12 judges were just too many. According to Judge Silberman, when the D.C. circuit has too many judges there just isn't enough work to go around.

In fact, as for the 12th seat, the main courtroom in the D.C. courthouse does not even fit 12 judges. When there are 12 judges, special arrangements have to be made when the court sits in an en banc capacity.

I would ask my colleagues to consider the steady decrease in new cases filed in the D.C. circuit. Since 1985, the number of new case filings in the D.C. circuit has declined precipitously. And it continues to decline, even those who support filling the vacancies have to admit this. At most, the D.C. circuit is only entitled to a maximum of 10 judges under the judicial conference's formula for determining how many judges should be allotted to each court.

Judge Silberman recently wrote to the entire Judiciary Committee to say that filling the 12th seat would be—in his words—''frivolous.'' According to the latest statistics, complex cases in the D.C. circuit declined by another 23 percent, continuing the steady decline in cases in the D.C. circuit. With fewer and fewer cases per year, it doesn't make sense to put more and more judges on the D.C. circuit. That would be throwing taxpayer dollars down a rat hole.

So the case against filling the current vacancies is compelling. I believe that Congress has a unique opportunity here. I believe that we should abolish the 12th seat and at least the 11th seat should not be filled at this time. I believe that a majority of the Juidicary Committee agrees the case has been made against filling the 12th seat and Chairman HATCH has agreed not to fill it. So, no matter what happens today, at least we know that the totally unnecessary 12th seat will not be filled. At least the taxpayers can rest a little easier on that score.

Abolishing judicial seats is completely nonpartisan. If a judicial seat is abolished, no President— Democrat or Republican—could fill it. As long as any judgeship exists, the temptation to nominate someone to fill the seat will be overwhelming—even with the outrageous cost to the American taxpayer.

Again, according to the Federal judges themselves, the total cost to the American taxpayer for a single article III judge is about $18 million. That's not chump change. That's something to look at. That's real money we can save.

Here in Congress, we have downsized committees and eliminated important support agencies like the Office of Technology Assessment. The same is true of the executive branch. Congress has considered the elimination of whole Cabinet posts. It is against this backdrop that we need to consider abolishing judgeships where appropriate—like in the D.C. circuit or elsewhere.

While some may incorrectly question Congress' authority to look into these matters, we are in fact on firm constitutional ground. Article III of the Constitution gives Congress broad authority over the lower Federal courts. Also, the Constitution gives Congress the ''power of the purse.'' Throughout my career, I have taken this responsibility very seriously. I, too, am a taxpayer, and I want to make sure that taxpayer funds aren't wasted.

Some may say that Congress should simply let judges decide how many judgeships should exist and how they should be allocated. I agree that we should defer to the judicial conference to some degree. However, there have been numerous occasions in the past where Congress has added judgeships without the approval of the Judicial Conference in 1990, the last time we created judgeships, the Congress created judgeships in Delaware, the District of Columbia and Washington State without the approval of the Judicial Conference. In 1984, when the 12th judgeship at issue in this hearing was created—Congress created 10 judgeships without the prior approval of the Judicial Conference. It is clear that if Congress can create judgeships without judicial approval, then Congress can leave existing judgeships vacant or abolish judgeships without judicial approval. It would be illogical for the Constitution to give Congress broad authority over the lower Federal courts and yet constrain Congress from acting unless the lower Federal courts first gave prior approval.

Madam President, I ask my colleagues to vote ''no'' on the current nomination and strike a blow for fiscal responsibility. Spending $18 million on an unnecessary judge is wrong. I have nothing against the nominee. Mr. Garland seems to be well qualified and would probably make a good judge—in some other court. Now, I've been around here long enough to know where the votes are. I assume Mr. Garland will be confirmed. But, I hope that by having this vote—and we've only had four judicial votes in the last 4 years—a clear message will be sent that these nominations will no longer be taken for granted.

Let's be honest—filling the current vacancies in the D.C. circuit is about political patronage and not about improving the quality of judicial decision making. And who gets stuck with the tab for this? The American taxpayer. I think it's time that we stand up for hardworking Americans and say no to this nomination.

I would like to make a few comments about the Judicial nomination process in general. Just about every day or so we hear the political hue and cry about how slow the process has been. This is even though we confirmed a record number of 202 judges in President Clinton's first term—more than we did in either President Reagan's or President Bush's first term.

I have heard the other side try to make the argument that not filling vacancies is the same as delaying justice. Well, when you have Clinton nominees or judges who are lenient on murderers because their female victim did not suffer enough, or you have a judge that tries to exclude bags of drug evidence against drug dealers, or a judge that says a bomb is not really a bomb because it did not go off and kill somebody—then I think that's when justice is denied.

The American people have caught on to this. And, I think the American people would just as soon leave some of these seats unfilled rather than filling them with judges who are soft on criminals or who want to create their own laws.

We have heard repeatedly from the other side that a number of judicial emergency vacancies exist. We are told that not filling these vacancies is causing terrible strife across the country. Now, to hear the term ''judicial emergency'' sounds like we are in dire straits. But, in fact, a judicial emergency not only means that the seat has been open for 18 months. It does not mean anything more than that, despite the rhetoric we hear.

In fact, it is more than interesting to note that out of the 24 so-called judicial emergencies, the administration has not even bothered to make a nomination to half them. That is right, Mr. President. After all we have heard about Republicans not filling these so-called judicial emergencies which are not really emergencies, we find that the administration has not even sent up nominees for half of them after having over a year and a half to do so.

But, we continue to hear about this so-called caseload crisis. My office even got a timely fax from the judicial conference yesterday bemoaning the increase in caseload. Well, Mr. President, I sent out the first time ever national survey to article III judges last year. I learned many things from the responses. Among them, I learned that while caseloads are rising in many jurisdictions, the majority of judges believed the caseloads were manageable with the current number of judges. A number of judges would even like to see a reduction in their ranks.

We know that much of the increased caseload is due to prisoner petitions, which are dealt with very quickly and easily, despite the hue and cry we hear. As a matter of fact the judicial conference even admits some of the increase is due to prisoners filing in order to beat the deadline for the new filing fees we imposed. So, there may be isolated problems, but there is no national crisis—period.

On February 5, I had the opportunity to chair a judiciary subcommittee hearing on judicial resources, concentrating on the fourth circuit. My efforts in regard to judgeship allocations are based upon need and whether the taxpayers should be paying for judgeships that just are not needed. We heard from the chief judge that filling the current two vacancies would actually make the court's work more difficult for a number of reasons. He argued that justice can actually be delayed with more judges because of the added uncertainty in the law with the increased number of differing panel decisions. I am sorry that only three Senators were there to hear this very enlightening testimony.

We in the majority have been criticized for not moving fast enough on nominations. However, we know there was a higher vacancy rate in the judiciary at the end of the 103d Democrat Congress than there was at the end of the 104th Republican Congress. Even though there were 65 vacancies at the end of last year, there were only 28 nominees that were not confirmed. All of them had some kind of problem or concern attached to them. The big story here is how the administration sat on its rights and responsibilities and did not make nominations for more than half of the vacancies. And some of the 28 nominations that were not confirmed were only sent to us near the end of the Congress. Yet, the administration has the gall to blame others for their failings.

I think it is also important to remember the great deal of deference we on this side gave to the President in his first term. As I said, we have confirmed over 200 nominees. All but four, including two Supreme Court nominees, were approved by voice vote. That is a great deal of cooperation. Some would say too much cooperation.

But now, after 4 years of a checkered track record, it is clear to me that we need to start paying a lot more attention to whom we're confirming. Because like it or not, we are being held responsible for them.

I cannot help but remember last year when some of us criticized a ridiculous decision by a Federal judge in New York who tried to exclude overwhelming evidence in a drug case. What was one of the first things we heard from the administration? After they also attacked the decision, they turned around and attacked the Republican Members who criticized the decision. They said, you Republicans voted for the nominee, so you share any of the blame.

Well, the vote on Judge Baer was a voice vote. But, I think many of us woke up to the fact that the American people are going to hold us accountable for some of these judges and their bad decisions. So, there is no question the scrutiny is going to increase, thanks to this administration, and more time and

effort is going to be put into these nominees. And, yes, we will continue to criticize bad decisions. If a judge that has life tenure cannot withstand criticism, then maybe he or she should not be on the bench.

Now, having said all of this, we have before us a nominee who we're ready to vote on. I had been one of those holding up the nominee for the D.C. circuit, the nomination before us. I believe I have made the case that the 12th seat should not be filled because there is not enough work for 12 judges, or even 11 judges for that matter. My argument has always been with filling the seat—not the nominee. Now that we have two open seats—even though the caseload continues to decline—I'm willing to make a good faith effort in allowing the Garland nomination to move forward.

But, given the continued caseload decline, and the judicial conference's own formula giving the circuit only 9.5 judges, I cannot support filling even the 11th seat. So, I will vote ''no.'' I assume I will be in the minority here and the nominee will be confirmed, but I think the point has to be made. I very much appreciate Chairman HATCH's efforts in regard to my concerns, and his decision to not fill the unnecessary 12th seat.

So, there have been a lot of personal attacks lately. Motives are questioned and misrepresented. This is really beneath the Senate. And I hope it will not continue.

Despite the attacks that have been launched against those of us who want to be responsible, all we are saying is send us qualified nominees who will interpret the law and not try to create it. Send us nominees who will not favor defendants over victims, and who will be tough on crime. Send us nominees who will uphold the Constitution and not try to change it. As long as the judgeships are actually needed, if the administration sends us these kinds of nominees, they will be confirmed.

I thank the Chair.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Chair recognizes the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise today in opposition to the nomination of Merrick B. Garland to be a judge on the U.S. Court of Appeals for the District of Columbia Circuit. I commend Senators SESSIONS, KYL, and GRASSLEY for taking this course.

Let me state from the outset that my opposition has nothing to do with the nominee himself. I have no reservations about Mr. Garland's qualifications or character to serve in this capacity. He had an excellent academic record at both Harvard College and Harvard Law School before serving as a law clerk on the U.S. Court of Appeals for the Second Circuit and the U.S. Supreme Court. Also, he has served in distinguished positions in private law practice and with the Department of Justice. Moreover, I have no doubt that Mr. Garland is a man of character and integrity.

However, qualifications and character are not the only factors we must consider in deciding whether to confirm someone for a Federal judgeship. A more fundamental question is whether we should fill the position itself. Mr. Garland was nominated for the 11th seat on the D.C. circuit. I do not feel that this vacancy needs to be filled. Thus, I cannot vote in favor of this nomination.

The caseload of the D.C. circuit is considerably lower than any other circuit court in the Nation. In 1996, the eleventh circuit had almost five times the number of cases per judge as the D.C. circuit. The fourth circuit had over three times as many cases filed. Specifically, about 378 appeals were filed per judge in the fourth circuit in 1996, compared to only about 123 in the D.C. circuit.

Moreover, the caseload of the D.C. circuit is falling, not rising. Statistics from the Administrative Office show a decline in filings in the D.C. circuit over the past year.

I am well aware of the argument that the cases in the D.C. circuit are more complex and take more time to handle, and therefore we should not expect the D.C. circuit to have the same caseload per judge as other circuits. However, this fact cannot justify the great disparity in the caseload that exists today between the D.C. circuit and any other circuit. This is especially true since the D.C. circuit caseload is declining. In short, it is my view that the existing membership of the D.C. circuit is capable of handling that court's caseload.

Mr. President, one of the core duties of a Member of this great Body is to determine how to spend, and whether to spend, the hard-earned money of the taxpayers of this Nation. We must exercise our duty prudently and conservatively because it is not our money or the Government's money we are spending; it is the taxpayers' money. Today, the Republican Congress is working diligently to find spending cuts that will permit us to finally achieve a balanced budget. In making these hard choices, no area should be overlooked, including the judicial branch. Under the Constitution, the Congress has the power of the purse, and it has broad authority over the lower Federal courts. This body has the power to eliminate or decide not to fund vacant lower Federal judgeships, just as it had the power to create them in the first place.

The cost of funding a Federal judgeship has been estimated at about $1 million per year. This is a substantial sum of money, and a vastly greater sum if we consider the lifetime service of a judge. We must take a close look at vacant judgeships to determine whether they are needed.

In this regard, Senator GRASSLEY, the chairman of the Judiciary Subcommittee on the Courts and Administrative Oversight, has been holding hearings regarding the proper allocation of Federal judgeships. I would like to take this opportunity to commend Senator GRASSLEY for the fine leadership he is providing in this important area. Through Senator GRASSLEY's hard work, we have learned and continue to learn much about the needs of the Federal courts.

During one such subcommittee hearing this year, the Chief Judge of the Court of Appeals for the Fourth Circuit, J. Harvie Wilkinson III, explained that having more judges on the circuit court does not always mean fewer cases and a faster disposition of existing ones. He indicated it may mean just the opposite. More judges can mean less collegial decisionmaking and more intracircuit conflicts. As a result of such differences, more en banc hearings are necessary to resolve the disputes. More fundamentally, a large Federal judiciary is an invitation for the Congress to expand Federal jurisdiction and further interfere in areas that have been traditionally reserved for the States.

In summary, I oppose this nomination only because I do not believe that the caseload of the D.C. circuit warrants an additional judge. Mr. Garland is a fine man, but I believe that my first obligation must be to the taxpayers of this Nation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Vermont.

Mr. LEAHY. Mr. President, how much time is remaining to the distinguished senior Senator from Utah and myself?

The PRESIDING OFFICER. The Senators have 54 minutes.

Mr. LEAHY. I thank the Chair.

Mr. President, I am concerned when I hear attempts to tie Mr. Garland's nomination to the number of judges in the D.C. circuit. Let us remember that Mr. Garland is there to fill the 11th seat on the D.C. circuit, not the 12th seat. Even Judge Silberman, who has argued for abolishing the 12th seat for this court, has testified that ''it would be a mistake, a serious mistake, for Congress to reduce down below 11 judges.'' That is a verbatim quote from Judge Silberman.

But we should also remember that when we just put numbers here, numbers do not tell the whole story. The D.C. circuit's docket is by far the most complex and difficult in the Nation. You can have a dozen routine matters in another circuit and one highly complex issue involving the U.S. Government in the D.C. circuit, brought because it is the D.C. circuit, that one would go on and equal the dozen or more anywhere else.

We can debate later on the size of the D.C. circuit, whether it should be 11 or 12. But we are talking about the 11th seat. And what Senators ought to be talking about is the fact that Merrick Garland is a superb nominee. He has been seen as a superb nominee by Republicans and Democrats alike, by all writers in this field. At a time when some seem to want people who are not

qualified, here is a person with qualifications that are among the best I have ever seen.

So, let us not get too carried away with the debate on what size the court should be. We can have legislation on that. The fact is, we have a judge who is needed, a judge who was nominated, and whose nomination was accepted and voted on by the Senate Judiciary Committee in 1995. It is now 1997. Let us stop the dillydallying. I suppose, as we are not doing anything else—we do not have any votes on budgets or chemical weapons treaties or any of these other things we can do—I suppose we can spend time on this. We ought to just vote this through, because at the rate we are currently going we are falling further and further behind, and more and more vacancies are continuing to mount over longer and longer times, to the detriment of greater numbers of Americans and the national cause of prompt justice.

Frankly, I fear these delays are going to persist. In fact, the debate on what should be in the courts took an especially ugly turn over the last 2 weeks. Some Republicans have started calling for the impeachment of Federal judges who decide a case in a way they do not like. A Member of the House Republican leadership called for the impeachment of a Federal judge in Texas because he disagreed with his decision in the voting rights case, a decision that, whichever way he went, was going to be appealed by the other side. If he ruled for the plaintiffs, the defendants were going to appeal; if he ruled for the defendants, the plaintiffs would have appealed. But this Member of the other body decided, forget the appeals, he disagrees, so impeach the judge. He is quoted in the Associated Press as saying, ''I am instituting the checks and balances. For too long we have let the judiciary branch act on its own, unimpeded and unchallenged, and Congress' duty is to challenge the judicial branch.''

The suggestion of using impeachment as a way to challenge the independence of the Federal judiciary, an independence of the judiciary that is admired throughout the world, the independence of a judiciary that has been the hallmark of our Constitution and our democracy, the independence of a Federal judiciary that has made it possible for this country to become the wealthiest, most powerful democracy known in history and still remain a democracy—to talk of using impeachment to challenge that independence demeans our Constitution, and it certainly demeans the Congress when Members of Congress speak that way. It is also the height of arrogance. It ignores the basic principle of a free and independent judicial branch of Government. We would not have the democracy we have today without that independence.

I wonder if some have taken time to reread the Constitution. Maybe I give them too much benefit of the doubt. I will ask them to read the Constitution. Article II, section 4, of the Constitution states:

> The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

The Founders of this country did not consider disagreement with a Member of the House of Representatives as an impeachable offense. In fact, the Founders of this country would have laughed that one right out. Can you imagine? I suggested some read the Constitution and, I must admit, in a moment of exasperation, I suggested perhaps some who were making these claims had never read a book at all. But, of course, they have. There is one by Lewis Carroll. It is called Alice in Wonderland. The queen had a couple different points she made. One, of course, if all else failed was, ''Off with their heads.'' The other is, ''The law is what I say the law is.''

We all lift our hands at the beginning of our term in office and swear allegiance to that Constitution, but all of a sudden there is something found in there that none of us knew about. Impeach a judge because you disagree with a judge's decision? I tried an awful lot of cases before I came here. I was fortunate in that, a chance to try cases at the trial level and the appellate level. Sometimes I won, sometimes I lost, but there was always an appeal. In fact, I found in the cases I won as a prosecutor, the person on the way to jail would invariably file an appeal. I just knew the appeal would be made. That is the way the courts go.

You do not suddenly say because I won the case, the judge was to be impeached.

I think back to about 40 years ago and those who wanted to impeach the U.S. Supreme Court. Why? Because they refused to uphold segregation—let's impeach the Court. In fact, I made my first trip here to the U.S. Capitol in Washington, DC, when I was in my late teens. At that time, for the first time, I saw the billboards and demonstrations against the Chief Justice after the landmark Brown versus Board of Education decision. I wondered what was going on.

In the 1950's, it was not uncommon to see billboards and bumper stickers saying, ''Impeach Earl Warren.'' These signs were so prevalent, Mr. President, that a young man from Georgia at that time once remarked that his most vivid childhood memory of the Supreme Court was the ''Impeach Earl Warren'' signs that lined Highway 17 near Savannah. He said: ''I didn't understand who this Earl Warren fellow was, but I knew he was in some kind of trouble.''

That young man from Georgia is now a Supreme Court Justice himself, Justice Clarence Thomas.

In hindsight, it seems laughable, as in hindsight the current calls of impeachment of current judges will also be laughable. At that time, the call to impeach was popular within a narrow and intolerant group which did not understand how our democracy works or what was its strength. Apparently, it is fashionable in some quarters to sloganeer about impeaching Federal judges again.

It was wrong in the 1950's to have somebody who wanted to protect the sin and stain of segregation to call for the impeachment of Earl Warren. It is wrong for some today to call for the impeachment of a Federal judge because of a disagreement with a single decision.

So I hope all of us—all of us—stop acting as though we can go to something way beyond our Constitution because a judge comes out with a decision that we may disagree with. That is not a high crime or misdemeanor; it is not an impeachable offense. Maybe it is an appealable question, but not an impeachable offense.

We in the Congress cannot act as some super court of appeals. Good Lord, we even had a suggestion over the weekend that maybe even the Congress should have the power to vote to override any decision. In fact, it would be a super court of appeals. Good Lord, Mr. President, look at the pace of this Congress. We have almost 100 vacancies on the Federal court and certainly by the end of business yesterday, we had not filled a single one of them. We have not had a minute of debate on the budget. We have done nothing about bringing up campaign finance reform.

Cooler heads are prevailing. I commend the distinguished majority leader, Senator LOTT, for his remarks on these impeachment threats. He is quoted as saying that impeachment should be based on improper conduct of a judge, not on his or her decisions or appeals. I think that is the way it should be. I think perhaps we should step back before we go down this dark road.

I understand, Mr. President, that the distinguished senior Senator from Maryland wishes 5 minutes; is that correct?

Mr. SARBANES. If the Senator can yield me 5 minutes, I would appreciate it.

Mr. LEAHY. Mr. President, I yield 5 minutes to the distinguished senior Senator from Maryland.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Maryland.

Mr. SARBANES. I thank the Chair.

I would like to ask the distinguished Senator from Vermont a couple of questions, if I can, about the charts he was referring to earlier. I want to make sure I understand them fully.

This one, as I understand, shows the number of judges that have been confirmed in the last three Congresses—we are now in the 105th Congress. There are currently 94 vacancies in the Federal court system?

Mr. LEAHY. There are. There will very soon be 100.

Mr. SARBANES. As yet, no judges have been confirmed in this Congress?

Mr. LEAHY. That's right.

Mr. SARBANES. This is the first judge that has come before us?

Mr. LEAHY. That is right.

Mr. SARBANES. Although I gather there are some 25 judges pending in the Judiciary Committee.

Mr. LEAHY. Between 23 and 25, enough to fill a quarter of the vacancies that are pending. Of course, on Mr. Garland, he came before the committee in 1995 and was approved by the committee the first time in 1995. We are now in 1997. It is not moving with alacrity.

Mr. SARBANES. It is not even moving with the speed of a glacier, one might observe.

Mr. LEAHY. I was going to say, there is a certain glacier connotation to the speed of confirming judges.

Mr. SARBANES. In the previous Congress, the 104th Congress, 75 judges were confirmed?

Mr. LEAHY. That's right.

Mr. SARBANES. The previous Congress, the 103d, 129, and the one before that, the 102d, 124; is that correct?

Mr. LEAHY. The Senator is correct.

Mr. SARBANES. There is a significant falloff in the number of judges being confirmed.

Mr. LEAHY. In the 104th Congress, I tell my friend from Maryland, there was an unprecedented slowdown in the confirmation of judges to the extent that I think the only year that we could find, certainly in recent memory, where no court of appeals judges were confirmed at all was in the second session of the 104th Congress. The slowdown was so dramatic in the second session of the 104th Congress that it dropped the number down to certainly an unprecedented low, considering the vacancies.

Mr. SARBANES. I am quite concerned with these developments. The Congress has become much more political and partisan by any judgment. I think that is regrettable, but it has happened, and we have to try to contend with it here as best we can. But I think it is a dire mistake if this attitude carries over into our decisions regarding the judiciary, the third, independent branch of our Government and the one that, in order to maintain public confidence in our justice system, ought to have politics removed from it as much as is humanly possible.

Would the Senator from Vermont agree with that observation?

Mr. LEAHY. I absolutely agree. It has been my experience in the past that Republicans and Democrats have worked closely together with both Republican and Democratic Presidents to keep the judiciary out of politics, knowing that all Americans would go to court not asking whether a judge is Republican or Democrat, but asking whether this is a place they will get justice. If we politicize it, they may not be able to answer that question the way they have in the past.

Mr. SARBANES. Therefore, I am very interested in this chart you have prepared: The number of judges confirmed during the second Senate session in the Presidential election years.

Now, what has happened? What happened in 1996 is dramatic. No appeals court judges were confirmed and only 17 district court judges.

Mr. LEAHY. If my friend from Maryland will yield on that, I will point out the contrast. In 1992 we had a Republican President and a Democratic Senate; we confirmed 11 appellate court judges and 55 district court judges. Four years later you have a Democratic President and a Republican Senate and look at the vast difference: zero appellate court judges and only 17 district court judges, notwithstanding an enormous vacancy rate.

I think what it shows is that, if you want something to demonstrate partisanship, when the Democrats controlled the Senate with a Republican President, they still cooperated to give that Republican President a significant number of judges in the second session, in a Presidential election year, the time it normally slows down, as contrasted to the absolute opposite, the unprecedented opposite, of what happened when you have a Democratic President and a Republican Senate.

Mr. SARBANES. Let me take the Senator's——

Mr. CHAFEE. Could I ask a question in here at the proper time? I do not want to interrupt the flow. I had a question of the manager?

Mr. LEAHY. The Senator from Maryland has the floor.

Mr. SARBANES. I yield for the inquiry.

Mr. CHAFEE. My question is this. As I understand it, there are 3 hours on this bill, so presumably that would take us up to around 6 o'clock, as I understand.

Mr. LEAHY. Unless time is yielded back.

Mr. CHAFEE. I wonder if there appeared to be much of a chance that some time might be yielded back? It would be very helpful to me, but I do not want to stop any pearls of wisdom.

Mr. LEAHY. I have a member of the Leahy family to whom I have had the privilege of being married nearly 35 years who hopes time will be yielded back. As her husband, I hope time will be yielded back. I am about to just give the floor back to the Senator from Maryland. I do not know how much more time is going to be taken in opposition to Mr. Garland. I know of very little time that is going to be taken further here.

So the long way around, to answer my good friend from Rhode Island, I hope time will be yielded back fairly soon.

Mr. CHAFEE. Put me down as a firm supporter of Mrs. Leahy.

Mr. LEAHY. I am sure she would be delighted to know that.

Mr. SARBANES. If the Senator would yield for one further question, just to take your analysis a step further, in 1992 and 1988, in each of those years, you had a Republican President and a Democratic Senate, is that not correct?

Mr. LEAHY. Right.

Mr. SARBANES. It is in both these years, not just the contrast of the last year of the Bush Presidency. But in the last year of the second Reagan administration, we confirmed 7 appeals judges, then 11 for the last year of the Bush administration, and last year the number was zero. For district court judges in those years it was 35, 55 and 17. That is a dramatic difference. An element has intruded itself in this confirmation process that was not heretofore present.

Mr. LEAHY. If the Senator would yield a moment.

In 1984, there was a Republican Senate and Republican President, and you see 10 and 33. In 1992, there is a Republican President and Democratic Senate, and the Democratic Senate actually did better for the Republican President than the Republican Senate for the Republican President.

Mr. SARBANES. Exactly.

Let me say I am very deeply concerned about this development. I want to commend the Senator from Vermont because he has been speaking out on this very important matter for some time now.

Moving to the pending nomination, I want to speak first to Merrick Garland's merits, although let me say that I do not understand any of my colleagues to be questioning his capabilities and qualifications to serve on the bench. In fact, Members on both sides have spoken very highly of Merrick Garland and noted his outstanding character.

I was privileged, since he is a resident of my State, to have the honor to introduce him at his confirmation hearing before the Senate Judiciary Committee. That was on November 30, 1995, almost 18 months ago. I believed then and continue to believe now that he will make an outstanding addition to the D.C. circuit.

His career exemplifies his strong commitment to the law and to public service.

He is a magna cum laude graduate from Harvard Law School. He clerked for Judge Henry Friendly on the second circuit and for Justice William Brennan at the Supreme Court.

He has had a long association with the Justice Department, first as a special assistant to then Att. Gen. Benjamin Civiletti. He then became a partner at Arnold & Porter when he left the Justice Department to go into private practice.

Upon returning to public service, he has served as an assistant U.S. attorney for the District of Columbia, dealing with public corruption and Government fraud cases. He has also served as Deputy Assistant Attorney General in the Justice Department's Criminal Division and as Principal Associate Deputy Attorney General, both very high ranking positions within the Department.

In all of these positions he has served our country with great distinction.

He has published extensively in several areas of the law and has remained active in bar association activities.

In every respect, in his intellect, his character, and his experience, he would make an outstanding addition to the bench.

Let me now just briefly talk about this new line of attack, so to speak, that has arisen about whether vacancies on the D.C. circuit should be filled.

First of all, I think any analysis of the courts' need to fill vacancies cannot be based simply on caseload statistics—this is a benchmark that one needs to analyze carefully in order to determine what lies behind the cases. In fact, the D.C. circuit's situation in particular makes clear that mere case filing numbers do not tell the whole story with respect to the burdens that the court faces. The D.C. circuit receives, in complexity and importance, cases that do not come as a general rule before the other circuits across the country. It has had major, major cases that it has had to deal with as a routine matter, cases of great weight and importance to the nation.

The D.C. circuit also handles numerous appeals from administrative agency decisions that are characterized by voluminous records and complex fact patterns. In fact, almost half of the D.C. circuit's cases are these kinds of administrative appeals—46 percent. The next highest circuit in this respect is the ninth circuit with 9.6 percent of their cases being of this kind.

The D.C. circuit also handles fewer of the least complex and time-consuming cases, criminal and diversity cases, than any of its sister circuits. Only 11 percent of its cases are diversity cases. No other circuit has less than 24 percent.

In testimony before the Judiciary Committee's Courts Subcommittee, D.C. Circuit Judge Harry Edwards—the Chief Judge of the circuit—gave one example of the kind of complex administrative cases that are a routine part of the D.C. circuit's caseload. He talked about a case to review a FERC order, an order of the Federal Energy Regulatory Commission. This order produced, at the time of appeal, 287 separate petitions for review by 163 separate parties, and a briefing schedule that provided for the filing of 27 briefs, totaling over 900 pages.

I am simply making the point that they get very complex matters to deal with in the D.C. circuit, and that the case filing numbers relied on by other side do not tell the whole story.

Recall also that the vacancy we are talking about filling here is the 11th out of 12 slots on the D.C. circuit. Originally, Merrick Garland was being opposed on the basis that the 12th spot on the circuit court ought not to be filled. Now, with the taking of senior status by one of the D.C. circuit's judges, we are talking about filling the 11th spot, not the 12th spot, on that court and yet Members have come forward opposing the Garland nomination, a fact which I very much regret.

Now I want to address just very briefly the fact that the fourth circuit was raised earlier by one of my colleagues in this debate. He cited the view of Fourth Circuit Chief Judge Wilkinson, presented at a February 1997 Judiciary Subcommittee hearing, that the President and Senate do not need to fill the two vacancies that exist on that court.

It is interesting that at that same hearing, testimony that I do not think has been cited, by Judge Sam Ervin, the very able and distinguished circuit judge of the Court of Appeals for the Fourth Circuit, and the son of our former distinguished colleague, was presented before the panel in support of filling the vacancies.

Mr. President, I ask unanimous consent that the very thoughtful statement by Judge Ervin be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. SARBANES. It is very important to note that with respect to the fourth circuit, there is a nominee pending before the Judiciary Committee, whose nomination was submitted in the last Congress—two nominations, as a matter of fact, were submitted to the Committee last year—and one has been resubmitted by the administration right at the beginning of this session.

The PRESIDING OFFICER. The Senator from Maryland has spoken for considerably more than 5 minutes.

Mr. SARBANES. Would the Senator give me 2 minutes to close up?

Mr. LEAHY. I yield 2 additional minutes.

Mr. SARBANES. There is no way with a nominee having been sent to the Senate by the President, that an argument for not approving the nominee based on not needing the judgeship can be made without it carrying with it an ad hominem argument against the nominee.

If people are really serious about reducing vacancies on the courts, they need to scrub down the number of places before the nominees are submitted, by legislation. Once the nominees come here, you cannot divorce the attack on the individual from the attack on the need for the seat on the bench. We have the chief judge of the fourth circuit coming in against filling spots when nominees are pending.

Now, how can that position be taken and considered separate from opposition to the nominee? They say, ''Well, I am not against this nominee, but I just do not think this spot ought to be filled.'' Of course, that is small comfort to the nominee whose nomination is pending and has been put forward in order to fill the vacancy.

Now, Judge Ervin, in his testimony, sets forth, I think, a very persuasive case why the fourth circuit needs to have those vacancies filled. I commend that statement to my colleagues. I will not go through it in detail here, given the fact that this debate is coming to a close.

I do encourage my colleagues to consider carefully the political cloud with which we are now surrounding the judgeships.

I say to my colleagues on the other side, we did not behave this way at a time when the Senate Democrats were in control of the Senate and we were dealing with the nominations of Republican Presidents. I will be very frank. I think the judiciary deserves better than that from us. I hope that game will come to an end and we will be able to move ahead with the confirmation of judges in an orderly fashion.

In closing, let me again state that I am very supportive of the judicial nominee who is before the Senate today. I think he is a person of outstanding merit who will make an outstanding judge, and I urge his confirmation.

EXHIBIT 1

STATEMENT OF THE HONORABLE SAM J. ERVIN III

Mr. Chairman and members of the Subcommittee, my name is Sam J. Ervin, III, of Morganton, North Carolina. I am an active United States Circuit Judge for the Fourth Circuit, having been appointed in May, 1980. I had the honor of serving as the Chief Judge of that Circuit from February, 1989 until February, 1996. I appreciate the Subcommittee's willingness to hear my views.

I support the actions of the Judicial Conference of the United States in its efforts to address the important issue of judgeship needs. I commend Chief Judge Julia Gibbons and the other members of the Judicial Resources Committee for establishing a principled method for evaluating these needs.

I am in agreement with my good friend and colleague, Chief Judge J. Harvie Wilkinson, III, that the federal judiciary should remain of limited size and jurisdiction. Should anyone present doubt my commitment to those principles, I quote from a resolution that I introduced on June 24, 1993: (which was unanimously adopted by the Article III Judges of the Fourth Circuit)

''Chief Judge ERVIN. If I may, I would like to submit for consideration a resolution reading as follows:

'' '*Resolved* that the future role of the federal courts should remain complementary to the role of the state courts in our society. They should not usurp the role of state courts.

'' 'To achieve that goal, it is the consensus of the Conference that the Congress might consider such issues as the federal courts remaining an institution of limited size and jurisdiction. The ability of the federal courts to fulfill their historical limited and specialized role is dependent on the willingness of Congress to maintain jurisdictional balance and curtail the federalization of traditional state crimes and causes of action.' ''

My appearance here today, however, is necessitated by Chief Judge Wilkinson's proposal that we do not need to fill the two judicial vacancies that presently exist in our circuit. It is my conviction that our failure to do so would be a serious mistake.

First, a brief history leading up to the subject of whether these two existing vacancies should or should not be filled;

On October 9, 1985, when the late Harrison Winter was our Chief Judge, the circuit judges, with a single dissent, voted to ask for

four additional active judges for the Fourth Circuit.

On October 4, 1989, we again indicated by another formal action that while we did not desire a court of more than 15 active judges, we unanimously reaffirmed our earlier request for four additional judges.

Legislation was passed in 1990 authorizing a number of additional judgeships, including four new circuit court judges for the Fourth Circuit. Thereafter, three of these so-called Omnibus Bill judges were nominated and subsequently confirmed: Judge Hamilton (S.C.) in July, 1991; Judge Luttig (V.A.) in August, 1991; and Judge Motz (M.D.) in June, 1994.

The fourth (and final) Omnibus Bill judgeship has remained unfilled since it was created in December, 1990. As of this date, there is no pending nomination for this vacancy, and I believe that this is the only 1990 circuit judgeship that remains unfilled.

The second Fourth Circuit vacancy was created when Judge J. Dickson Phillips, Jr., of North Carolina, took senior status, effective July 31, 1994. More than two and one-half years later, the Honorable James M. Beaty, Jr., a District Court Judge in the Middle District of North Carolina, was nominated to succeed Judge Phillips, but no action has been taken on that nomination by the Senate Judiciary Committee.

To my knowledge, the judges of the Fourth Circuit have never taken any formal action to indicate an unwillingness to stand by our requests that these two vacancies be filled.

In order to evaluate the Circuit's needs for these two judgeships, I suggest that we must realistically assess our present situation:

Present Active Judges: At this time, the Fourth Circuit has 13 active judges. Five of these judges are 70 years of age or older. Their present ages are: 90, 78, 76, 73, and 70. Is it realistic to expect that all of these judges will be able to continue to serve indefinitely?

Present Senior Judges: The last printed report from the Administrative Office is outdated in reflecting that we have 4 senior judges. One of the four retired on July 31, 1995, and is no longer eligible to sit.

Another has indicated that he does not plan to sit any more. The remaining two, whose current ages are 79 and 74, have each been sitting 2 days per court week, thereby constituting 4/5 of one judge.

Necessary Panels: For the past several years, we have been averaging 5 panels of judges each court week. With our present complement of active and senior judges, we lack a sufficient number of judges to fill 5 panels without bringing in district judges from our own circuit or senior judges from other circuits.

Current Statistics: Rather than burden you with more numbers, I will simply refer to the latest figures published by the Administrative Office. I am confident that those statistics fully justify the filling of the two existing vacancies. In fact, as I understand it, if the numerical portion of the existing formula were applied (the 500 filings per panel with pro se appeals weighted as one-third of the cases) the Fourth Circuit would be eligible to receive 20 judgeships. We have never requested more than 15.

North Carolina: I note that Judge Gibbon's Judicial Resource Committee has listed as a factor to be considered in allocating judgeships, geographical considerations within a circuit. At the risk of being thought provincial, I emphasize the special impact that a failure to fill the two presently unfilled seats on the Fourth Circuit will have on North Carolina. The expectation has been that these seats would be assigned to that state. I, of course, recognize that there is no law which requires that this allocation be made—actually this is a matter for the executive and legislative branches to determine—but it seems to be the fair thing to do for the following reasons:

a. North Carolina is the most populous state in the circuit.

b. North Carolina has one of the highest numbers of filings in the district courts in the circuit.

c. North Carolina, like West Virginia, has had only two seats, while both Virginia and Maryland have three each, and South Carolina has four. Filling the two existing vacancies from North Carolina would do no more than to restore that state to parity with our sister states. I point out that should I decide to take senior status—as I am eligible to do—North Carolina would have no active judge. That situation would create some insurmountable problems for both the bar and litigants of that state.

d. While it has been suggested to me that this imbalance could be remedied by assigning seats now held by judges from other states to North Carolina as they are opened by death or retirement, that seems an unpredictable solution—especially in the present political climate.

Above all else, I seek to be as sure as it is humanly possible to be that our circuit has a sufficient number of judges to enable us to render swift and certain justice in all of the cases that come before us. Some recent legislation and our adoption of new internal operating procedures may well reduce our caseload to some degree but countervailing circumstances, including the continuation of the federalization of numerous state crimes, the creation of new private rights of action, the rapid population growth of the region, and the increased complexity of both the criminal and civil cases now coming to the federal courts (to mention only a few of the relevant factors) will, I fear, more than offset any decreases in our workloads. I do believe that we would have sufficient personnel to enable us to do the work that is assigned to us in a fashion acceptable to all if these two vacancies are filled—at least for the foreseeable future.

Mr. Chairman, in the Questionnaire which you sent to the members of the judiciary some time ago, you raised the legitimate question of whether we as judges were being required by our respective workloads to delegate more of our judicial functions than was ideal—or even healthy—to elbow law clerks, staff law clerks or other non-judicial employees. I was not privy to the answers my colleagues returned to those questions, but I strongly suspect that many of us would admit that the degree of delegation required in the courts of appeals is greater than is ideal. Speaking only for myself, I would like to be able to devote greater personal attention to every matter that comes before me than I am now able to do.

I sincerely believe that our present ability to carry out our duties in a manner pleasing to this Subcommittee, to the public, and to ourselves would be enhanced by the filling of these two long vacant positions.

Mr. BIDEN. Mr. President, 2 of the 12 seats on the District of Columbia Court of Appeals are currently vacant. Some have argued that the vacancy to which Merrick Garland has been nominated should not be filled because the D.C. circuit is overstaffed. But the reasons Congress gave for approving 12 seats for the D.C. circuit remain compelling today and justify filling this vacancy.

Further, to propose eliminating a circuit court judgeship within the context of a particular nomination, rather than through the deliberative process we normally follow in addressing judgeship needs, jeopardizes the impartiality and independence of the judiciary.

Merrick Garland's nomination was first delivered to the Senate on September 6, 1995—more than 18 months ago. The Judiciary Committee held a confirmation hearing on the nomination on November 30, 1995, and forwarded the nomination for consideration by the full Senate 2 weeks later. The full Senate failed to act on Garland's nomination for 9½ more months, however, returning it to the President at the close of the 104th Congress.

In fact, the Senate refused to confirm a single circuit court judge during the entire second session of the last Congress. This was the first time in more than 20 years that an entire session of Congress had passed without a single circuit court confirmation. Nonetheless, some argued that shutting down the confirmation process is par for the course in an election year. They are wrong. And let me set the record straight.

George Bush made nearly one-third of his 253 judicial nominations in 1992, a Presidential election year. As chairman of the Judiciary Committee, I held 15 nomination hearings that year, including 3 in July, 2 in August, and 1 in September. In 1992—the last Presidential election year—the Senate continued to confirm judges through the waning days of the 102d Congress. We even confirmed 7 judges on October 8—the last day of the second session. As a result, the Senate confirmed all 66 nominees the Judiciary Committee reported out that year—55 for the district courts and 11 for the circuit courts. Let me repeat: last session, only 17 district judges were confirmed and no circuit judges were confirmed.

Now that the election is over and Merrick Garland has been renominated, Republicans argue that we should not vote to confirm him because the District of Columbia circuit needs only 10 judges. They are wrong. And let me set the record straight.

Congress has previously recognized the need for 12 judges. Twelve years ago, based on the recommendation of the Judicial Conference of the United States, Congress concluded that the D.C. circuit's caseload warranted 12 judgeships. The Senate report to the 1984 legislation creating an additional judgeship states:

> Located at the seat of the Federal government, the Court of Appeals for the District of Columbia inevitably receives a significant amount of its caseload from federal administrative agencies headquartered in that area. Administrative appeals filed in this court numbered 504 in 1982 and represented 34.8 percent of the incoming caseload. Due to the nature of the caseload which includes many unique cases involving complex legal, economic and social issues of national importance and a large backlog of pending appeals, this court requires one additional judgeship.

The D.C. circuit needs 12 judges to handle its complex caseload. A large portion of the D.C. Circuit caseload consists of complex administrative appeals which generally consume a larger

amount of judicial resources than other appellate cases. Therefore, comparison of raw caseload data between the D.C. circuit, with its high percentage of complex administrative cases, and the other circuits is misleading. According to the statistics provided by the Administrative Office of U.S. Courts for the period from September 30, 1995 to September 30, 1996, 1,347 cases were filed in the D.C. circuit, 474 of which—or 35.2 percent—were administrative appeals. In contrast, in the remaining 11 circuits, of the 51,991 cases filed, only 2,827—or 5.4 percent—were administrative appeals.

The D.C. circuit has a long time interval between filing a notice of appeal and final disposition. Because the D.C. circuit has this incredibly high percentage of administrative appeals relative to the other circuits and because these types of cases require tremendous amounts of judicial resources, litigants in the D.C. circuit must wait an average of 12 months between the filing of the notice of appeal and final disposition. Only 3 of the 12 circuits have a longer average for this time frame.

The fact that the D.C. circuit has a long time interval between filing and disposition is indicative of the complex cases that the circuit handles. Other circuits have more criminal appeals and garden-variety diversity cases that often are amenable to summary disposition without oral argument.

The D.C. circuit has fewer pro se appeals than other circuits. In addition to having fewer criminal appeals and diversity cases, the D.C. circuit has a lower percentage of pro se mandamus cases than all other circuits. Chief Judge Edwards has noted that pro se appeals are often frivolous, easily identified as lacking merit, or otherwise amenable to disposition without significant expenditure of judicial resources.

The D.C. circuit has more cases of national importance than other circuits. Not only are complex administrative appeals commonly heard in the D.C. circuit, but as a result of its location at the seat of the Federal Government, the D.C. circuit also hears a disproportionate number of the high-profile cases of national importance that reach the U.S. Courts of Appeals. The D.C. circuit decided in 1996 alone National Treasury Employees Union versus United States of America, a challenge to the constitutionality of the Line-Item Veto Act, as well as Perot versus Federal Election Commission, an appeal from a district court's rejection of Ross Perot's attempt to participate in last year's Presidential debates.

The same reasons that supported the creation of a 12 judgeship for the D.C. circuit in 1984 justify its existence now. If reasoned deliberation and study of this circuit leads to the conclusion that a future vacancy should not be filled, then we should address that issue, but not within the context of this nomination. If ad hoc analysis becomes our mode of operation, we will give the appearance of a politicized judiciary.

I congratulate Merrick Garland for his distinguished career and commend President Clinton for making this nomination. I hope that the Senate will act to confirm him as expeditiously as possible.

Mr. BURNS. Mr. President, I rise today to express my opposition to the confirmation of Merrick Garland to the D.C. circuit.

Even though the nominee has the character and is highly qualified for the position, there is a larger question that must be examined. Does this seat really need to be filled? Especially since it has remained empty for 1½ years?

The answer is that the D.C. circuit does not need another seat, especially when there are many other problems in the other district circuits that have not been focused on yet. I base my opinion on the fact that the D.C. circuit had 4,359 cases as of October 1996. The ninth circuit, the circuit in which Montana is housed, had 71,462 cases. That is almost 20 times the number of cases. The D.C. circuit ranked last in the total number of cases as compared to each of the other district circuits in the Nation. If we examine these numbers, it does not seem as if the D.C. judges are handling any cases at all.

This is also a very expensive seat. It will cost the American taxpayers an extra $1 million to fill this seat. This will not be money well spent.

There are adequate numbers of judges on the circuit, why are we confirming this seat? I urge my colleagues to examine the numbers and vote against the filling of this unneeded seat.

Ms. MIKULSKI. Mr. President, I rise today in support of the nomination of Merrick Garland to the U.S. Court of Appeals for the D.C. circuit. Mr. Garland is a resident of my State of Maryland.

I am pleased that his nomination is finally on the Senate floor for a vote. It is critical that vacancies on the Federal bench are filled, especially at the appellate level.

Mr. Garland has a distinguished legal record in the public and private sectors. He has specialized in criminal, civil, and appellate litigation, as well as administrative and antitrust law. I believe his experience will serve him well on the Federal bench once he is confirmed.

Mr. Garland is a magna cum laude graduate of Harvard Law School and a summa cum laude graduate of Harvard College. While at Harvard Law School, he was the articles editor of the Harvard Law Review and a member of the prestigious Phi Beta Kappa, while he attended Harvard College.

When I decide whether to support a judicial nominee, I look at whether the nominee is competent; whether the nominee possesses the appropriate judicial temperament; whether the nominee possesses the highest personal and professional integrity, and whether the nominee will protect our core constitutional values.

I believe that Mr. Garland possesses all of these qualifications. His legal and academic record are exemplary. I am impressed that he has devoted part of his career to public service. He served as the Principal Associate Deputy Attorney General in the Department of Justice. And he clerked after law school for one of the most distinguished Supreme Court Justices, Justice William J. Brennan, Jr.

He's also done extensive pro-bono legal work on behalf of disadvantaged individuals. He has represented an African-American employee in a claim of racial discrimination, a mother in a custody dispute, and court-requested representation of a prisoner.

I urge my colleagues to support Mr. Garland's nomination to the U.S. Court of Appeals D.C. Circuit. I hope that once Mr. Garland is confirmed, we can move forward to a vote on the other pending Federal judicial nominees.

Mr. FAIRCLOTH. Mr. President, I rise today to vote ''no'' on the nomination of Merrick Garland to the U.S. Court of Appeals for the District of Columbia Circuit.

In so voting, I take no position on the personal qualifications of Mr. Garland to be a Federal appeals court judge. What I do take a position on is that the vacant 12th seat on the U.S. Court of Appeals for the District of Columbia Circuit does not need to be filled. Senator CHUCK GRASSLEY, Chairman of the Senate Judiciary Committee's Subcommittee on Administrative Oversight and the Courts, has examined this issue thoroughly, and has determined that the court's workload does not justify the existence of the 12th seat. Last Congress, Senator GRASSLEY introduced legislation to abolish this unneeded seat. By proceeding to renominate Mr. Garland, President Clinton has flatly ignored this uncontradicted factual record.

I commend Senator GRASSLEY for his important work on this matter, as well as Senator JEFF SESSIONS, who has also emphasized the importance of this matter. With the Federal deficit at an all time high, we should always be vigilant in looking for all opportunities to cut wasteful Government spending; this is one such opportunity. After all, each unnecessary circuit judge and his or her staff cost the taxpayer at least $1 million a year.

Lastly, our vote today is an important precedent, since it marks the beginning of the Senate's new commitment to hold rollcall votes on all judicial nominees. This is a policy change which I had urged on my Republican colleagues by letter of January 8, 1997, to the Republican Conference. Voting on Federal judges, who serve for life and who exert dramatic—mostly unchecked—influence over society, should be one of the most important aspects of serving as a U.S. Senator.

Rollcall votes will, I believe, impress upon the individual judge, the individual Senator, and the public the importance of just what we are voting on. I hope that my colleagues will regard this vote, and every vote they take on a Federal judge, as being among the most important votes they will ever take.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Utah.

Mr. HATCH. Mr. President, we should inform the Senate that our intent is to yield back the time if we can by 5:15 so people can vote at that time. It could be just a wee bit longer than that. That is our intention. Those who want to come over and use the time need to come now.

I yield 10 minutes to the distinguished Senator from Pennsylvania, who is a distinguished member of the Judiciary Committee.

Mr. LEAHY. Will the Senator yield for a moment?

Mr. HATCH. I yield.

PRIVILEGE OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that Victoria Bassetti of Senator DURBIN's staff be allowed the privilege of the floor during this debate.

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

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my colleague, the distinguished chairman of the Judiciary Committee, for yielding me time.

I have sought recognition to voice my very strong support for the nomination of Merrick Garland for the Court of Appeals for the District of Columbia. Mr. President, a great deal has been said today on this floor which is of great importance but not really tremendously related to Merrick Garland's nomination. I hope we have a chance to analyze the entire process of confirmation of judges and the respective roles of the President and the Senate, because the President has the nominating authority and the Senate has the constitutional authority for confirmation. There are a great many things that ought to be done on both sides to expedite the nomination and confirmation of judges.

In my own State, Pennsylvania has quite a number of vacancies now, and I have been in discussions with the President's representatives at the White House about trying to get these nominations filled. There is something to be said on many sides of this issue. The matter confronting the Senate now is, what are we going to do with Merrick Garland? His record is extraordinary. I have been on the Judiciary Committee going into my 17th year and I do not believe I have seen a nominee with the qualifications that this man has.

He graduated from Harvard College, summa cum laude, was Phi Beta Kappa, and graduated from Harvard Law School, magna cum laude. He was on the Harvard Law Review and was the Articles Editor there. He has an extraordinary record of publications, on the issue of Antitrust, in the Yale Law Journal. And I might say, Mr. President, that this nominee exhibited perhaps his best judgment in associating himself with Yale Law School on the article, then going on into FTC investigations, the controversial veto issue, professional responsibility and commercial speech. It is really an extraordinary, extraordinary record. This man, at the age of 45, coming into the court of appeals, may well be a distinguished prospect for the Supreme Court of the United States.

Beyond his record in school and his writings, he was law clerk to a very distinguished circuit judge, Judge Harry Jay Friendly, and he served as law clerk to Supreme Court Justice William Brennan, Jr., and was a partner of distinguished law firms, and worked as a prosecuting attorney. He now serves as Deputy Assistant Attorney General of the United States in the U.S. Department of Justice, in the Criminal Law Division, where I have had occasion to work with him on a professional basis. He just is an extraordinary prospect for the court of appeals.

He has not been treated very gently in the confirmation process, having been nominated in September 1995. He passed through the Judiciary Committee in the 104th Congress and was kept off the agenda by a single hold. That is when a Senator voices an objection without stating a reason, or perhaps multiple holds, but I know a single hold stood in his way.

I compliment the majority leader, Senator LOTT, for bringing his nomination to the floor at this time so that he may be acted upon, yes or no. He really is extraordinary, and I think he has a remarkable career ahead. I am delighted to offer my voice of strong support for his confirmation.

I thank the Chair. I thank my colleague from Utah. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I also want to thank the distinguished senior Senator from Pennsylvania because he was also the decisive Senator who came in and made the quorum at the time we voted Mr. Garland out of committee. Sometimes we forget those little procedural things we have to do just to get here on the floor.

Mr. SPECTER. I thank my colleague from Vermont for making that comment. I had presided over Merrick Garland's confirmation proceedings in the 104th Congress. It was hard to find a Senator when I came in that afternoon. I found out Merrick Garland was there and five other people. It was an interesting afternoon. We had a great many responsibilities.

I went to law school not too long ago and I know what it is like to be on the law review. They call it the Law Journal at Yale. It is remarkable to have the kind of record that Merrick Garland has. Those writings are just extraordinary. It takes long hours and extraordinary study to turn one of those articles out, and there is a wide array of issues that he has written on. He could be making a lot of money. He is currently in public service and he is prepared to go to the court of appeals at the age of 45. We need judges in America with real intellectual abilities. We need judges like Holmes and Brandeis and Cardozo on the courts of the United States. We need them on the Supreme Court of the United States. This is a real prospect. We ought to get him up and out.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Massachusetts.

Mr. KENNEDY. Will the Senator yield me 5 minutes?

Mr. LEAHY. Yes.

Mr. KENNEDY. Mr. President, I support the nomination of Merrick Garland for the vacancy on the D.C. circuit, and I am concerned that it has taken more than 18 months for the nomination to reach the Senate floor.

No one can question Mr. Garland's qualifications and fitness to serve on the D.C. circuit. He is a respected lawyer, a former Supreme Court law clerk, a partner at a prestigious law firm, and since 1989, has served with distinction in the Department of Justice under both Republican and Democratic administrations.

Support for him is bipartisan. We have received letters of support from numerous Reagan and Bush Justice Department officials, including former Deputy Attorneys General George Terwilliger and Donald Ayers, former Office of Legal Counsel Chief Charles Cooper and former U.S. Attorneys Jay Stephens, Joe Whitley, and Dan Webb. Jay Stephens, who was U.S. attorney when Garland served at that office in the District of Columbia, called Garland a person of ''dedication, sound judgment, excellent legal ability, a balanced temperament, and the highest ethical and professional standards.'' The National District Attorney's Office supports his nomination, calling Garland an excellent lawyer, brilliant scholar, and a man of high integrity.'' There can be no serious doubt about his ability to serve as a fair and impartial judge on the D.C. circuit.

Why then, has it taken 18 months to bring this nomination before the U.S. Senate? And why is it that no other judicial nominees have been brought before the Senate?

In fact, only 17 judges—all for district court appointments—were confirmed during all of 1996. Obviously, that was a Presidential election year. But the slow-down in acting on judicial nominations was unprecedented. In 1992, when President Bush was seeking reelection, the Senate, under control of the Democratic Party, still confirmed 66 district court and appellate court judges.

Justice delayed is justice denied. Thousands of Americans with legitimate grievances cannot get their day in court, because judicial vacancies are not being filled and current Federal judges don't have the time to hear their cases. It's hard to crack down on crime when there are not enough judges to enforce the laws that Congress passes.

Many of us are concerned about the harsh partisanship that is being applied to the judicial nomination process. Republicans in the Senate have organized an ad hoc Republican task force to develop procedures for screening judges. They have rejected a formal role for the American Bar Association in assessing candidates. Republicans are seeking to force the President to conduct the real debate with them behind closed doors—nominee by nominee—to make sure each person the President names meets an ideological litmus test. In fact, some have suggested a quota system, in which half of all judicial nominations come from Republicans in Congress and half from President Clinton.

If the Federal courts were a business, they would be in bankruptcy. There are over 90 vacancies in judgeships today. In his 1996 annual report, Chief Justice Rehnquist criticized Congress failure last year to create additional Federal judgeships and called it a shortcoming. The Administrative Office of the U.S. Courts has requested an additional 20 temporary positions on the courts of appeals and 21 permanent and 12 temporary positions in the district courts to address the heavy backlogs that are piling up.

In the case of Merrick Garland, some Republicans argue that we do not need to fill either of the two current vacancies in the D.C. circuit, because the caseload is too light. Many nonpartisan observers regard the D.C. circuit as the second most important court in the United States, after the Supreme Court. There currently is only one senior judge to assist the other 10 members of the Court.

In terms of both quantity and quality of its caseload, the D.C. circuit ranks among the Nation's busiest. It handles a disproportionately high proportion of cases of national significance involving intricate legal issues. Complex administrative appeals were 38 percent of the caseload of the D.C. circuit during fiscal year 1995, as compared with only 5.5 percent in other circuits.

By contrast, pro se appeals, which are generally the easiest to resolve, constituted only 11.8 percent of the D.C. circuit's caseload in 1995, by far the lowest percentage of any circuit in the country.

Diversity cases, which less often raise complex and time-consuming issues, constituted only 13.6 percent of the D.C. circuit's caseload in 1995, compared with 30 percent in the other circuits. So the charts and graphs that some of our Republican colleagues are using do not tell the whole story.

The court's backlog is also growing. In 1984, when the 12th seat was added, the court had a backlog of 1,200 cases. Today, that backlog exceeds 2,000 cases, despite a bench that is highly respected for its intellect and dedication. As former Republican Senator Charles Mathias stated on behalf of the nonpartisan Council for Court Excellence, ''It is in the public interest for the D.C. Circuit to have its full complement of twelve active judges.''

It is time to end the excessive partisanship over judicial nominations. I hope very much that our action on Merrick Garland is a sign that the unacceptable log jam is breaking and that the Senate is now returning to its proper role of advise and consent, not partisan obstruction, in the consideration of judicial nominations.

So, again, Mr. President, I join with those that are urging the Senate's favorable consideration of this extraordinary nominee. This is an individual who has been willing to be put forward now for over some 18 months. He has appeared before the committee and, as has been pointed out, his record is one of special recognition, a brilliant academic record, a strong commitment to public service. He has served under both Democrats and Republicans. He has been an extraordinary success in the private sector, as well.

I don't think I have seen, in recent times, the range of different support that this nominee has for this position. It is breathtaking in its scope. And the background of this individual has urged us to move forward with this nomination. We are extremely fortunate in the district circuit court to be able to have someone of this quality. As has been pointed out, it is a special court, really second in special recognition to the Supreme Court of the United States, in terms of the complexity of the cases that we require this court to resolve.

So, Mr. President, I join with all of those and urge a positive vote in favor of this extraordinary nominee. Merrick Garland will be an outstanding jurist, as everything in his life has reflected. He has been an outstanding individual. I remember very clearly the quote of Senator Mathias, who was a very prominent, significant member of the Judiciary Committee, who took great interest in the quality of justice in this country and the quality of individuals. He has joined in urging that we move forward with this nominee and put him on the court, where he will serve this country with great distinction. I join my other colleagues in hoping that the vote for him will be overwhelming. It deserves to be. I think we will all be well served with his continued dedication of public service on the court.

I yield the floor.

Mr. LEAHY. Mr. President, I yield 10 minutes to the distinguished Senator from Illinois.

Mr. DURBIN. Mr. President, I rise today to support the nomination of Merrick Garland to be judge on the D.C. Circuit Court of Appeals. It is interesting today in this debate that many people have spoken and no one has questioned his integrity nor his ability. He was born in Chicago, graduated from Harvard College magna cum laude, Harvard Law School and, as has been said by other speakers, had a distinguished career both as a lecturer at Harvard Law School and partner in a prestigious firm, and then prosecuting cases in the District of Columbia during the past few years, served as well in the Department of Justice.

Despite Mr. Garland's obvious and many qualifications for this job, we must vote on whether he will serve on the D.C. Circuit Court of Appeals. Frankly, we should leap at the opportunity to have him on that court. But we are not here today to consider the significant contribution Mr. Garland's appointment could have to the D.C. circuit. Rather, we are focusing on whether the D.C. circuit needs 11 judges rather than 10 judges.

I submit that this debate is not just about numbers. It is about the administration of justice; the fair, prompt, equitable, and thorough administration of justice is at stake. In all fairness, I must confess that I would rather err on the side of too many judges than too few. I would rather have too many judges doing too thorough and too thoughtful a job than too few judges rushed and careless in frantic efforts to handle their caseload. No one but the most shortsighted argues that the D.C. circuit does not need this 11th judge. Indeed, last year when the debate turned on whether a 12th judge was needed, the Reagan-appointed Judge Silberman was often cited in support of the effort to cut that 12th seat. However, he recently wrote to the Judiciary Committee and said, ''I still believe we should have 11 active judges.'' So why are we arguing about this 11th seat today?

Some argue that D.C. circuit judges handle fewer cases per judge than any other circuit. I won't make an analogy to the Supreme Court in the number of cases that they handle. We know they are cases of great moment, and they should have the time to deliberate them in an appropriate manner. But the smaller number of cases per judge is an inaccurate way of measuring the work of the D.C. circuit judges. Let me say, at the outset, that we cannot overlook the fact that this circuit, more than most—probably more than any—has many administrative appeals to consider. As the Federal appeals court sitting in the Capital, the D.C. circuit handles the lion's share of administrative appeals.

This chart that was prepared gives an idea of the administrative agency appeals filed per judge in all the Federal circuits across the United States. If you will note, D.C. circuit has 56 appeals filed per judge. Most other circuits are in the teens—the eighth circuit, only 8; the ninth circuit is 37. But it is a significantly different caseload that faces the judges in these circuits.

For those who are not familiar with these administrative cases, I suggest that you not dismiss them because of the word ''administrative.'' Let me show you what I mean. This is a file for one administrative law case that a judge must pore through to come to a good conclusion.

Let me show you another thing. This is a pro se petition from a prisoner in jail. There are many of these that are filed across the country. But consider the gravity and the challenge of this administrative appeal, as opposed to this rather smaller appeal in terms of volume. So these judges who serve in this circuit really bear an unusually large responsibility in extremely technical cases. Over the last 3 years, for which data is available, 45.3 percent of the cases filed in the D.C. circuit were administrative appeals of the size and complexity that I have just noted, compared with an average of 5.9 percent outside the D.C. circuit.

Let me also add here that I could go into detail, but I will not because I know it is the intent of the Chair to move this matter to a vote very quickly. I also want to comment for a moment on the period of time that this very able nominee has waited for confirmation. It is unfortunate. In fact, it is sad, and it borders on tragic, that men and women who are prepared to give their lives to public service, who have gone through a withering process of investigation, by the FBI, by the Judiciary Committee, by the White House, by the American Bar Association, and so many others, still must wait over a year, in many cases, for their nominations to be considered by the Judiciary Committee and by this Chamber.

I will tell you, a few days ago it was my good fortune to speak to a group of judges at the Supreme Court Building. As I walked through that building and saw the busts of great jurists who have served this country, I wondered how many of them could pass the test that we now impose on nominees today, how many of them would be willing to endure that test and to say that their family, friends, colleagues, and others that their lives will be on hold waiting for some decision from Capitol Hill. It does a great disservice to this country and to the judiciary for us to create a process that is so demanding that ordinary people would be discouraged from trying.

We have, in this case, an extraordinary individual, Merrick Garland, who has waited patiently now for over a year to be considered by this Judiciary Committee and by this U.S. Senate.

I hope those on the other side will make an effort to overcome the problems that we have seen over the past year. We really have to address the fact that there are so many vacancies on Federal benches across this country—not just in the District of Columbia but almost 100 nationwide—vacancies that need to be filled so that people will be treated fairly. If those vacancies are not filled with honest and competent individuals in a timely manner, it is a great disservice to this country.

I think we should move and move quickly to approve this nomination of Merrick Garland. I hope that his patience will be rewarded today, as it should be. I am certain, based on his background and all that I have come to know of him and my personal meeting with him, that he will make an extraordinary contribution.

We need the 11th judge in the D.C. circuit to handle this mountain of administrative appeals. How many people will come to us and complain, ''Oh, the case is in court, and it is going to take forever. What is going on, Senator? What is going on, Congressman? Why aren't the courts more responsive?'' Part of the problem is that the bench is vacant, the judges aren't appointed, and the caseload that has been imposed on these judges is overwhelming.

We can take care of one circuit today by the appointment of this fine man to fill this seat.

Thank you, Mr. President.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that an article from the Legal Times of August 1995 regarding Mr. Garland be printed in the RECORD.

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

[From the Legal Times, Aug. 7, 1995]

GARLAND: A CENTRIST CHOICE

(By Eva M. Rodriquez)

He was schooled at Harvard in administrative law by moderate professor-turned-Justice Stephen Breyer, and took his antitrust training from conservative Philip Areeda.

He earned his prosecutorial stripes under Jay Stephens, the hard-charging Republican U.S. attorney in the District and former deputy counsel to President Ronald Reagan. And he cut his teeth in the private sector as a partner at Arnold & Porter, one of the city's wealthiest and most influential firms.

At first blush, Merrick Garland may seem like a solid-judicial pick for a Republican president. But according to two administration sources, the 42-year-old top aide to Deputy Attorney General Jamie Gorelick is almost certain to be President Bill Clinton's third nominee to be the prestigious U.S. Court of Appeals for the D.C. Circuit.

Although Garland has his share of liberal credentials—including a coveted clerkship with retired Supreme Court Justice William Brennan Jr.—he is almost sure to be a much more middle-of-the-road jurist than the man he would replace, former Chief Judge Abner Mikva, who retired from the D.C. Circuit last fall to take the job of White House counsel.

News of Garland's near-lock on the nomination has left a smattering of liberals privately grumbling that he is too conservative. But his nonideological approach and his easy rapport with both liberals and conservatives has earned Garland high praise from people on both sides of the aisle.

''I think he is a very talented lawyer,'' says Garland's former boss Stephens, now a partner at the D.C. office of San Francisco's Pillsbury, Madison & Sutro. ''He's bright, energetic, and he has a very balanced demeanor.''

Garland's current boss also lauds him. ''He has enormous personal and intellectual integrity, impeccable legal credentials, a breadth of experience in both public and private sectors, and the personality and demeanor that you'd expect in a judge,'' says Gorelick, who acknowledges that she is a strong backer of Garland's but declines to discuss whether he is definitely the administration's nominee. ''He is very thoughtful, is good at listening to all points of view, and makes decisions on the merits.'' Attorney General Janet Reno also thinks highly of Garland, Gorelick says.

The widespread praise Garland garnered for his thorough and evenhanded leadership during the critical initial investigation into the Oklahoma City bombing also hasn't hurt his chances for a nomination to the federal bench.

A Republican staffer on the Senate Judiciary Committee declines to discuss Garland's chances for confirmation, other than to say that the committee has received no opposition in anticipation of a Garland nomination.

Garland, a 1977 magna cum laude graduate of Harvard Law School who clerked for famed 2nd Circuit Judge Henry Friendly in addition to Brennan, declines comment. Mikva was out of town and could not be reached for comment.

Garland's reputation as a nonideological thinker may have helped him win the nomination over Peter Edelman, who last fall was reportedly the White House's top pick for the D.C. Circuit vacancy. Edelman, who is currently counselor to Health and Human Services Secretary Donna Shalala, was a favorite of the more liberal ranks in the Democratic Party, but he immediately drew opposition from conservatives—including Sen. Orrin Hatch (R–Utah), chairman of the Senate Judiciary Committee, who believed Edelman to be too radical and too activist in his approach to the law. Opposition to Edelman only intensified after the GOP's sweeping victory in last fall's midterm election.

Edelman, according to two lawyers involved in the judicial-selections process, is likely to be nominated for one of the two vacancies on the U.S. District Court here. But D.C. Del. Eleanor Holmes Norton, whose judicial nominating commission has forwarded names to Clinton for previous D.C. federal court vacancies, may have candidates of her own. The commission will accept applications for the two vacancies until August 11.

The two sources say Clinton is likely to nominate Garland before Congress breaks for the August recess. The two sources also say that the president may decide to submit a package of D.C. nominees, including one for the appeals court vacancy and another for one of the two open seats on the District Court. One trial court vacancy was created in June when Judge Joyce Hens Green took senior status; the other came open when Judge Harold Greene followed suit earlier this month.

Others mentioned as possible contenders for a District Court seat include Brooksley Born, a partner at D.C.'s Arnold & Porter who is said to have very strong support among women's groups, and U.S. Attorney Eric Holder, Jr., who is a former D.C. Superior Court judge and at one time was mentioned as a possible appeals court nominee.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Illinois. His dramatic showing of the difference between the pro se appeals that many courts handle and the complexity of the administrative issues that the District of Columbia Circuit Court of Appeals handles is very instructive for us. Everybody talks about caseloads. Some

cases are handled in a matter of minutes. Others take months. They each count for one case. He has demonstrated that in the District of Columbia circuit, because of its unique nature, many of them count for a month.

Mr. President, I withhold the remainder of my time.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, my good friend from Illinois, the distinguished Senator, has just spoken. I would just observe that more government isn't necessarily better government, and, also, in the sense of justice more judges do not automatically guarantee better justice.

I can remember from my service, being appointed by the Chief Justice in 1989, I believe it was, to a 2-year study, the only study we have ever had, of the Federal judiciary that we were looking and projecting what number of cases were going to have to be filed over the next couple of decades. The only conclusion you could come to, if those figures were accurate—and, so far, they have been proven to be accurate—is that you could never appoint enough judges to take care of the problems that we are having with the explosion of cases; that you have to look at a lot of other ways. How do you dispense justice in the less-adversarial environment of a courtroom and in the less-costly environment of the courtroom? For instance, what can you do for alternate dispute resolutions? There are a lot of other ways that I as a nonlawyer am not qualified to speak to. But I can tell you that more judges is never going to solve the problem of more cases.

Another area we have to do something about is tort reform, as an example of something that we have to do about the number of cases piling up.

So I just ask my good friend from Illinois to think about those things as well.

I want to respond to some of the comments raised by those who feel that the caseload statistics indicate that filling the 11th seat is necessary. In my view, this is not a fair reading of the caseload numbers.

I point my colleagues' attention to a Washington Times editorial which appeared on October 30, 1995. That editorial considered the question of whether or not the administrative type of cases in the D.C. circuit are really as complicated and so complicated that caseload statistics can be misleading. I would like to quote from that editorial.

> Per panel the District of Columbia circuit averages at best half the dispositions of other circuits. To make a perfectly reasonable comparison that takes account of the greater complexity of the cases in the D.C. circuit, then we should be asking, Is each case in the D.C. circuit on average twice as complicated as the average case in the other circuits? That seems unlikely in the extreme.

It seems to me that this point is exactly correct. Granted, the caseload of the circuit is a little different. I grant that.

I agree with the point made in a hearing I held on the District of Columbia circuit in my subcommittee. The point is that other circuits—the second circuit in particular—have a large percentage of complicated cases. In the second circuit, those cases are complex, commercial litigations coming out of New York City. But you do not hear people complaining that the total staffing level of the second circuit should not be determined according to those statistics.

So I believe that complexity of cases in the D.C. circuit is overstated. It really is a nonargument when the number of agency cases has declined by 23 percent in the last year. Moreover, now the District of Columbia circuit has a senior judge. That happens to be a former member of this body, Judge Buckley. Since senior judges must carry at least a one-third caseload, and they typically carry a one-half caseload, it is fair to consider the District of Columbia circuit as having 10½ judges right now when the ratio says 9½ judges.

So let's see if what we have works because what we have right now won't cost the taxpayers any more money.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Thank you, Mr. President.

I am pleased to be able to comment on this judicial vacancy. I certainly respect Senator GRASSLEY and his comments. I agree with him very, very much.

I think it is an important point to note that people say that administrative cases are difficult to administer, and that they may have a file that is fairly thick. Well, judges have law clerks. They go through the files. Even if the file is thick, the issue coming up on an administrative appeal may be very simple and may involve nothing more than a simple interpretation of law. Many of those can be disposed of very easily.

Based on my 12 years of experience as a U.S. attorney practicing in Federal court in cases involving all kinds of Federal litigation, I don't at all concede the point that every administrative law case is substantially more difficult than others. As a matter of fact, Judge Silberman testified in 1995 that it is true that the administrative law cases are generally more complicated, and other judges in other circuits, like the second circuit, will tell you that some of their commercial litigation coming out of the Federal district court is terribly complicated, too. I am not in a position to compare the two.

Let me just say this from personal experience. I talked earlier today about the testimony of Chief Judge Tjoflat from the Eleventh Circuit Court of Appeals. He said that they have 575 cases per judge, and that they cannot handle any more cases. I was involved in a 7-week trial of a criminal case that I personally prosecuted. In the course of that trial 18,000 pages of transcript were generated, and when the case was heard on appeal, there were 20 or more issues involving 5 or more defendants. Many of these criminal cases are extremely difficult.

I will also point out that the eleventh circuit includes the southern district of Florida which probably has, outside of New York and California, the largest number of complex criminal cases, in particular international drug smuggling cases, of any circuit in America. Those cases are sent to the eleventh circuit and yet they can manage their caseload in this fashion. I think it is a remarkable accomplishment.

The fourth circuit, with 378 cases per judge, has the fastest turnaround of any circuit in America.

We talk about the need to move cases rapidly, and it is argued that we need more judges to move cases rapidly. How is it that the fourth circuit, with 378 cases per judge, has the fastest disposition rate of any circuit in America? It is because they are managing their caseload well and because they do not have more judges than are necessary. As Judge Tjoflat testified before our committee, too many judges actually slows down the process and makes good judging more difficult. I think that is a matter that we should address.

I would like to note that we have not delayed this matter. We are prepared to have this matter come to a vote. More delays would have been possible if we had wanted simply to delay this process. I feel it is time to vote on this issue. I respect the legal ability of Mr. Garland. He was on the Harvard Law Review. It does not bother me if he was editor in chief of the Harvard Law Review. It would not bother me if he had been editor in chief of the law review at the University of Alabama School of Law. The fact remains that the taxpayers should not be required to pay for a judge we do not need. The taxpayers should not have to pay $1 million per year for a judge that is not needed.

Mischief sometimes gets started. I recall the old saying my mother used to use: an idle mind is the devil's workshop. We need judges with full caseloads, with plenty of work to do, important work to do.

This circuit is showing a serious decline in caseload. In fact, caseload in this circuit declined 15 percent last year. That decline continues. I think it would be very unwise for us to fill a vacancy if there is any possibility that the caseload will continue to decline. We do not need to fill it now, and we certainly do not need to fill it in the face of this declining caseload, because once it is filled, the judge holds that position for life and the taxpayers are

obligated to pay that judge's salary for life. That is an unjust burden on the taxpayers of America.

Fundamentally, this is a question of efficiency and productivity. There are courts in this Nation that are overworked, particularly many of the trial courts. We may not have enough money to fill those vacancies. Let us take the money from this Washington, DC circuit court and use it to fund judges and prosecutors and public defenders in circuits and district courts all over America that are overcrowded and are overworked.

Those are my comments. We have studied the numbers carefully. We are not here to delay. We are not here in any way to impugn the integrity of Mr. Garland. By all accounts, he is a fine person and an able lawyer. He does have a very good job with the U.S. Department of Justice. We probably need some trial judges here in Washington, DC, and if the President nominated him to be one of those trial judges, I would be pleased to support him for that.

That will conclude my remarks at this time.

I ask unanimous consent to have printed in the RECORD a letter from Judge Silberman dated March 4, 1997, in which he said that the filling of the 12th seat would be frivolous and in which he noted the continuing decline in caseload.

I also ask unanimous consent to have printed in the RECORD a letter from the Director of Governmental Affairs for the Christian Coalition written in opposition to the filling of this vacancy, noting that it is not warranted.

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

U.S. COURT OF APPEALS,
DISTRICT OF COLUMBIA CIRCUIT,
Washington, DC, March 4, 1997.

Hon. ORRIN G. HATCH,
Dirksen Senate Office Building,
Washington, DC

DEAR CHAIRMAN HATCH: Your asked me yesterday for my view as to whether this court needs 11 active judges and whether I would be willing to communicate that view to other senators of your committee. As I told you, my opinion on this matter has not changed since I testified before Senator Grassley's subcommittee in 1995. I said then, and I still believe, that we should have 11 active judges.

On the other hand, I then testified and still believe we do not need and should not have 12 judges. Indeed, given the continued decline in our caseload since I testified, I believe that the case for a 12th judge at any time in the foreseeable future is almost frivolous. As you know, since I testified, Judge Buckley has taken senior status and sits part-time, and I will be eligible to take senior status in only three years. That is why I continue to advocate the elimination of the 12th judgeship.

Sincerely,

LAURENCE H. SILBERMAN,
U.S. Circuit Judge.

CHRISTIAN COALITION,
Washington, DC, March 19, 1997.

DEAR SENATOR: I am writing to urge you to vote against confirming judicial candidate Merrick Garland. The workload for the D.C. Circuit does not warrant filling either the 11th or 12th seats on the D.C. Circuit. When one considers that approximately 1 million dollars worth of taxpayer dollars is involved for each judgeship, it is important for the Senate to eliminate unnecessary seats whenever possible. Please vote against confirming Merrick Garland. Thank you for your consideration of our views.

Sincerely,

BRIAN LOPINA,
Director, Governmental Affairs Office.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I am glad to hear that nobody wants to delay Merrick Garland. I would only point out that his nomination first came before us in 1995, and he was voted out of committee, I believe unanimously, by Republicans and Democrats alike, in 1995. We are going to vote, I hope, very soon to confirm him. But if that is not delay, I would hate like heck to see what delay would be around here. He was nominated in 1995, got through the committee in 1995 and will finally get confirmed in 1997.

I understand other members say they would be perfectly willing to help out on the district court; we need help. We have Judge Colleen Killar-Kotelly who is still waiting, nominated very early in 1996, has yet to come through, even though in 1996 alone the criminal case backlog increased by 37 percent. We talk about getting tough on criminals. We certainly will not send the judges that might do it.

I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I would like to make a brief statement to explain my vote that I will cast later on today. I know we are having interesting discussion, and this is one that has been a long time coming, getting this judgeship to the floor of the Senate for a vote.

Obviously, there has been support for this nominee by Senator HATCH and by Senator SPECTER and others. Senator LEAHY has been pushing to get these judges voted on. This is the first one of the year. I presume this is a celebratory event.

Mr. LEAHY. It is showing, if my friend from Mississippi will yield, remarkable speed. As I said, he was nominated in 1995, first got through the committee unanimously, Republicans and Democrats, in 1995. We are now just before our second vacation of the year in 1997. I am glad, whenever it is, to get him through.

Mr. LOTT. But now maybe I can comment just briefly on why it has taken so long. There were a lot of factors involved. I will vote not to confirm Merrick Garland to be a D.C. Circuit Court of Appeals judge. I have no opposition to Mr. Garland himself. I think he is qualified. I think he has experience that would be helpful. And I think his disposition is acceptable, too.

In fact, based on all the reports that I have heard about him, I think he more than likely would be a much more acceptable nominee to this court as compared to many of the other nominees we have considered or may be considering in the future.

It is my belief that this court of appeals is more than adequately staffed based on the number of cases pending on the court's docket, the filings per judge at this court as it is currently staffed for the year ending September, 1996, with the trend of such filings over the last several years, and in comparison to other workloads of circuit courts of appeal around the country. It is very small. I think as compared to others certainly they have more judges than they need.

I am looking at this chart over here. The District of Columbia Court of Appeals is at the bottom end of the caseload, and yet you have other circuit courts across the country—my own circuit, the fifth, is about in the middle. The eleventh circuit obviously has a high caseload as compared to this particular court.

So I really do not think this confirmation is needed. Even if it does get through, I want to say right now that regardless of the next nominee, unless this caseload is dramatically turned around, I hope it would never even be considered regardless of how qualified the nominee may be, he or she, in a Democratic administration.

I recognize that some circuits do have tremendous caseloads, but this is certainly not the case in this circuit, and therefore I will vote against the nomination based on that. In fact, I just do not think an additional judge is needed in this district court of appeals.

I ask unanimous consent to print in the RECORD a list of the filings per judge in 1996 and the total appeals docket in 1995 per judge that shows as compared to other circuits this judge is not needed.

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

Appeals filed per judge in 1996:

D.C. Cir., 123	6th Cir., 341
10th Cir., 216	9th Cir., 360
1st Cir., 227	2nd Cir., 372
3rd Cir., 280	4th Cir., 378
7th Cir., 295	5th Cir., 443
8th Cir., 307	11th Cir., 575

Total appeals on docket for year ending 1995/per judge:

1st Cir., 1339 (4 judges=335)
2nd Cir., 3987 (12 judges=332)
3rd Cir., 3485 (13 judges=268)
4th Cir., 3542 (12 judges=295)
5th Cir., 5696 (15 judges=380)
6th Cir., 3343 (13 judges=257)
7th Cir., 2200 (8 judges=275)
8th Cir., 3176 (10 judges=318)
9th Cir., ?
10th Cir., 2104 (8 judges=263)
11th Cir., 6057 (10 judges=606)
D.C. Cir., 2065 (10 judges=206)

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Missouri.

Mr. ASHCROFT. I yield myself such time from the opposition time as is necessary for me to make a statement.

Mr. President, I rise today to speak, not in opposition to Merrick Garland for filling the seat on the U.S. court of appeals, but in opposition to filling the seat at all. The U.S. Court of Appeals for the District of Columbia Circuit is a judicial circuit which has the lowest caseload of any of the judicial circuits in the country, and I think this is a time when we ought to ask ourselves some serious questions about whether or not we intend to staff circuits in spite of the fact that there are adequate judges in the circuits to handle the caseload which is currently required of the circuit.

First, the amount of judicial work in the circuit raises questions about the necessity of confirming another appellate judge for the D.C. circuit. It appears that filling this vacancy would be an inefficient use of judicial resources. Before filling any vacancy for an appellate judgeship, the U.S. Senate should look at the filings per judgeship compared with other jurisdictions. Of the 12 courts of appeals, the D.C. circuit has the lowest filings per judge of any of the 12 courts of appeals. While the D.C. circuit has had only 123 cases filed per judge, the eighth circuit, the circuit in which I live, handled nearly three times the D.C. circuit's total of appeal filings, with 307 appeals filed per judge. The eleventh circuit court of appeals, in comparison, had 575 appeals filed per judge.

The D.C. Circuit Court of Appeals now has two open seats. But Judge James Buckley, who took senior status last year, which means he is still obligated to handle a caseload equivalent to that of an average judge in active service who would handle a 3-month caseload, is still there. So you have a senior status judge who is handling the equivalent of a quarter of the load that a normal judge in the circuit would handle. So you do not have the loss completely of the second judge in those two vacancies; you have the loss of one judge, and then you have one-quarter judge in the senior status making up for any slack.

Still, the D.C. circuit is the least populated with work. And it is the circuit that does not merit additional judges to conduct the work which simply is not there. If we were to use the formula expressed by the Judicial Conference, between 1986 and 1994 the D.C. circuit court would rate just in the order of nine judges to handle its current caseload. So, in terms of the Judicial Conference's own assessment of how many judges would be needed, the caseload of the D.C. circuit would rate nine judges. It has 10 judges now, and if you start to add the additional caseload that can be handled by senior judges, it seems to me that adds an additional capacity of that court to handle work for which it is already overstaffed.

While appeals filings for all of the Nation's U.S. courts of appeals increased to an all-time high of 4 percent, the number of filings filed in the D.C. circuit actually dropped last year; it dropped 15 percent. So you have an increase of appeals in the system generally of 4 percent, you have a decline in the D.C. circuit of 15 percent, of the 12 additional circuits, the District of Colombia had the largest decline in appeals last year.

Mr. President, ending the era of big Government includes all three branches of government. But if we cannot end big government where we have had declining demand for services, and where we are already overstaffed, where can we end big government? To believe that the judicial branch should be excluded from the exercise of responsibility or should be overstaffed or should ignore the trends in terms of case filings and should be overpopulated with individuals because there are slots available, in spite of the fact that the work or the caseload is not there to justify those slots, would be for us to deny a responsible position in this matter.

Let me just indicate that there are two vacancies and virtually everyone will confess that at least one of them should not be filled. This is not a matter of saying some people think all the vacancies ought to be filled; others think that neither of the two should be filled. There is a general consensus that filling the second of the two would certainly be a waste and surplus. I think if you look carefully and you measure the caseload by what the Judicial Conference had previously stated was an appropriate caseload, and you look at the potential for work by the senior active judges who have taken senior status, you can come but to one conclusion, that it is not an appropriate deployment of the tax dollars of the citizens of this great Nation to add a judge to a court where the workload does not justify it.

Good government is not to fill a vacancy simply because it exists. To fill this vacancy without taking into account the lack of caseload is fiscally irresponsible.

Before I yield the floor, I would like to address the argument that the D.C. court of appeals might be considered to be a different court, unique, one of a kind, because it has a lot of cases that are administrative in nature and they have a certain level of complexity. I think in this regard it is important to cite Judge Silberman, who sits on the D.C. court of appeals. On this point, in 1995, he testified as follows:

It is true that the administrative law cases are generally more complicated. But other judges in other circuits, like the second circuit, will tell you that some of their commercial litigation coming out of the Federal District Court is terribly complicated, too. The truth of the matter is, some of the administrative law cases in the D.C. circuit are complicated. But if you look at the second circuit, the caseload of which is more than twice as much as the D.C. circuit, in the second circuit their caseload is complicated as well.

The fact of the matter is, it is time for the U.S. Senate, which called the circuit courts into creation, which called district courts into creation, to begin to exercise a responsible approach toward staffing those courts and not to staff them when the workload does not justify it. Even if the nature of the cases coming before the D.C. circuit is unique, those cases are not so difficult, or different from the other cases which have their own uniqueness and have their own difficulty, whether they be commercial instead of administrative, so as to mean that we should populate the court with staffing which is not required by the caseload.

Mr. President, I plan to vote against Mr. Garland, not for any reason to impair his standing or his credentials. I do not think this is a question about the qualifications of the judge. But it is a question about the deployment of the public's resource and about the staffing level for courts which do not have caseload to justify it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Vermont.

Mr. LEAHY. Mr. President, there has been a lot of discussion, just now again, quoting Judge Silberman. What is needed—I would note, he wrote to the distinguished chairman, Senator HATCH, and said that we should have 11 active judges. We talk about this as though the nominee was going to be the 12th judge. In fact, the nominee is the 11th judge.

I ask unanimous consent that a letter dated March 4, 1997, by Judge Silberman, in which he said, ". . . I still believe that we should have 11 active judges," be printed in the RECORD at this point.

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

U.S. COURT OF APPEALS,
DISTRICT OF COLUMBIA CIRCUIT,
Washington, DC, March 4, 1997.

Hon. ORRIN G. HATCH,
Dirksen Senate Office Building,
Washington DC.

DEAR CHAIRMAN HATCH: You asked me yesterday for my view as to whether this court needs 11 active judges and whether I would be willing to communicate that view to other senators of your committee. As I told you, my opinion on this matter has not changed since I testified before Senator Grassley's subcommittee in 1995. I said then, and I still believe, that we should have 11 active judges.

On the other hand, I then testified and still believe we do not need and should not have 12 judges. Indeed, given the continued decline in our caseload since I testified, I believe that the case for a 12th judge at any time in the foreseeable future is almost frivolous. As you know, since I testified, Judge Buckley has taken senior status and sits part-time, and I will be eligible to take senior status in only three years. That is why I

continue to advocate the elimination of the 12th judgeship.

Sincerely,

LAURENCE H. SILBERMAN,
U.S. Circuit Judge.

Mr. HATCH. Mr. President, I have been sitting here listening to this. In all honesty, I would like to see one person come to this floor and say one reason why Merrick Garland does not deserve this position. It has been almost a year. In the last Congress, I must have gone on this issue, trying to get him up, for most of that time.

First, there was the 12th seat, he was going to get that. Then, when Buckley retired, everybody that I know of, who knows anything about it, other than some of our outside groups who do not seem to want any judges, said that we need the 11th seat.

As I suspected, nobody in this body is willing to challenge the merit of Merrick Garland's nomination. I have not heard one challenge to him yet. In fact, they openly concede that Mr. Garland is highly qualified to be an appellate judge. Rather, they use arguments that the D.C. circuit does not need 12 judges in order to oppose the confirmation of Mr. Garland for the 11th seat on this court.

There is not a harder-nosed conservative or more decent conservative that I know than Larry Silberman. I talked to him personally. If he said to me they did not need the 10th seat, I could understand this argument, and I could understand this minirebellion that is occurring. But he said they needed the 11th seat. If he had said, ''All we need are 10 seats, we don't need the 11th or 12th,'' I would have been on his side, and it would not be because of partisan politics, it would be because I trust him and I believe in his integrity. But I called him personally and he said, ''Yes, we do need the 11th seat.''

My colleague from Alabama circulated a letter saying confirming Merrick Garland would be a ''ripoff'' of the taxpayers. Having just led the fight for the balanced budget amendment, I do not think that is quite fair. I am never going to rip off the taxpayers. But I will tell you one thing, playing politics with judges is unfair, and I am sick of it, and, frankly, we are going to see what happens around here. A ''ripoff?'' Let's be serious about this, folks. This is a serious matter.

My colleague referred to the testimony of Chief Judge Wilkinson of the fourth circuit. That is a different matter. I have challenged the distinguished chairman of the Subcommittee on Courts to look into that, and I am going to be heavily guided by what Senator GRASSLEY comes up with.

The statements of Judge Tjoflat from the eleventh circuit has also been mentioned. But what do the judges on the D.C. circuit court say? It is one thing for Wilkinson to get up and make a comment, it is another thing for Tjoflat, who has problems in that circuit, but what do the judges on the D.C. circuit say? Both Chief Judge Edwards and Judge Silberman, a respected conservative, agree that, in Judge Silberman's words ''it would be a mistake, a serious mistake for Congress to reduce the D.C. circuit down below 11 judges.''

If I did not believe that, I would not have brought this judgeship nomination to the floor. I have to tell you, if anybody doubts my integrity, I want to see them afterwards.

As for the statistics that have been cited, with all due respect, they are not a fair or accurate characterization of the D.C. circuit's caseload relative to the other circuits' caseloads. I made that case earlier.

I am prepared to yield back the time if the other side is prepared to yield back their time. Is there anybody going to want to speak on the other side?

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I am prepared to yield back time.

The PRESIDING OFFICER. The Senator from Utah has no time to yield back at this point. The Senator from Iowa has approximately 17 minutes remaining on the opposition side.

Mr. SESSIONS. I would like to be recognized.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, there is nobody in this body who has fought harder for a balanced budget amendment and for controlling Federal spending than the distinguished Senator from Utah, Senator HATCH. His leadership has been terrific on that. I respect that. I guess we just have a disagreement.

I think it is really unusual that a judge would cite a 12th seat as frivolous and note in his own letter that it was frivolous because of a declining caseload. Even though Judge Silberman himself said he felt they ought to go ahead and fill the 11th seat, we, after full study of it and in the course of careful deliberations, had the opportunity to hear from two other chief judges from two other circuits that indicated, even though they have much higher caseloads, 575 to 378 cases per judge, that they did not need a new circuit judgeship.

So, therefore, I concluded that a circuit with 124 cases per judgeship did not need to be filled, and that the $1 million per year, if it is not justified, would be a ripoff of the taxpayers. I feel that we can spend that money more efficiently on trial judges in circuits and districts that are already overwhelmed with heavy caseloads and not on the D.C. circuit that is overstaffed already. I yield the floor, Mr. President.

Mr. GRASSLEY. We yield back the time on our side, and I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Merrick B. Garland, of Maryland, to be U.S. circuit judge for the District of Columbia circuit? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

The PRESIDING OFFICER (Ms. COLLINS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 76, nays 23, as follows:

[Rollcall Vote No. 34 Ex.]

YEAS—76

Abraham	Feingold	Mikulski
Akaka	Feinstein	Moseley-Braun
Baucus	Ford	Moynihan
Bennett	Gorton	Murkowski
Biden	Graham	Murray
Bingaman	Harkin	Reed
Bond	Hatch	Reid
Boxer	Hollings	Robb
Breaux	Hutchison	Roberts
Bryan	Inhofe	Rockefeller
Bumpers	Inouye	Roth
Byrd	Jeffords	Santorum
Campbell	Johnson	Sarbanes
Chafee	Kempthorne	Smith, Bob
Cleland	Kennedy	Smith, Gordon H.
Coats	Kerrey	Snowe
Cochran	Kerry	Specter
Collins	Kohl	Stevens
Conrad	Landrieu	Thomas
D'Amato	Lautenberg	Thompson
Daschle	Leahy	Torricelli
DeWine	Levin	Warner
Dodd	Lieberman	Wellstone
Domenici	Lugar	Wyden
Dorgan	Mack	
Durbin	McCain	

NAYS—23

Allard	Frist	Kyl
Ashcroft	Gramm	Lott
Brownback	Grams	McConnell
Burns	Grassley	Nickles
Coverdell	Gregg	Sessions
Craig	Hagel	Shelby
Enzi	Helms	Thurmond
Faircloth	Hutchinson	

NOT VOTING—1

Glenn

The nomination was confirmed.

Mr. LEAHY. Madam President, I move to reconsider the vote.

Mr. HATCH. I move to lay it on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, this is the first judge confirmed in this Congress. I hope it will be the first of many, many.

I remind my colleagues we have close to 100 vacancies in the Federal court. We have begun with one of the most outstanding nominations any President has sent.

That is the nomination of Merrick Garland—now Judge Garland. I compliment him on that. He was nominated in 1995; it first passed through the Judiciary Committee unanimously in 1995, and it is now 1997. We need to move——

Mrs. BOXER. Madam President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard.

The Senator from Vermont.

Mr. LEAHY. Madam President, I thank the Chair. I wish also to compliment my friend, the distinguished senior Senator from Utah for his help in doing this. I also wish to compliment Senators who paid attention to his very, very strong statement at the end of this debate on behalf of Judge Garland. I think that the Senator from Utah and I are committed to trying to move, in a bipartisan fashion, to get these judges here. I hope all Senators will join us in doing that. The Federal judiciary should not be held hostage to partisan, petty, or ideological constraints that really reflect only a minority of views.

The Federal judiciary is really a blessing in our democracy in the fact that it is so independent. Our Federal judiciary is the envy of all the rest of the world. The distinguished Senator from Utah and I are committed to keeping it that way. We will work together to keep it that way. I thank him for his help on this nomination.

Mr. DASCHLE. Mr. President, I would like to reiterate what PAT LEAHY has said about how glad we are that Merrick Garland has finally been considered by the Senate for appointment to the U.S. Court of Appeals for the District of Columbia Circuit. We wholeheartedly believe that Mr. Garland is highly qualified for this position and deserves the strong vote we just gave him.

Mr. Garland has been awaiting this day since being nominated by the President on September 5, 1995—1½ years ago. His qualifications are clear. The ABA's standing committee on the Federal judiciary found him well qualified to serve on the Federal bench, and he has received the support of a bipartisan and ideologically diverse group of individuals.

His credentials cannot be challenged. He has worked at the Department of Justice as the Principal Associate Deputy Attorney General, in private practice and served as a law clerk to Justice Brennan on the Supreme Court and a law clerk to Judge Friendly on the U.S. Court of Appeals for the Second Circuit.

I am happy that today, after his long wait, Merrick Garland finally knows that he will serve as a Federal judge.

It is unfortunate, however, that we have not yet voted on any other judges during this session of Congress—at a time when we have almost 100 vacancies on the Federal bench. That is a vacancy rate of over 10 percent.

I hope that voting on Merrick Garland's confirmation today signals that we are going to address this serious problem and begin to fill those long empty seats on the Federal bench.

Mr. President, I am extremely pleased that the Senate has confirmed the nomination of Merrick Garland to the U.S. Court of Appeals for the District of Columbia Circuit. Let us ensure that our Federal bench has a full complement of such qualified judges so that the business of justice can go forward.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I want to thank my colleagues who voted for Judge Merrick Garland. I believe they did what was right.

With regard to Federal judgeships, we ought to do what is right. I take this job as seriously as anything I have ever done in the Senate. I want to thank my colleagues who voted with us for supporting the nominee.

Having said that, there have been a serious number of nominees whom we have confirmed in the past who have proven to be activist judges once they got on the bench and who told us when they were before the committee they would not be activist and they would not undermine the role of the judiciary by legislating from the bench. Then they get to the bench and they start legislating from the bench.

I want them to know, and I want to send a warning to the judiciary right now, if they are going to continue to disregard the law, if they are going to continue, in many respects, to bypass the democratic processes of this country, if they are going to start substituting their own policy preferences for what the law really says, then it is going to be a tough time around here. This vote proves it.

I don't feel good about all those who voted against this nomination, but the fact of the matter is that there is some reason for their doing so. Republicans are fed up with these judges who disregard the role of judging once they get to the courts, after having told us and promised that they will abide by the role of judging. Now, I am upset—there is no question about that—because I think the finest nominee that I have seen from this administration is Merrick Garland, and I think he deserved better. But I also understand my colleagues.

I am sending a warning out right now that these judges who are sitting on the bench better start thinking about the role of judging and quit trying to do our jobs. We have to stand for reelection. That is why the buck should stop here—not with some Federal judge who is doing what he or she thinks is better for humanity and mankind.

We have judges on the Ninth Circuit Court of Appeals who could care less about what the Congress says, or what the President says, or what the legislative and executive branches say. That is why they are reversed so routinely by the Supreme Court. It is pathetic. I don't mean to single them out, but it is the most glaring example of activist judges in this country.

Let me just say this. I am sending a message right now that I intend to move forward with judges, and, if this administration will send decent people up here who will abide by the rule of judging and the rule of law and quit substituting their own policy preferences and finding excuses for every criminal that comes before them, they are going to have support from me. I hope they will have more support from the Judiciary Committee in the future. But if they are going to send up more activists, there is going to be war.

I don't think the judiciary has ever had a better friend than ORRIN HATCH; I know they haven't. I will fight for them. I think they ought to be getting more pay. I think we ought to support them in every way we possibly can. They are tough jobs, they are cloistered jobs. They are difficult jobs. They take great intellectual acumen and ability.

Madam President, I am telling you, we have far too many judges on both the left and the right who disregard what the rule of judging is and who legislate from the bench as superlegislators in black robes who disregard the democratic processes in this country and who do whatever they feel like doing. They are undermining the judiciary, and they are putting the judiciary in this country in jeopardy. I am darn sick of it. My colleagues on our side are sick of it. I don't care whether it is activism from the right or from the left; it is wrong. We ought to stop it, and the judiciary is the only place where it can be stopped.

I once had one of the most eminent legal thinkers in the country say that he has never seen anybody on the Supreme Court move to the right; they have always moved to the left as they have grown. I would like to not worry about whether they are moving right or left, but whether they are doing the job that judges should do.

I am serving notice to the Senate, too. I am chairman of the Senate Judiciary Committee, and I take this responsibility seriously. I want everybody in this body to know I take it seriously. It means a lot to me. I have tried a lot of cases in Federal courts. I have tried a lot of cases in State courts. I have a lot of respect for the judiciary. So I take this seriously, and I don't want politics ever to be played with it. I get a little tired of the other side bleating about politics, after the years and years of their mistreatment of Reagan and Bush judges and the glaring, inexcusable examples where they treated Republican nominees in a shamefully unfair way. Nobody could ever forget the Rehnquist nomination, the Bork nomination, and even the Souter nomination, where he wasn't treated quite as well as he should have been—and above all, the Clarence Thomas nomination; it was abysmal. Those were low points in Senate history. So I don't think either side has a right to start bleating about who is righteous on judges.

I intend to do the best I can here. I want my colleagues to know that. I certainly want to place my colleagues on my side, and I certainly want to do

the right thing for all concerned. This is an important nomination. I believe Merrick Garland will go on to distinction. Nobody will be more disappointed than I if he turns out to be an activist judge in the end. If he does, I think he will be one of the principal underminers in the Federal judiciary in the history of this country. But he told me he will not do that, and I trust that he will not. That doesn't mean we have to agree on every case that comes before any of these courts; we are going to have disagreements. And just because you disagree with one judge doesn't mean that judge should be impeached either. To throw around the issue of impeachment because you disagree with a judge here and there is wrong.

There are some lame-brained decisions out there, we all know that. Some of them are occurring primarily in California. Frankly, we have to get rid of the politics with regard to judges and start doing what's right. With every fiber of my body, I am going to try to do right with respect to judges because I respect that branch so much. To me, our freedoms would not have been preserved without that branch. But the way some of these judges are acting, our freedoms are being eroded by some in that branch. It is time for them to wake up and realize that that has to end.

I yield the floor.

SETTING THE RECORD STRAIGHT ON JUDICIAL NOMINATIONS

Mr. BIDEN. Madam President, I have not spoken on judges this year, but having worked on it for so many years with my friend from Utah, having either been the ranking member or chairman of that committee. But let me make one point.

It is one thing to say that we are going to disagree on judges. We did that when we were in control. We did that. And we said that all the judges that have been nominated here by two successive Republican Presidents—we picked seven out of a total of over 500—we said we disagree with these judges. The most celebrated case was Judge Bork, and less celebrated cases were people who have gone beyond being judges. Some are Senators. But the bottom line was that we understand that.

But what I do not understand is this notion and all of the talk about activist judges without any identification of who the activist judges are. It is one thing for the Republicans to say that we are not going to vote for or allow activist judges. We understand that. We are big folks. We understand baseball, hardball. We got that part. No problem.

But what I do not understand is saying we are not going to allow activist judges and then not identifying who those activist judges are. This is kind of what is going on here, and no one wants to say it. But since I have the reputation of saying what no one wants to say, I am going to say it.

Part of what is going on here is, and in the Republican caucus there are some who say, No. We want to change the rules. We want to make sure, of all the people nominated for the Federal bench, that the Republican Senators should be able to nominate half of them, or 40 percent of them, or 30 percent of them. That is malarkey. That is flat-out malarkey. That is blackmail. That has nothing to do with activist judges.

I do not doubt the sincerity of my friend from Utah. We have worked together for 22 years. But here is my challenge. Any judge nominated by the President of the United States, if you have a problem with his or her activism, name it. Tell us what it is. Define it like we did. You disagreed. You disagreed with the definition. But we said straight up, ''Bang. I do not want Bork for the following reasons.'' People understand that. But do not try to change 200 years of precedent and tell us that we are not letting judges up because we want the Republican Senator to be able to name the judge. Don't do that, or else do it and do it in the open. Let's have a little bit of legislating in the sunshine here. Do it flat in the open.

I see my colleagues nodding and smiling. I am sort of breaching the unspoken rule here not to talk about what is really happening. But that is what is really happening. I will not name certain Senators. But I have had Senators come up to me and say, JOE, here is the deal. We will let the following judges through in my State if you agree to get the President to say that I get to name three of them. Now folks, that is a change of a deal. That is changing precedent. That isn't how it works. The President nominates. We dispose one way or another of that nomination. And the historical practice has been—and while I was chairman we never once did that—that never once that I am aware of did we ever say, ''By the way, we are not letting Judge A through unless you give me Judges B and C.''

Now, let me set the record totally straight here. There are States where precedents were set years ago. The Republican and Democratic Senator, when it was a split delegation, have made a deal up front in the open. In New York, Senator Javits and Senator MOYNIHAN said: Look. In the State of New York, the way we are going to do this is that whomever is the Senator representing the party of the President—I believe they broke it down to 60—for every two people that Senator gets to name, the Senator in the party other than the President gets to name one. OK, fine. Jacob Javits did not go to PAT MOYNIHAN and demand that he was going to do that. MOYNIHAN made the offer, as I understand it, to Jacob Javits. That is not a bad way to proceed.

But now to come along and say, ''By the way, in the name of activist judges, we are not going to move judges'' is not what this is about.

I might point out that all the talk last election that started off—it all fizzled because it did not go anywhere—about how there is going to be an issue about activism on the courts, we pointed out that of all the judges that came up in Clinton's first term, almost all of them were voted unanimously out of this body by Democrats and Republicans, including the former majority leader. He only voted against three of all the nominees, then he argued, by the way, that Clinton nominated too many activist judges. And then it kind of fizzled when I held a little press conference, and said, ''By the way. You voted for all of them.'' It kind of made it hard to make this case that they were so activist.

So look. Let me say that I will not take any more time, but I will come back to the floor with all of the numbers and the details. But here is the deal.

If the Republican majority in the Senate says, ''Look, the following 2, 5, 10, 12, 20 judges are activist for the following reasons, and we are against them,'' we understand that. We will fight it. If we disagree, we will fight it. But if they come along and say, ''We are just not letting these judges come up because really what is happening is they are coming to guys like me and saying, 'Hey, I will make you a deal. You give me 50 percent of judges, and I will let these other judges go through.' '' Then that isn't part of the deal.

Look, I have a message to the Court. I know the Court never reads the CONGRESSIONAL RECORD, and Justice Scalia said that we should not consider the RECORD for legislative history because everybody knows that all the CONGRESSIONAL RECORD is is what Senators' staff say and not what Senators know. He is wrong. But that is what he said. Maybe they don't read it. But I want to send a message.

Madam President, when I was chairman of the committee and there was a Republican President named Reagan and a Republican President named Bush, the Judicial Conference on a monthly basis would write to me and say, ''Why aren't you passing more judges?'' They have been strangely silent about the vacancies that exist. Now, I agree that the administration has been slow in pulling the trigger here. They have not sent enough nominees up in a timely fashion. And I have been critical of them for the last 2 years, Madam President. But that is not the case now. All I am saying to you is, as they say in parts of my State, ''I smell a rat here.'' What I think is happening—and I hope I am wrong—is that this is not about activism.

This is about trying to keep the President of the United States of America from being able to appoint judges, particularly as it relates to the courts of appeals.

Now, what is happening is what happened today. Merrick Garland was

around for years. Now, what is going to happen is they are going to say we reported out a circuit court of appeals judge. Aren't we doing something. The truth of the matter is the proof will be in the pudding several months from now when we find out whether or not we are really going to move on these judges.

Let me point out one other thing. And I see my friend from Maryland in the Chamber, and I will yield particularly since I had not intended speaking at this moment.

Mr. SARBANES. I want to ask the Senator a couple questions when he finishes his statement.

Mr. BIDEN. The point I wish to make is this. When I was chairman of the committee and a Republican was President, we held, on average, a hearing for judges once every 2 weeks and had usually five judges, circuit court and district court, who we heard.

Last year we essentially had one hearing every other month and we had to fight to get three to four on the agenda to be heard.

Mr. SARBANES. Will the Senator yield for a question.

Mr. BIDEN. I will be happy to.

Mr. SARBANES. This is a chart that Senator LEAHY, now the ranking member on the Judiciary Committee, used today in the course of the Merrick Garland debate which I think is enormously instructive. It is the number of judges confirmed during second Senate sessions in Presidential election years.

Mr. BIDEN. I got it.

Mr. SARBANES. Now, in 1996, with a Democratic President, President Clinton, and a Republican Senate, the Senate confirmed no judges for the court of appeals, none whatsoever, and 17 judges for the district court. Now, in 1992, the previous election year—that was when Mr. Bush was President——

Mr. BIDEN. And I was chairman.

Mr. SARBANES. And if I am not mistaken, the distinguished Senator from Delaware was the very able chairman of the Judiciary Committee.

Mr. BIDEN. I did not say ''able.'' I was chairman.

Mr. SARBANES. I am suggesting the Senator is able. I am prepared to make that statement. We confirmed 11 court of appeals judges and 55—I repeat, 55—district judges in an election year. Now, that gives you some sense of how the Democratic majority in the Senate, led at the time by the able Judiciary Committee chairman, was dealing with this matter, essentially in a nonpolitical way.

In 1988, when I think, again, the Senator from Delaware was still the chairman of the Committee——

Mr. BIDEN. That is correct.

Mr. SARBANES. With President Reagan, a Republican President—again, in an election year—we confirmed 7 court of appeals judges and 35 district court judges. Actually, the 35 that we confirmed in that election year was better than the Republican Senate did for President Reagan in 1984 when they only confirmed 33 judges. In any event, clearly this performance in these years is in marked contrast to what happened in 1996 and what apparently is continuing now in 1997. Merrick Garland was the first judge approved this year.

Mr. BIDEN. If I may respond to the Senator, obviously the facts are correct, but I think it worth elaborating a little bit more on the facts. I saw my very able colleague, the present chairman of the Judiciary Committee, on television the other day, and he was talking about the number of judges that were ''left hanging,'' who were not confirmed and sent back to the administration at the end of 1992, the Bush administration. And he cited an accurate number. But as my very distinguished friend, who is, as well, a scholar, knows, there is an old expression attributed to Benjamin Disraeli, who said there are three kinds of lies: lies, damn lies, and statistics.

What my able friend from Utah did not mention is that just like President Carter—Carter's judges is a separate charge we can go back to, but just like President Clinton, President Bush did not get his nominees up here until the end of the process.

In other words, they were late getting here. Notwithstanding the fact that he was late in getting his nominees up, the Senator may remember in the caucus over the objection of some Democrats who said the Republicans would never do this, I insisted we confirm judges up to the day we adjourned the Senate. During the last week the Senate was in that year, we confirmed seven judges. I could have easily just sneezed and they would not have been confirmed. And the fact is the reason why we did not confirm more is because we did not have time to hold the hearings and we were holding hearings on 20 or more a month.

Mr. SARBANES. If the Senator will yield, I can recall the Senator was holding hearings right up into the fall of the election year and judges were being brought to the floor of the Senate and being confirmed. And he is absolutely correct; there were some——

Mr. BIDEN. Republican judges.

Mr. SARBANES. Yes, Republican judges. And there were some Members on the Democratic side who said, why are you doing this? We are about to have an election and the result may give us control of the White House. And the Senator from Delaware said, look, we ought not to have politics play a heavy hand in the judicial confirmation process.

One of the worst things that is happening in the Senate is what amounts to a heavy politicizing of the judicial confirmation process that is taking place in this body, and that was reflected in the performance in 1996 as compared with the performance in 1992 when the Senator from Delaware did his very best to keep politics out of the process, to fill judicial posts and to let the judiciary function as an independent branch of our Government. What is happening here is extremely serious. And of course, the Senator, with his candor, came to the floor and sort of stripped away the veneer and laid out what is going on behind the scenes, which is a complete departure from past practices. When there were Republican Presidents, I did not play a role in whom the Presidents sent up to the Senate to be nominated and confirmed in the job——

Mr. BIDEN. If the Senator will yield, I was chairman or ranking member of that committee for 14 years. My distinguished colleague from Delaware is Senator ROTH, who is my close friend. Every single Federal judge in the last 24 years who has been appointed in the district of Delaware or the third circuit has been appointed by Senator ROTH. I did not expect, did not ask, and not once was ever consulted about who he would appoint, and I supported every one that he sent up. Not one single time was I made aware of anything other than after the fact, which is OK. I am not complaining about that.

Mr. SARBANES. That was the system.

Mr. BIDEN. That was the system. Not one single time. And I was chairman of the committee.

Now, I would point out one other thing to my friend. I want to have complete candor. If one considers taking judges based on their ideology and call that political, yes, we Democrats were political, as well. I am not complaining about that. I am not complaining about anybody who stands up and says I do not want Judge Smith, the President's nominee, because I think he will be bad on the court for the following reasons and comes to the floor and makes the case. I do not quarrel with that because I think that is the prerogative of the Senate and any Senator. What I am quarreling with is a different kind of politicizing, and that is drawing the conclusion that because I now control the Senate, I am not going to let the President of the United States have nominees whether or not I have an ideological problem with them.

Mr. SARBANES. Will the Senator yield. It is worse than that. It is not whether you let the President have his nominees confirmed. You will not even let them be considered by the Senate for an up-or-down vote. That is the problem today. In other words, the other side will not let the process work so these nominees can come before the Senate for judgment. Some may come before the Senate for judgment and be rejected by the Senate. That is OK.

Mr. BIDEN. Fair enough.

Mr. SARBANES. But at least let the process work so the nominees have an opportunity and the judiciary has an opportunity to have these vacant positions filled so the court system does not begin to break down because of the failure to confirm new judges.

Mr. BIDEN. If the Senator will yield, let me give an example of what you just said. I know you know, but it is important for the RECORD.

I meet every year—I will not now because I am not the top Democrat on the committee. But every year for, I don't know, 14 or 15 years, I meet with what is called the Judicial Conference—a legislatively organized body where the Congress says the court can have such a function, where we look for recommendations.

I might add, by the way, you may remember when there was a Republican President named Reagan, the Senator from Delaware introduced a bill to increase the number of Federal judgeships by 84. Why did I do that? I did that because the Federal court came to us, the Judicial Conference, and said, ''Here is our problem. We don't have enough judges to administer justice in a timely fashion in this country. And there is a backlog on all these criminal cases.''

I must admit to the Senator, when they came to me with that request, I knew the problem I was going to have. I was going to go into a Democratic caucus and say, by the way, a Republican President, who is a fine man but the most ideological guy we had in a long time, who announced he was going to appoint only very conservative judges, I was now going to give him 84 more than he had.

I realized that was not a politically wise thing for me to do. But, listening to the court, I did just that. My recollection is the Senator from Maryland stood with me and said, ''I don't like it. I admit, I am not crazy about 84 more judges being appointed by Ronald Reagan. But the court needs to be filled.''

Now we have the strange happening, the courts come back to us and say—and they do this in a very scientific way—we not only need the vacancies filled, we need more judges than we have. They cite, as the Senator is very familiar with, they cite the backlog, they give the rationale that cases are being backed up. Guess what? The idea that we will even get a chance to discuss a judgeship bill, I predict to my friend from Maryland, on this floor is zero—zero. Not only that, to further make the point, this is the first time in the 24 years that I have been a Senator, in 24 years, the first time I have ever heard anybody come to the floor and say: You know, we should basically decommission judgeships.

The ninth circuit is the busiest circuit in America, out in California. One of our colleagues, a very wonderful guy, a nice guy, says, ''I am not going to let any other judge be in the ninth circuit''—notwithstanding they have five vacancies, if I am not mistaken, and they are up to their ears in work. This started last year when I was in charge of the Democratic side. He said, ''I am not going to let anybody go through until the ninth circuit splits into two circuits.''

I said, ''Why do you want it to split?''

He said, ''The reason I want it to split is I don't like the fact that California judges are making decisions that affect my State.''

The distinguished Senator from Idaho is shaking his head. He agrees. He is in that circuit. It is painful to point this out, but the reason why there is a Federal court is so there is not Illinois, Indiana, Idaho, California justice. There is one uniform interpretation of the Constitution. That is the reason we have a Federal circuit court of appeals.

Now, this is quite unusual. We have—and I was not referring to the distinguished Senator from Idaho, who is on the floor, when I said, ''there was a Senator.'' That is not to whom I am referring. But another one of our colleagues said he is not going to let anybody go through until there is a split, because he does not like the idea that decisions relating to his State are being made by judges who are not from his State or are not from States of similar size. That is, interestingly, an effectively rewrite of the Constitution of the United States of America. I do not think the Senator thought it in those terms, but that is literally what it is.

Now I am being told, OK, unless we, in fact, split the circuit—and by the way, I am not opposed to splitting the circuit. We split the fifth circuit because when we got to the point where Florida grew so big—Florida and Mississippi and Alabama and Louisiana, they are all in the same circuit—but they got so big, because of population growth, we said—the court recommended, we agreed—that it should be split into two circuits. We understand that. I am not opposed to that. I am not arguing about that. But the idea that someone says, ''Until you do it my way, until you can assure me I am not going to be associated with that State of California, I am not going to let any vacancies be filled''——

Mr. SARBANES. If the Senator will yield, in effect what is happening is the court system is being held hostage, so it is not able to function properly as a court system should. I submit that is an irresponsible tactic to use. As Members of the Congress, the first branch of Government, we have a responsibility to see that the court system can function in a proper fashion.

The Senator from Delaware, when he was chairman of the committee, always measured up to that responsibility, I think often taking a lot of political heat for doing it. But he was out to make sure the system could function. He had Republican Presidents nominating judges. He processed their nominations. He brought them to the floor of the Senate. He gave the Senate a chance to vote on them up or down for those people to get confirmed. That process is breaking down.

Mr. BIDEN. I voted for all of them but seven, I might add. There were only seven times that I voted against any of those nominees.

Mr. SARBANES. That process, I repeat, is now breaking down.

The other thing that is happening, as he says, instead of disagreeing with the qualifications of a nominee, the other side says, ''We don't really need the position.''

Mr. BIDEN. That is right.

Mr. SARBANES. And that is what we heard on Merrick Garland. In fact, when he first came up here, he was nominated for the 12th position on the D.C. circuit. They said, ''We don't need that position. We have nothing against Merrick. He is a wonderful fellow, of course. We just don't think we need that 12th position.'' Of course, that does a lot for Merrick Garland. He's sitting, waiting to join the court. Then someone already on the court took senior status, and then they had two vacant positions, the 11th and 12th. Merrick Garland is nominated. He's now up for the 11th position; not the 12th position, the 11th position. The majority is right back here on the floor and it says, ''We don't need this position.'' This is the 11th position. They never made that argument last year when he was going for the 12th position. Then they said we need the 11th, we don't need the 12th. Now they are back, some, today—fortunately, they did not prevail—saying we do not need either the 11th or the 12th position.

Mr. BIDEN. If the Senator will yield on that point, it is probably going to get him in trouble, but I want to compliment the chairman of the committee. The chairman of the committee did not buy into that argument. The chairman of the committee took the position on this that we should act, and he had been pushing this for some time.

Again, I see my distinguished friend, who now I work with in another capacity, as the minority—the euphemism we use is ranking member—of the Foreign Relations Committee. We have much less disagreement than we have on some issues relating to judges. But, with him here, I can remember that during the last days when the Senator from Delaware was trying to push through judges—on October 8, 1992, the last day of the session, with President Bush as President of the United States, the Senator from Delaware pushed through seven Republican judges—the last day.

I will bet you that has not happened very often in this place with Democrats or Republicans: The last day, seven.

The reason I mention that is one of my distinguished colleagues—we have very different views, but I like him a lot—walked up to me and he was from a State where there were two Republican Senators, and two of those judges were his. He walked up and shook my hand. This will not go in the RECORD—it will go in the RECORD, but his name won't, but my colleagues will know who he is. He shook my hand and said, ''Joe, you're a nice guy. I really appreciated it.'' He says, ''Of course, you know I would never do this for you.''

I like him because he is straightforward and honest. He meant it, and that's why we get along so well. I am

not referring to the Senator from North Carolina. He said, ''I'd never do this for you.'' The point being, not that BIDEN is a good guy or BIDEN is a stupid guy, the point being that the court is in desperate trouble in a number of jurisdictions. In southern California and south Florida, and in a number of places where there are drug cases that are backed up, a number of places where there are significant civil case backlogs, a number of places where population growth is straining the court, they need these vacancies filled.

I respectfully suggest that it is a rare—it is a rare—district court nominee by a Republican President or a Democratic President who, if you first believe they are honest and have integrity, have any reason to vote against them. I voted for Judge Bork, for example, on the circuit court, because Judge Bork I believed to be an honest and decent man, a brilliant constitutional scholar with whom I disagreed, but who stood there and had to, as a circuit court judge, swear to uphold the law of the land, which also meant follow Supreme Court decisions. A circuit court cannot overrule the Supreme Court.

So any member who is nominated for the district or circuit court who, in fact, any Senator believes will be a person of their word and follow stare decisis, it does not matter to me what their ideology is, as long as they are in a position where they are in the general mainstream of American political life and they have not committed crimes of moral turpitude, and have not, in fact, acted in a way that would shed a negative light on the court.

So what I want to say, and I will yield because I see my friend from South Carolina—North Carolina, I beg your pardon. I am used to dealing with our close friend in the Judiciary Committee who is from South Carolina. I seem to have the luck of getting Carolinians to deal with, and I enjoy them. I will yield the floor by saying, I will come back to the floor at an appropriate time in the near term, immediately when we get back from the recess, and I will, as they say, Madam President, fill in the blanks in terms of what the absolute detail and each of the numbers are, because I have tried to recall some of them off the top of my head, not having intended to speak to this issue when I walked across the floor earlier.

Let it suffice to say at the moment, at least for me, that it is totally appropriate for any U.S. Senator to voice his or her opposition to any nominee for the Court, and they have a full right to do that. In my study of and teaching of constitutional law and separation of powers issues, there is nothing in the Constitution that sets the standard any Senator has to apply, whether they vote for or against a judge.

But I also respectfully suggest that everyone who is nominated is entitled to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor.

We had a tie vote in the committee, Madam President, on one of the Supreme Court nominees. I was urged by those who opposed him—and I opposed this particular nominee—to not report it to the floor. My reading of the Constitution, though, is the Judiciary Committee is not mentioned in the Constitution. The Judiciary Committee is not mentioned. The Senate is. We only in the Judiciary Committee have the right to give advice to the Senate, but it is the Senate that gives its advice and consent on judicial nominations.

I sincerely hope, and I have urged the administration to confer with Republican Senators before they nominate anyone from that Senator's State. I think that is totally appropriate. I think it is appropriate, as well, that Republican Senators, with a Democratic President, have some input, which Democrats never had with the last two Republican Presidents. I think that is appropriate.

But I do not think it is appropriate, if this is the case—and I do not know for certain, it just appears to be—if the real hangup here is wanting to reach an informal agreement that for every one person the President of the United States gets to nominate, the Republican Party will get to nominate someone, the Republican Party in the Senate. Or for every two persons that the President nominates, the Republicans get to nominate one.

It is totally appropriate for Republicans to reject every single nominee if they want to. That is within their right. But it is not, I will respectfully request, Madam President, appropriate not to have hearings on them, not to bring them to the floor and not to allow a vote, and it is not appropriate to insist that we, the Senators—we, the Senators—get to tell the President who he must nominate if it is not in line with the last 200 years of tradition.

Again, I did not intend speaking at all on this, other than the fact I walked through and it was brought up, and since I was in that other capacity for so long, I felt obliged to speak up.

I see my friend from North Carolina is here. I do not know if he wishes to speak on judges or foreign policy matters, but whichever he wishes to speak on, I am sure it will be informative. I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, let me say that I always enjoy my friend, Senator BIDEN—all of it. You have to wait awhile sometimes, but the enjoyment is nonetheless sincere.

CHEMICAL WEAPONS CONVENTION

Mr. HELMS. Mr. President, the remarks I am about to make will probably be the best kept secret in Washington, DC, tomorrow morning in the Washington Post or whatever. Instead, I am sure there will be ample coverage given to the various statements made by several Senators earlier in the day about how they are having trouble getting a treaty through the U.S. Senate. And certain comments were made that just had no basis in fact whatsoever.

So this is a speech that I am going to make to set the record straight so that it will be in the CONGRESSIONAL RECORD tomorrow morning in the hopes that some soul somewhere may decide to look to see what the facts really are.

In any case, I listened with great interest to the—what do we call it—the colloquy this morning regarding the Chemical Weapons Convention, and I think it is important to remind the Senate of some facts about the debate surrounding this controversy and, I believe, this dangerous treaty, which is perilously flawed.

First of all, I am puzzled at the insistence of some of my Democratic colleagues on a date certain for a vote on this treaty. It appears that the supporters of the treaty want only a date certain when it suits their needs, their desires. I remember last year, they wanted a date certain for hearings on this very same subject, the Chemical Weapons Convention Treaty. They wanted a date certain for committee action on the treaty; they insisted on it.

The committee took action on the treaty. Then they wanted a date certain for floor debate and consideration of the treaty —this was last year—and we obliged them in every instance. But hours before the vote on the Chemical Weapons Convention, on their date certain, that was supposed to happen, it was announced by the majority leader the night before, but what happened? The White House called up and said, ''Please withdraw the treaty.''

Now, it was not this Senator from North Carolina or any other Senator who asked it be withdrawn. It was not TRENT LOTT, the majority leader. It was the Clinton administration who asked the Senate not to vote on the Chemical Weapons Convention. Do you know why? Because they didn't have enough votes to ratify the treaty. And why did they not have the votes to ratify the treaty? Because in their zeal to force this treaty down the throats of Senators, they refused flat out to address any of the serious concerns that I had and a growing number of other Senators had about this treaty.

I remember thinking last year, and I am thinking now, about what Sam Ervin said so many times. He said, ''The United States had never lost a war or won a treaty.'' And you think about the treaties that we have gotten into, and Sam Ervin—I think he got that from Will Rogers—but wherever it came from, it is true, and particularly in a document such as the Chemical Weapons Convention.

So the suggestion, whether stated or implied, that we are somehow holding this treaty hostage is not only fraudulent, it is simply untrue. You will not

read about that in the Washington Post in the morning and CBS will not have it. They might say something about JESSE HELMS holding up consideration of this treaty. But the fact is that I met for 4 hours yesterday evening with the distinguished Senator, JOE BIDEN, and we went down a list of many issues in that proposed treaty. And we resolved most of them.

Let me talk a little bit about the suggestion that the committee, the Foreign Relations Committee, of which I am chairman, is failing to fulfill its responsibilities to address the Clinton administration priorities. That simply is not so.

The Foreign Relations Committee was the first to convene a confirmation hearing for a Cabinet-rank official this year. In fact, the Foreign Relations Committee expeditiously considered and reported both of the President's Cabinet-rank nominations by the end of January. Indeed, we have cleared the calendar of nearly all of the administration's appointees, including one Assistant Secretary of State and several Ambassadors.

Let us set the record straight with respect to negotiations concerning the Chemical Weapons Convention.

I personally met with the National Security Adviser in my office on February 5 of this year. In that meeting, I told him that my staff was prepared to begin discussions with his staff immediately. Well, day after day after day passed, and I received not one syllable of reply whatsoever to that offer.

In an effort to get around the impasse, I wrote a seven-page letter to Mr. Berger, dated February 13, reiterating my request to begin staff-level negotiations and proposing concrete solutions for addressing the concerns that I and other Senators have about this treaty.

Another 2 weeks elapsed before I finally received a response from Mr. Berger—four paragraphs long—in which he did not respond to one single proposal contained in my letter. Indeed, he reiterated his refusal to send any of his staff to meet directly with the staff of the Foreign Relations Committee.

Then, on February 27, the chief of staff of the Foreign Relations Committee, Adm. Bud Nance—who, by the way, is recovering nicely from a near-fatal automobile accident that occurred last December, just before Christmas—came from his home in McLean to the Senate for the sole purpose of attempting to bridge this impasse. On that day, Admiral Nance met with the heads of legislative affairs of both the State Department and the NSC.

Well, then, we move forward to March 5. Mr. Berger finally allowed the NSC staff to begin discussion with the staffs of interested Senators. So those Senators who are counting every day from now until April 29 should ask Mr. Berger why he dillied and dallied away the month of February and refused to work with the chairman of the Foreign Relations Committee or the committee staff.

Notwithstanding all of that, since March 5, the staff of the Foreign Relations Committee has participated in more than 50 hours of negotiations with the administration and other proponents of this treaty. And I must add that the distinguished majority leader, to his credit, has already devoted an extraordinary amount of time and energy to this issue.

Last night, the distinguished ranking member of the Foreign Relations Committee and I, as I said earlier, spent 4 hours in my office negotiating specific provisions with some success. So, in light of all those efforts, I am perplexed as to how anyone could conclude that we are not working in good faith to resolve this matter.

Having said that, I think the time has come for the administration to address several key concerns. Thus far, I regret to report we have not had as much success as I would have hoped. Indeed, it is becoming clear that the administration is treating these negotiations as an empty exercise, a perfunctory hurdle over which they must jump so that they can argue that they ''tried to negotiate'' with me and with the Foreign Relations Committee.

As a result of this unfortunate attitude on the part of the White House, very little progress is being made to bridge the wide gap between us on a number of important provisions of the chemical weapons treaty.

Our staffs have been able to reach definitive agreement with the administration on only 8 of 30 provisions. Of those, three are simple reporting requirements and one is a nonbinding sense-of-the-Senate declaration. Not one of the issues that can be regarded as critical has yet been resolved.

But, Mr. President, having said all that, I am still determined to work with the administration and others to see if we can resolve our differences on a chemical weapons treaty. But if we are going to do that, the administration needs to return to the bargaining table and negotiate with my staff and with me in good faith. The way they have been acting, they said, ''Well, we'll work it out.'' ''I'll do what I think is right,'' they say. ''And you do what we think is right.'' So that does not make it a 50–50 proposition, which I am not going to accept.

The administration needs to realize, in no uncertain terms, that unless and until they satisfy the number of concerns that various Senators, including this Senator, have relating to the treaty's universality, verifiability, constitutionality, and crushing impact on business, I am not going, personally, to move on the CWC, period.

The chemical weapons treaty, as it now stands, is not global, as it is claimed to be. It is not verifiable. And it imposes costly and potentially unconstitutional regulatory burdens on American business.

This treaty will do nothing—will do nothing—to reduce the dangers of poison gas.

Almost none of the rogue nations that pose a chemical weapons threat to us—such as Iraq, Syria, Libya, North Korea—are signatories to the treaty. They are free to pursue their chemical weapons programs unimpeded by this treaty. And the intelligence community has made clear—I do know whether it has been reported in the news or not—but the intelligence community says it is not possible to monitor the compliance of signatory nations with a high level of confidence. This is a matter of record. This is a matter of testimony before the Senate.

By the way, Russia is already violating its existing bilateral chemical weapons treaty with the United States. And the Russian military is reportedly working to circumvent the CWC with a new generation of chemical agents that are specifically crafted to evade the treaty's verification regime.

So if the chemical weapons treaty will not do anything to reduce the dangers of chemical weapons, what will it do? Good question.

Well, for one thing, it will, in fact, increase access to dangerous chemical agents to those terrorist states that do sign the treaty. Now, Douglas Feith, a chemical arms control negotiator in the Reagan administration, pointed out last week in the New Republic that the CWC will give the terrorist regimes in Iran and Cuba the right to demand access to the chemical markets of the United States and all other signatory nations and will create a treaty obligation for signatory nations to sell or give them chemical defensive gear, which is essential for any offensive program.

Well, the treaty will also endanger American troops by its forbidding commanders in the field from using tear gas and other ground control agents.

Worst of all, on top of all of these other deficiencies, it will impose dozens of new regulations and unprecedented and unconstitutional inspections on between 3,000 to 8,000 American businesses. Under the chemical weapons treaty, foreign inspectors will be authorized to swoop down on American businesses—without a criminal search warrant or even probable cause—and they can rifle through the records of these businesses, interrogate the employees, and even remove chemical samples. That is not only an infringement on the constitutional rights of Americans, it is an invitation to industrial espionage. Any treaty that gives foreign inspectors greater powers of search and seizure than those granted American law enforcement officials under the U.S. Constitution is a treaty in need of serious modifications.

Last, this treaty has already begun to lull the United States and our allies into a false sense of security by creating the false impression that something is being done about the problem of chemical weapons when, in fact,

nothing, nothing is being done by the treaty. I could come up with no other explanation for why the then-Vice Chairman of the Joint Chiefs of Staff, Admiral Owens, would try to strip more than $800 million in chemical defensive funding from the fiscal years defense plan, or why the Chairman of the Joint Chiefs of Staff, General Shalikashvilli, would recommend that $1.5 billion be taken out of our defense spending.

Do not take my word for it. Listen to constitutional scholars such as Robert Bork, Ed Meese. Listen to foreign policy experts such as Jeanne Kirkpatrick, and Alexander Haig, and former Secretaries of Defense Dick Cheney, Caspar Weinberger, Donald Rumsfeld, and James Schlesinger, or ask Henry Kissinger about it. Defense Secretaries of every Republican administration since Nixon have come out against this treaty, along with literally dozens of generals, admirals and senior officials from the Reagan, Bush, Nixon, FORD, and even the Carter administrations. If the Clinton administration chooses not to address the concerns that these distinguished experts and a number of Senators have enumerated, that is their decision, but they will not get the CWC unless they sit down and talk about the problems that some of us have.

Now, we have already sat down. We have begged to sit down before. We have scheduled. We have written letters, all to no avail.

One other myth about the treaty, the myth of this April 29 deadline. We hear over and over again, ''If we miss this deadline, it will be terrible.'' Now, let me say, Mr. President, there has to be an end to the administration's Chicken Little pretense that the sky is going to fall if an agreement is not reached by April 29. This artificial deadline is a fraud created by the administration when they gave the Hungarian Government the green light to drop its instrument of ratification. The Hungarians had sought U.S. guidance on how to proceed, and the administration expressly told the Hungarians to go right ahead.

The administration has one purpose, and that was to manufacture, to contrive, to pretend, to have a drop-dead date to blackmail the Senate into rubberstamping this dangerously defective treaty. Now, I for one am not going to be blackmailed into permitting a flawed treaty to be approved by such tactics. Further, the administration is disingenuous in arguing that the United States will be ''shut out'' of the Executive Council that implements this chemical weapons treaty, and that the U.S. personnel will be barred from the inspection regime if the United States does not ratify by April 29. Horse feathers.

As former Defense Secretaries James Schlesinger, Caspar Weinberger, and Donald Rumsfeld noted recently in an Op-ed in the Washington Post, ''In the event that the United States does decide to become a party to the CWC at a later date—perhaps after improvements are made to enhance the treaty's effectiveness—it is hard to believe its preferences regarding implementing arrangements would not be given considerable weight. This is particularly true,'' this is what they wrote in the op-ed piece, ''This is particularly true since the United States would then be asked to bear 25 percent of the total cost of the implementing organization's budget.''

Now, Mr. President, it will be a concession of diplomatic incompetence to try to argue that the U.S. Government is incapable of negotiating a seat on the Executive Council and the U.S. participation in the inspection regime of a treaty for which the American taxpayers are footing 25 percent of the bill. In fact, U.S. inspectors will be hired if and when the Congress agrees to fork over millions upon millions of American taxpayers' dollars to finance this new organization.

As for the effects on industry, Secretaries Schlesinger, Weinberger, and Rumsfeld made very clear there will be very few, if any. ''The preponderance of trade in chemicals would be unaffected by the CWC's limitations, making the impact of staying out of the treaty regime, if any, fairly modest on American manufacturers.''

It turns out that the Chemical Manufacturers Association has acknowledged that it will not lose, as it had previously claimed, $600 million in export sales. The Chemical Manufacturers Association now admits that less than one-half of 1 percent of U.S. chemical exports will be affected by this treaty, and even that number, even that number is highly suspect.

Mr. President, it is time that the contrived myth of cataclysmic consequences of April 29 be put to rest once and for all. More important than any artificial deadline is the need to resolve the substantive issues that divide us. Without significant changes governing U.S. participation, agreed to in a resolution of ratification, there is no point in ratifying the CWC. In that case, what happens, if anything, after April 29, is academic.

On the other hand, if the administration does come to agreement with us on these and other matters after April 29, or even before, I am confident that the distinguished Secretary of State Madeleine Albright can and will ensure the United States' interests are protected. Madeleine Albright is a tough lady and a capable negotiator.

Mr. President, if the administration really wants this treaty by the artificial deadline that they deliberately created, they will have to return to the negotiating table and begin working in good faith with the staff of the Foreign Relations Committee and with me. Let me reiterate that I spent 4 hours last evening with the distinguished Senator from Delaware, [Mr. BIDEN]. He operated in good faith and so did I. That is what it is going to take. But there is going to have to be a lot of action going a long way in our direction on a number of substantive issues.

For the information of anybody who may be interested, I remain of the opinion, as I indicated in my January 29 letter of this year to the majority leader, that once we have succeeded in having comprehensive reform of U.S. foreign affairs agencies, reform of the United Nations, and once the modification of the ABM and CFE treaties are submitted to the Senate for advice and consent, I will be more than willing to turn my attention to the matter of the CWC. I might be persuaded to turn to it earlier than that. Even so, any resolution of ratification for the CWC must provide key protections relating to the treaty's verification, lack of applicability to rogue states, constitutionality, and its impact on business.

Now, I am very sincere when I say that I hope we can work out our differences. I am certainly willing to try. I hope I demonstrated that last evening and on occasions earlier than that. But, in the end, whether or not we reach agreement is a decision that only the Clinton administration can make. I think they ought to get about it and let us see what we can work out together on a fair and just basis.

I yield the floor.

Mr. BIDEN. Mr. President, again, I did not anticipate that I would be speaking to this issue. Fortunately, or unfortunately, I am on the floor, and I understand why the Senator from North Carolina came over to speak in light of things that were said earlier today when he was not here and I was not here. I would like to respond, at least in part, to what my distinguished colleague has said.

Let me begin by parcelling this out into three pieces. First, is the issue of whether or not the administration has acted in good faith; second, is not whether or not the substantive issues raised by the distinguished Senator from North Carolina are accurate, but whether or not there is a response to them; I think his concerns are not accurate; and third, whether or not the ultimate condition being laid down by the Senator from North Carolina, as I understand it—and I could be wrong—is appropriate.

Let me begin, first, by talking about the administration. It is true that the distinguished Senator from North Carolina and I spent almost 4½ hours last night addressing, in very specific detail—apparently without sufficient success—the concerns the Senator from North Carolina has about this treaty. I note—and I will come back to this—that the universe of concerns expressed by the Senator from North Carolina were submitted to me in writing some time ago. Although they have expanded slightly, they total 30, possibly 31, concerns.

When I became the ranking member of this committee, I approached the distinguished chairman and said I would very much like to work with

him, I would very much like to cooperate, and I would very much like to work out a forum in which we could settle our differences relating to what is sound foreign policy.

The agreement made by the Senator from North Carolina with regard to the Senator from Delaware was this: I said I am willing to meet with your staff—you need not be there, Mr. Chairman—and discuss in detail every single concern you have. I am even willing to go out to Admiral Nance's home, because he was seriously injured. I am willing to go to his home and conduct these discussions. And to the credit of the chairman, he dispatched his staff to do that with me, my staff included, and I do not know, I will submit for the RECORD, the total number of hours we did this. But I know that I, personally, in addition to meeting with the Senator from North Carolina, have met with the staff for hours and hours. And our staffs have met for a considerably longer period of time—not in a generic discussion of this treaty, but on specific word-by-word analyses, negotiations, and agreement on the detail of proposals made by the distinguished Senator from North Carolina about how he feels the treaty has to be remedied.

So what has the administration been doing? I think, to use an expression my grandmom used to use, ''Sometimes there is something missed between the cup and the lip.'' The administration—as I tried to explain to my friend from North Carolina last night, and his staff on other occasions—was giving conflicting marching orders. The administration, after direct discussions with Majority Leader LOTT prior to January 29, agreed to meet and discuss this in detail with a task force that Senator LOTT named. Senator LOTT named a task force of interested Republicans.

They included the distinguished chairman of the Foreign Relations Committee; the distinguished senior Senator from Alaska, Senator STEVENS; Senator SMITH of New Hampshire; Senator KYL of Arizona; Senator WARNER of Virginia, and others, who were to sit down and discuss with the administration their concerns about this treaty and how they felt the treaty had to be changed. The first meeting of that task force, of which Senator HELMS was a part, appointed by Senator LOTT, occurred on January 29.

Now, my friend from North Carolina—I can understand why there may be confusion here. He said that Sandy Berger, the National Security Adviser, dallied away the month of February. He was dallying with Senator LOTT; he was dallying with Senator WARNER; he was dallying with Senator SHELBY; he was dallying with Senator BOB SMITH; he was dallying with Senator KYL; he was dallying with a task force appointed by the Republican leader.

I can understand why the distinguished Senator from North Carolina, the chairman of the Foreign Relations Committee, might not feel that is an appropriate forum. I can understand that. Those of us who have been chairmen do not like the fact that a majority leader will sometimes come along and say, ''By the way, even though this is within your jurisdiction, we are going to appoint a task force beyond your jurisdiction.''

But the truth of the matter is, picture the quandary of the President of the United States after a discussion with the majority leader of the U.S. Senate, and the majority leader said, ''Here are the folks you are supposed to deal with.'' I challenge anyone on Senator LOTT's staff who are the main players in this to suggest that the administration didn't deal in good faith with them. There were hours and hours and hours of detailed negotiations with this group.

I say to my friend from North Carolina, put the shoe on the other foot. He is the President of the United States. Here is a Democratic majority leader. He wants a treaty passed. The Democratic majority leader goes to him and says, ''I have appointed a committee of Democrats interested in this subject. I would like you to negotiate with them, not with BIDEN, the chairman of the committee. He is part of this group.''

So, beginning on January 29, Sandy Berger, Bob Bell, his chief negotiator, and the administration met for scores of hours. I don't mean 2. I don't mean 10. I don't mean 20. I mean 30 or 40 hours worth of negotiations with the principals, with the Republican Senators, as well as without them. Guess what. They reached an agreement. There is a universe of 30-some amendments. I hold it up now. This is what was presented to the administration by this coalition of Republican Senators concerned about the treaty. It, in fact, lists every known objection, every objection raised by any Republican that we are aware of or that the administration is aware of about the treaty. The number is 30.

This document I have here listing those 30 concerns—not only concerns, 30 specific conditions—which the Republican task force, staffed by Senator LOTT's staff and all other members' staff, listed. And they are listed. The specific proposals are listed that were made by the Republican task force.

No. 1, enhancement to robust chemical and biological defenses. And they propose then two pages of language, three pages that relate to the conditions they would like attached to the treaty. That was repeated 30 times as is appropriate. The administration spent 30 or more hours sitting with these members and/or their staff and coming to an agreement on 17 of them, disagreeing on 13.

So, simultaneously, later Senator HELMS and I began a process that was tracking the same process. I was not part of the Republican group, obviously, and I did not represent the administration in this group. But the administration sat down and in detail responded to every single concern raised by the Republican task force named by the majority leader, and instructed by the majority leader to deal with that group. Simultaneously, I sat for hours and hours with Senator HELMS' staff, and then last night, at the end of the process, with Senator HELMS himself for 4 hours. I will estimate that I sat with the staff and my staff sat with HELMS' staff 20 hours or more.

Again, Senator HELMS was very straightforward with us. He gave us a document listing his 30 concerns, some of which were the same and some of which were different. This is the document presented to me. Over a period of hours and hours and hours of negotiation, I agreed on 21 of the 30 issues raised by Senator HELMS, disagreed on 9, 3 of which I indicated I would not take opposition to but I didn't support.

So with all due respect to my distinguished chairman, he may not have been aware and his staff may not have informed him of the hours and hours and hours and hours of detailed negotiation between the Lott task force, including his staff and the administration. But had he been informed, he would know that those negotiations began at the instruction of Senator LOTT on the 29th of January.

So I am sure when the Senator reads this in the RECORD or is informed by his staff, he will realize that the fact he didn't meet with Sandy Berger until February 15 should not be a surprise. Sandy Berger thought he was meeting with Senator Helms when he met with Senator Lott's task force.

Let me tell you what was the agreed objective of the task force and of my negotiations. It was this, that we would put all of the universe of objections—and I hope those who follow this in the press, watching this now or reading it later, will understand precisely what I am about to say. The objective was—I think the Presiding Officer, who has been involved in and interested in this issue, may be aware of this as well. It was agreed that the Republican objections—legitimate—would be put in writing, which they did. All of them would be laid down, which they were. They said they totaled 30. They would be talked about, fought over, negotiated, to see if there could be a compromise reached, and, at the end of the day, there would be two lists. Every one of those 30 amendments would fall in either column A, where there was agreement between the Lott task force and the administration, and hopefully BIDEN and HELMS. Those things which could not be agreed to in column B. They got this picture.

Thirty written conditions seeking to alter the interpretation of the treaty, or defend the intent of the treaty, put on paper, negotiated between the administration and the Lott group, and at the end of the day, they would be, to use the jargon of the Senate, ''fenced.'' That would be the universe of concerns, because, obviously, you can't address a concern unless you know what it is. They are the universe of concerns

raised about the treaty. And there would be either conditions 1 through 30 placed in column A, where there is agreement to alter the treaty, or to add a condition to the treaty, I should say to be precise, or column B, where there is no agreement.

Then what was envisioned was at the end of that process, within time, sufficient time to consider this in this Chamber, there would be the following process. The treaty would be brought up from the desk, stripped of any conditions that were reported out of the Foreign Relations Committee last time—this was the hope—and we would have the following procedure. Senator HELMS and Senator BIDEN, as envisioned by the Lott group, would offer on behalf of the Lott group, Democrats and Republicans and the administration, a package in column A.

That package with the administration would number 17, and if I were willing to add to that package with Senator HELMS over the objection of the administration, that could be brought up to 21 out of the 30 concerns that everyone agreed on or 17 of the 21 the administration agreed on and BIDEN would support HELMS on 4 additional ones whether the administration liked it or not, leaving maximum 13, minimum 9, conditions that could not be agreed upon.

That was done. They are the numbers that we were left with. Then it was envisioned that after passing the agreed-to conditions, we would then move to the conditions upon which we did not agree, and the Republicans under the leadership of Senator HELMS would offer those conditions as we do on other treaties. I would be given the right to offer an alternative or to amend them, and we would vote ad seriatim. Then at the end of the day, after having disposed of all 30 of the concerns, we would then vote up or down on the treaty.

Now, I call that a negotiation. I have been here for 24 years. I have been involved in a lot of serious negotiations. I have never been involved in negotiations where more people who were appointed to participate have acted in good faith. Think about this now. Name me a circumstance where a treaty has been presented by a Democrat or Republican President where there have been 19 conditions agreed to on that treaty, or 21 conditions in my case, 17 in the case of the administration, and then we vote on another either 13 or 9 additional changes.

What I think my friend is saying—maybe he does not mean to say it—what I read him to say is, unless you agree with us on the other nine, we are not going to let you vote.

Now, look, I doubt whether my friend from North Carolina would find it appropriate if the American textile workers sat down with Burlington Mills or any other textile owner and said, we are going to negotiate a new collective bargaining agreement and we are going to go on strike unless you agree on every one of our conditions.

How is that a negotiation? That is an ultimatum. That is not a negotiation. So I hope he does not mean it.

I cannot believe, I do not believe Senator HELMS means that if the administration does not come up now and separately negotiate with him after having settled the negotiation with the group called the Lott group, unless the administration agrees to Senator HELMS' version of universality, Senator HELMS' version of verifiability, and Senator HELMS' version of constitutional requirements, et cetera, he will not let the treaty be voted on, because when you cut through everything, that is what it sounded like.

I said at the outset I divided this into three pieces. One, whether or not there was negotiation by the administration in good faith. I will just let the record stand. And I repeat again, Senator LOTT—and I do not know the exact circumstances under which it came about, but I assume it was after discussion with the President of the United States of America, President Clinton—set up a task force that included Senator STEVENS, Senator HELMS, Senator KYL, Senator WARNER, Senator SHELBY, Senator NICKLES, Senator Bob SMITH, and Senator MCCAIN. The President of the United States was told by the distinguished majority leader, Senator LOTT, these are the people I want you to sit down with and try to work out their concerns.

That first meeting took place on January 29. I began my meetings with Senator HELMS on February 11. Again Senator HELMS and his staff were part of the Lott task force.

So although I understand that Senator HELMS might not have liked that arrangement, I ask him to consider the dilemma that the administration was placed in when being told by the majority leader: negotiate with this group. I assure you, I promise you, I commit to you, to every Member of the Senate in my discussions with the President, with the Secretary of State and with the National Security Adviser, they all believed they were negotiating with the appropriate parties in the Senate because that is what the majority leader told them to do.

The second point. They conducted a negotiation which culminated in an agreement that ended last Thursday when Bob Bell, representing the administration, sat down with the principals as well as all the staffers of those eight Senators, including Senator LOTT's staff, and produced the document I have in my hand listing all 30 conditions raised by the Republican task force, including Chairman HELMS, and placing every condition either in column A or column B—column A meaning those conditions where they have been worked out and agreed to, where the Lott task force, representing the Republicans in the Senate, and the administration reached an agreement on a condition they could both accept; and column B, where they could not accept, they could not reach an agreement.

That was the product of hours and hours and hours and hours of detailed negotiation. I say to the Presiding Officer and anyone who is listening to this, I am not talking about general agreement. I am talking word-by-word specific agreement on every comma, whether it should say ''shall'' or ''should,'' every single word of their conditions, the majority of which were agreed to, compromise was reached on; the minority of which there was no compromise.

I then was informed by the administration in the person of Bob Bell and Sandy Berger that to their surprise either Senator HELMS' staff or someone purporting to represent Senator HELMS at last Thursday's meeting, which was supposed to tie this in a knot, define the universe of conditions, place them all in one of two categories, and get about the business of proceeding on the treaty, at the last minute—literally the last minute—as I understand it. I mean, the meeting was over—the administration walked in the meeting, as I understand the Lott group thought they were walking in the meeting, to tie this knot, everything in column A or column B. Someone suggested that the chairman of the full committee did not find that appropriate. So I met with the Democratic leader and the administration. I went in the leader's office. I said I believe Senator HELMS is still operating in good faith, as I believe he still is. I don't want to confuse this negotiation, but why don't you authorize me, Democratic leader, to speak for the Democrats? Why don't you let me go sit down with Senator HELMS and try to get to the bottom of what appears to be a misunderstanding here? Because the understanding by the Lott group and the administration was that this was supposed to be all tied up with a unanimous-consent agreement last Thursday.

So I sought a meeting with Senator HELMS and he graciously agreed. And I kept him very late. He had a very busy day. I sat with him in his office last night until 8:30. The meeting began around 4 o'clock in the afternoon, without any break, without any interruption. I took out a document that his staff had prepared. It is dated March 13, ''To the Honorable TRENT LOTT, majority leader, from JESSE HELMS, Chairman of the Foreign Relations Committee, subject: Status of negotiation over key concerns relating to the CWC.''

And then Senator HELMS, in that memo to Senator LOTT, listed—and they are numbered—listed 30, ''concerns relating to CWC.'' Each of those concerns had, and it was very helpful the way it was organized, listed, No. 1 through 30, and then at the top of each of the numbers it said, ''status,'' status relative to the administration: No agreement with the administration or agreement with the administration.

So I sat down with Senator HELMS, because I am very jealous of the prerogatives of the Senate versus any administration, and feel very strongly

about the role of the Senate in treaties. I sat down with Senator HELMS with the understanding and knowledge on the part of the administration, who knew I might not agree with them on everything, and my Democratic leader, and for 4½ hours went through all 30 issues, point by point. I reached agreement with Senator HELMS, not on eight or 13 or 17, depending on whose number you take as to whether the Lott group and the administration agreed. The administration thinks they agreed on 17. Senator HELMS said they only agreed on eight. I don't want to get into that fight. But I can tell you what I did. I agreed on 21 of the 30. I disagreed with the administration on several points Senator HELMS raised because I think he was right. They relate to the prerogatives of the Senate.

Let me give an example. Under the Constitution, the U.S. Senate has a right to reserve on any treaty. We wanted to restate that right. The administration didn't want that right restated in the treaty as a condition. I agreed with Senator HELMS, it should be restated; notwithstanding the fact we are not reserving on this treaty, we had a right to reserve if we wanted to. That is called preserving the prerogatives of the Senate delegated to the Senate in the Constitution of the United States of America. That is an example of one of the areas where the administration was unwilling to agree with Senator HELMS and I was willing to agree.

So at the end of the day we agreed to 21 items, and I was willing to make the case to my Democratic leadership, to put into column A. So that we would have one vote on 21 conditions to the treaty when it was brought up, leaving only 9 areas where we disagree. Of those nine, we were perilously close to agreement on several. I call that, in the universe of negotiations, good-faith negotiations.

But, if by negotiating one means that the President or those who support the treaty, like Senator LUGAR, a Republican, or Senator BIDEN a Democrat, have to agree to a condition that would kill the treaty, then that is not a negotiation. That is an ultimatum. Now, I am confident the Senator from North Carolina cannot mean that, and I am hopeful that we will continue to talk about the nine that remain unresolved. But at the end of the day, with all due respect, the Senate has a right to work its will.

I am a professor of constitutional law at Widener University law school. I have taught, now, for a half a dozen semesters, a seminar to advanced students in constitutional law on separation of powers. One of the things I expressly teach is the treaty power in the Constitution. That is, for lack of a better shorthand, those powers separated between the executive, the legislative, and judiciary. And among those things, in terms of that horizontal separation, there are areas that have been in dispute for the last 200 years. One of them is appointment powers, second is treaty powers, and the other is war powers.

Then there is the so-called vertical question of the separation of powers: State government versus Federal Government; individuals versus State or Federal Government. On the issue of the treaty power, I would observe what I observed earlier about the appointment power. Nowhere in the Constitution does it say that the Judiciary Committee shall decide who should or should not be a judge. It says, the Senate. Nowhere in the Constitution does it mention the Foreign Relations Committee. It mentions the Senate. So, I do think it is inappropriate, from a constitutional perspective, to deny the Senate, if that were anyone's intention, and I am not convinced it is yet, the right to vote ''yea'' or ''nay'' on ratifying a treaty or any conditions thereto.

So now let me leave the item I mentioned I would speak to first, whether or not there were good-faith negotiations on the part of the administration. I hope I have amply demonstrated that there were. They thought they were supposed to deal with the task force the majority leader of the Senate said deal with, and they did it in good faith. I would be very surprised if any member of that group—I have not spoken to any of them because I am not part of that group, from Senator WARNER to Senator STEVENS to Senator MCCAIN to Senator KYL—would come to the floor and say the administration did not negotiate in good faith to us, tirelessly, hour after hour after hour.

(Mr. SESSIONS assumed the chair.)

Mr. BIDEN. Mr. President, let me move to the next point that relates to the merits of this treaty. That is a legitimate area of disagreement. I will be brief because I am keeping the staff and the pages, who have to go to school tomorrow morning, very late.

UNIVERSALITY

Critics charge that the CWC will be ineffective because rogue states such as Syria, Iraq, North Korea, and Libya—all of whom are suspected of or confirmed to have chemical weapons—have not joined the convention.

Therefore, the argument goes, the United States should withhold its ratification until these states join.

I could not disagree more.

Just think of it. The logic of this argument would lead us to a world where rogue actors—not good international citizens—determine the rules of international conduct.

Such a policy would amount, effectively, to a surrender of U.S. national sovereignty to the actions of a few.

Instead of the United States actively leading international coalitions and setting tough standards on nonproliferation matters, the convention opponents would have us do nothing until every two-bit rogue regime would decide for us when we should act.

This reasoning is contrary to the record of the past 40 years, during which the United States has led the way in nonproliferation initiatives.

From the nuclear nonproliferation treaty, to the missile technology control regime, to the comprehensive test ban treaty, and to the chemical weapons convention itself, we have fought for establishing accepted norms of behavior.

I happen to believe that international norms count.

In a recent article that I coauthored with my distinguished colleague, Senator RICHARD LUGAR, we noted that such norms provide standards of acceptable behavior against which the actions of states can be judged. They also provide a basis for action—harsh action—when rogue states violate the norm.

Suggesting that we should now take a back seat to the likes of North Korea and Libya does a grave injustice to our record of international leadership and leaves such nations free to act as free operators without fear of penalty or retaliation by the nations whose armies and citizens they threaten.

The fact that there is now no international legal prohibition against the development of chemical weapons should not be lost here.

The suspected programs that treaty opponents are so concerned about are right now entirely legitimate according to international law, and we have already had a telling example of what can result from this perverse situation.

The Japanese police were aware, before a cult attacked the Tokyo subway with sarin nerve gas in 1995, that the cult was manufacturing the gas—but they had no basis in Japanese law to do anything about it.

That will change, both internationally and domestically, once the CWC enters into force.

The convention will establish an international norm against the development of chemical weapons. It will provide the legal, political, and moral basis for firm action against those that choose to violate the rules. If the goal of treaty opponents truly is to target the chemical weapons programs of suspect states, then joining the convention is the best way to achieve this objective—and refusing to join is the surest way to protect the world's bad actions.

VERIFIABILITY

A great benefit of the chemical weapons convention is that it increases our ability to detect production of poison gas.

Regardless of whether we ratify this convention, regardless of whether another country has ratified this convention, our intelligence agencies will be monitoring the capabilities of other countries to produce and deploy chemical weapons. The CWC will not change that responsibility.

What this convention does, however, is give our intelligence agencies some additional tools to carry out this task. In short, it will make their job easier.

In addition to onsite inspections, the CWC provides a mechanism to track the movement of sensitive chemicals

around the world, increasing the likelihood of detection. This mechanism consists of data declarations that require chemical companies to report production of those precursor chemicals needed to produce chemical weapons. This information will make it easier for the intelligence community to monitor these chemicals and to learn when a country has chemical weapons capability.

In testimony before the Senate Foreign Relations Committee in 1994, R. James Woolsey, then Director of Central Intelligence, stated: ''In sum, what the chemical weapons convention provides the intelligence community is a new tool to add to our collection tool kit.''

Recently, Acting Director of Central Intelligence, George Tenet, reemphasized this point before the Senate Select Committee on Intelligence. Mr. Tenet stated: ''There are tools in this treaty that as intelligence professionals we believe we need to monitor the proliferation of chemical weapons around the world. * * * I think as intelligence professionals we can only gain.''

No one has ever asserted that this convention is 100 percent verifiable. It simply is not possible with this or any other treaty to detect every case of cheating. But I would respectfully submit that this is not the standard by which we should judge the convention. Instead, we should recognize that the CWC will enhance our ability to detect clandestine chemical weapons programs. The intelligence community has said that we are better off with the CWC than without it—that is the standard by which to judge the CWC.

CONSTITUTIONALITY

One of the issues that should not be contentious, and I hope will not continue to be a focus of attention, is whether the convention, and particularly its inspection regime, is constitutional.

Every scholar that has published on the subject, and virtually every scholar that has considered the issue, has concluded that nothing in the convention conflicts in any way with the fourth amendment or any other provision of the U.S. Constitution.

Indeed, to accommodate our special constitutional concerns, the United States insisted that when parties to the convention provide access to international inspection teams, the government may ''[take] into account any constitutional obligations it may have with regard to proprietary rights or searches and seizures.''

In plain English, this means that inspectors enforcing the Chemical Weapons Convention must comply with our constitution when conducting inspections on U.S. soil.

It also means that the United States will not be in violation of its treaty obligations if it refuses to provide inspectors access to a particular site for legitimate constitutional reasons.

In light of this specific text, inserted at the insistence of U.S. negotiators, I am hard pressed to understand how anyone can seriously contend that the convention conflicts with the Constitution.

There is nothing in the convention that would require the United States to permit a warrantless search or to issue a warrant without probable cause. Nor does the convention give any international body the power to compel the United States to permit an inspection or issue a warrant.

This is the overwhelming consensus among international law scholars that have studied the convention, two of whom have written to me expressing their opinion that the convention is constitutional. I ask unanimous consent that the letters of Harvard law professor, Abram Chayes, and Columbia law professor, Louis Henkin, be included in the RECORD following my statement.

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

(See exhibit 1.)

Mr. BIDEN. So let me make this point absolutely clear, despite what opponents of the convention have said, there will be no involuntary warrantless searches of U.S. facilities by foreign inspectors under this convention.

In light of this, I hope that the constitutionality of this convention will not become an issue in this debate.

Let me conclude that portion by suggesting to my distinguished colleague from Alabama, who is presiding, that I believe, on the merits, this is a good treaty. It is not merely me. The Senator from North Carolina listed people who do not think it is a good treaty. I will submit for the RECORD everyone, from General Schwarzkopf to the Joint Chiefs of Staff to Senator LUGAR, people who believe very, very fervently, as I do, this is clearly in the overwhelming national interest of the United States of America. I ask unanimous consent that a list of supporters of the CWC be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. BIDEN. Now let me move to the third issue. The notion of, as my friend from North Carolina stated, that there is an artificial date of April 29 made up by the administration to put undue pressure on the Senate to act. Let me point out for the Senate that there is nothing artificial about that date. It is real.

What does that mean? It means that our failure to ratify before the 29th will have consequences. First, the chemical weapons treaty mandates trade restrictions that could have a deleterious impact upon the American chemical industry. If the United States has not ratified, as long as they have not ratified, American companies will have to supply end user certificates to purchase certain classes of chemicals from the CWC signatories. After 3 years, they will be subject to trade sanctions that will harm American exports and jobs.

I know that my friend says a lot of chemical companies do not like this. I come from a State that has a little bit of an interest in chemicals, the single most significant State in America that deals with chemicals. A little company called Du Pont; a little company called Hercules; a little company called ICI Americas; a little company called Du Pont Merck—little pharmaceutical outfits who are among the giants in the world. They are not what you call liberal Democratic establishments. They are ardently—I can testify—they are ardently in favor of this treaty. They believe it is desperately in the interest of the United States of America and their interest. This is not a bunch of lib labs out there who are arms controllers running around saying, ''Disarm, ban the bomb.'' These are Fortune, not 500, not 100, 10, Fortune 10 companies that are saying, ''We want this treaty.'' And further, ''We will be harmed if we do not enter this treaty.''

This overall governing body, known as the Conference of State Partners, is going to meet soon after April 29 to draw up the rules governing the implementation of this treaty. If we, to use the vernacular, ''ain't'' in by the 29th, if we are not on by the 29th, we do not get to draw up those rules.

There used to be a distinguished Senator from Louisiana I served with for a long time. My friend, the Presiding Officer, knew him from his days up here. His name was Russell Long. He used to say kiddingly, ''I ain't for no deal I ain't in on.'' But the chemical industry, which is our largest exporter—hear what I just said—the biggest fish in the pond are saying, ''We want to be in on the deal.''

That is why the 29th is important. If we are not a party to the CWC, we will not be a member of that conference. And this body, with no American input, could make rules that have a serious impact upon the United States.

Third, there will be a body called the executive council with 41 members on which we are assured of a permanent seat from the start because of the size of our chemical industry, that is, if we have ratified by the 29th. If we ratify after the council is already constituted, then a decision on whether to order a required surprise inspection on an American facility may be taken without an American representative evaluating the validity of the request and looking out for a facility's interest because we will not be on the standing executive council that makes that decision.

Fourth, there will be a technical secretariat with about 150 inspectors, many of whom would be Americans because of the size and sophistication of our chemical industry. If we fail to ratify the convention by the 29th, there will be no American inspectors.

And finally, and most importantly, in the long term, by failing to ratify, we would align ourselves with those

rogue actors, those rogue states who have chosen to defy the Chemical Weapons Convention. There would be irreparable harm to our global leadership on critical arms control and nonproliferation issues.

I will not take the time now to address other concerns that have been raised, because I said I would limit myself to these three points.

Concluding, Mr. President, first, there has been good-faith, long and serious negotiations resulting in significant movement by the administration on conditions to the Chemical Weapons Convention.

Second, this treaty is in the overwhelming national interest of the United States of America, a topic I am ready, willing, and anxious to debate with my distinguished colleague from North Carolina and others who think it is not. But at a minimum, Mr. President, the Senate should get a chance to hear that debate and vote on whether or not the distinguished Senator from North Carolina is correct or the Senator from Delaware is correct.

Third, Mr. President, April 29 is not an artificial date. Because the triggering mechanism was when we got to 65 signatories, and that 6 months after that date the treaty would enter into force.

Well, 65 have signed on. And 6 months after they got to the No. 65, happens to be April 29. This is not artificial. We did not make up the date. That is what the treaty says.

So, Mr. President, I sincerely hope that my friend from North Carolina, having reflected on the quandary the administration was placed in, which was to negotiate with the Lott group—they thought they were negotiating with Senator HELMS; they thought they were negotiating with every Republican who had an objection, under the auspices of Senator LOTT—if they had known that Senator HELMS did not view that as the appropriate forum for this negotiation, they would have simultaneously met with him.

But now at the end of the process, when we are about to go out on recess, to say that we are not ready to bring this treaty up when we get back unless there is a new negotiation, I find unusual, particularly since I have agreed with the Senator from North Carolina that I will sign on to additional conditions with him.

Let us vote on the only nine outstanding issues that I am aware of that have been raised. None other has been raised that I am aware of, that the administration is aware of, anyone in the Lott group is aware of, to the best of my knowledge.

So, Mr. President, let me conclude by saying, the Senator from North Carolina has dealt with me in good faith. We have negotiated in great detail. He has listed his 30 objections. We have agreed on 21 of the 30. We disagree on nine. We agree on a method to vote on those nine.

I sincerely hope—I sincerely hope—for the interest of the United States of America, after having already decided in the Bush administration that we would do away with the use of chemical weapons regardless of what anybody else did, that we would not now lose our place of leadership in the world and our ability to engage in the moral suasion that relates to nonproliferation and the diminution of weapons of mass destruction, that we would not now forgo that position merely because 1, 2 or 5 or 10 Senators said we should not even bring it on the floor to debate.

I do not believe that will happen. But then again, my wife thinks I am a cockeyed optimist. But I do not think I am being unduly optimistic or a cockeyed optimist. I think having been here this long, that the Senate will get a chance to work its will. That is all I am asking. All I am asking is the Senate get a chance between now and the 29th of April to decide whether it likes this treaty or not. I believe every Member of this Senate has the national interests of the United States of America in mind when they act and when they vote.

Let each of them vote their conscience on this treaty. If it turns out that 66 do not agree with me, then we have spoken, as we did in the League of Nations. The consequences of that vote I think were disastrous. I think the consequence of failure to ratify this treaty would be disastrous. But I think the consequence of not even letting the Senate vote will be catastrophic.

I yield the floor, Mr. President.

EXHIBIT 1

HARVARD LAW SCHOOL,
Cambridge, MA, September 9, 1996.

Hon. JOSEPH R. BIDEN, Jr.,
Ranking Member, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR BIDEN, You have asked me to comment on the suggestion that the Chemical Weapons Convention (the Convention), now before the Senate for its advice and consent, conflicts with the provisions of the Fourth Amendment of the Constitution prohibiting unreasonable searches and seizures. In my view, the suggestion is completely without merit.

The Convention expressly provides that: "In meeting the requirement to provide access * * * the inspected State Party shall be under the obligation to allow the greatest degree of access *taking into account any constitutional obligations it may have with regard to* proprietary rights or *searches and seizures,*" (Verification Annex, Part X, par. 41)(emphasis supplied).[1]

As you know, this provision of the Convention was inserted at the insistence of the United States after earlier drafts, which provided insufficient protection in regard to unreasonable searches and seizures, had been criticized by a number of U.S. scholars. The plain meaning of these words, which seems too clear for argument, is that the United States would have no obligation under the Convention to permit access to facilities subject to its jurisdiction in violation of the provisions of the Fourth Amendment. It was the clear understanding of the negotiators that the purpose of the provision was to obviate any possibility of conflict between the obligations of the United States under the Convention and the mandate of the Fourth Amendment. The Convention in its final form is thus fully consistent with U.S. constitutional requirements.

Inspections required by the Convention will be conducted pursuant to implementing legislation to be adopted by Congress that will define the terms, conditions and scope of the inspections to be conducted in the United States by the Technical Staff of the Organization for the Prohibition of Chemical Weapons (OPCW) established by the Convention. I understand that draft implementing legislation entitled the Chemical Weapons Convention Implementation Act, now before the Congress, specifies the procedures that will be followed in the case of both routine and challenge inspections carried out pursuant to the Convention. The Act requires, at a minimum, an administrative search warrant before an inspection can be conducted, and has elaborate provisions for notice and other protections to the owner of the premises to be searched. These provisions of the Act are modeled on similar administrative inspection regimes already authorized by Acts of Congress such as the Toxic Substances Control Act and upheld by the courts. However, if Congress is concerned that these provisions are constitutionally insufficient, it is free under the Convention to revise the Act to include more stringent requirements that conform to constitutional limitations. Finally, a person subject to inspection may challenge the inspection in a U.S. court, which in turn will be bound to invalidate any inspection that fails to comply with constitutional requirements. In view of the provisions of the Verification Annex quoted above, the United States would not be in violation of any international obligation in such an eventuality.

For these reasons I conclude that there is no constitutional objection to the Convention, and that the rights of individuals under the Fourth Amendment will be fully protected under the Convention and implementing legislation of the character presently contemplated.

In addition, I have been involved in the field of arms control as a scholar and practitioner for many years, going back to the Limited Test Ban Treaty in 1963, in connection with which I appeared before the Senate Foreign Relations Committee as Legal Adviser of the State Department. I have also closely followed the negotiations for the Chemical Weapons Convention. The United States has been a prime mover in the development of the Convention under both Republican and Democratic administrations. I am convinced that the prompt ratification of the Chemical Weapons Convention is overwhelmingly in the security interest of the United States and should not be derailed by constitutional objections that are so plainly without substance.

Sincerely,

ABRAM CHAYES,
Felix Frankfurter, Professor of Law Emeritus.

COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK,
New York, NY, September 11, 1996.

Senator JOSEPH R. BIDEN, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: As requested, I have considered whether, if the United States adhered to the Convention on Chemical Weapons, the inspection provisions of the Convention would raise serious issues under the United States Constitution. I have concluded that those provisions would not present important obstacles to U.S. adherence to the Convention.

Like domestic laws, treaties of the United States are subject to constitutional restraints. The Fourth Amendment to the

[1] The Verification Annex is, of course, an integral part of the Convention.

United States constitution provides: ''The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated * * *'' Constitutional jurisprudence has established that the right to be secure applies also to industrial and commercial facilities and to business records, papers and effects.

The Constitution, however, protects the rights of private persons; it does not protect governmental bodies, public officials, public facilities or public papers. As to private persons, the Fourth Amendment protects only against searches and seizures that are ''unreasonable.'' Inspection arrangements, negotiated and approved by the President and consented to by the Senate, designed to give effect to a treaty of major importance to the United States, carry a strong presumption that they are not unreasonable.

The Chemical Convention itself anticipated the constitutional needs of the United States. Part X of the Convention, ''Challenge Inspection pursuant to Article IX,'' provides: ''41. In meeting the requirement to provide access as specified in paragraph 38, the inspected State party shall be under the obligation to allow the greatest degree of access taking into account any constitutional obligation it may have with regard to proprietary rights of searches and seizures.''

As applied to the United States, that provision is properly interpreted to mean that the United States must provide access as required by the Convention, but if the Constitution precludes some access in some circumstances, the United States must provide access to the extent the Constitution permits. And if, because of constitutional limitations, the United States cannot provide full access required by the Convention, the United States is required ''to make every reasonable effort to provide alternative means to clarify the possible noncompliance concern that generated the challenge inspection.'' (Art. 42.)

The United States would be required also to adopt measures to overcome any constitutional obstacles to any inspection or interrogation required by the Convention. If it were determined to be necessary, the United States could satisfy the requirements of the Fourth and Fifth Amendments by arranging for administrative search warrants, by enacting statutes granting immunity from prosecution for crimes revealed by compelled testimony, by providing just compensation for any ''taking'' involved.

Sincerely yours,

LOUIS HENKIN,
University Professor Emeritus.

EXHIBIT 2

DISTINGUISHED INDIVIDUALS AND ORGANIZATIONS SUPPORTING THE CWC

William Jefferson Clinton.
George Bush.
Madeleine Albright.
James A. Baker III.
Warren Christopher.
William Cohen.
John M. Deutch.
Lawrence Eagleburger.
John Holum.
Nancy Kassebaum.
Stephen Ledogar, U.S. Representative to the Conference on Disarmament.
Ronald Lehman, former Director of the Arms Control and Disarmament Agency.
Vil Mirzayanov, whistleblower on the Soviet/Russian novichok program.
Sam Nunn.
William Perry.
Gen. Colin Powell.
William A. Reinsch, Under Secretary of Commerce for Export Administration.
Janet Reno, Attorney General.
Gen. Norman Schwartzkopf, U.S.A. (Ret.).
Gen. Brent Scowcroft.
Gen. John Shalikashvili.
Walter B. Slocombe, Deputy Under Secretary for Policy, Department of Defense.
George Tenet, Acting Director of Central Intelligence.
R. James Woolsey, former Director of Central Intelligence.
Adm. E.R. Zumwalt, former Chief of Naval Operations.
Kenneth Adelman, Columnist, The Washington Times.

INDUSTRY ORGANIZATIONS

The Chemical Manufacturers Association (CMA)—(approximately 200 member companies).
The Synthetic Organic Chemical Manufacturers Associations (SOCMA)—(over 260 member companies).
The Pharmaceutical and Research Manufacturers of America (PhRMA)—(over 100 member companies).
The Biotechnology Industry Organization (BIO)—(over 650 member companies and organizations).
The American Chemical Society (ACS)—(over 150,000 members).
The American Physical Society (APS)—(over 40,000 members).
The Council for Chemical Research (CCR)—(approximately 200 University, business & governmental laboratories).
The American Institute of Chemical Engineers (AIChE)—(approximately 60,000 members).
The Business Executives for National Security (BENS)—(approximately 750 members).

LEADERS OF THE FOLLOWING U.S. BUSINESSES

AEA Investors.
Air Products and Chemicals, Inc.
Akzo Nobel Chemicals, Inc.
ARCO Chemical Company.
Ashland Chemical Company.
Automatic Data Processing.
BASF.
Bayer Corporation.
Bear Stearns & Company, Inc.
Betz Dearborn, Inc.
The BF Goodrich Co.
Borden Chemicals and Plastic, LP.
BP Chemicals, Inc.
Capricorn Management.
Carus Chemical Company.
C.H.O. Enterprises, Inc.
The CIT Group, Inc.
Compton Development.
Crompton & Knowles Corporation.
Dow Chemical Company.
Dow Corning Corporation.
Eastman Chemical Company.
E.I. duPont de Nemours.
Elf Atochem North America.
Enthone-OMI Inc.
Ethyl Corporation.
Eugene M. Grant and Company.
Exxon Chemical Company.
FINA, Inc.
FMC Corporation.
General Investment & Development Co.
Givaudan-Roure Corporation.
Great Lakes Chemical Corporation.
Harman International.
Harris Chemical Group.
HASBRO Inc.
The Hauser Foundation.
Hechinger Company.
Hercules, Inc.
Hoechst Celanese Corporation.
International Financial Group.
International Maritime Systems.
Kansas City Southern Industries.
Lippincott Foundation.
Lonza Inc.
McFarland Dewey & Company.
Mallinckrodt Group, Inc.
Monsanto Chemical.
Morton International, Inc.
Nalco Chemical Company.
National Starch & Chemical Company.
NOVA Corporation.
Occidental Chemical Corporation.
Olin Corporation.
Oxford Venture Corporation.
Perstorp Polyols, Inc.
PPG Industries, Inc.
Quantum Chemical Company.
The R & J Ferst Foundation.
RCM Capital Management.
Reichhold Chemicals, Inc.
Reilly Industries, Inc.
Rhone-Poulenc, Inc.
Rohm and Haas Company.
Rosewood Stone Group.
R.T. Vanderbilt Company, Inc.
The Sagner Companies, Inc.
Sargent Management.
Sartomer Company.
Scott Foresman/Addison Wesley.
Sonesta International.
Stepan Company.
Sterling Chemicals, Inc.
Tennant Company.
Texas Brine Corporation.
Tica Industries, Inc.
Union Carbide Corporation.
Uniroyal Chemical Company, Inc.
United Retail Group, Inc.
Velsicol Chemical Corporation.
Vulcan Chemical: John Wilkinson.
W.R. Grace & Company: Albert J. Costello.

VETERANS ORGANIZATIONS

American Ex-Prisoners of War.
American GI Forum of the United States.
AMVETS.
Jewish War Veterans of the U.S.A.
Korean War Veterans Association.
National Gulf War Resource Center.
Reserve Officers Association.
Veterans for Peace.
Veterans of Foreign Wars.
Vietnam Veterans of America, Inc.

U.S. NOBEL LAUREATES

Julius Adler.
Sidney Altman.
Philip W. Anderson.
Kenneth J. Arrow.
Julius Axelrod.
David Baltimore.
Helmut Beinert.
Konrad Bloch.
Baruch S. Blumberg.
Herbert C. Brown.
Thomas R. Cech.
Stanley Cohen.
Leon N. Cooper.
Johann Deisenhofer.
Renato Dulbecco.
Gertrude B. Elion.
Edmond H. Fischer.
Val L. Fitch.
Walter Gilbert.
Dudley Herschbach.
David Hubel.
Jerome Karl.
Arthur Kornberg.
Edwin G. Krebs.
Joshua Lederberg.
Wassily W. Leontiel.
Edward B. Lewis.
William N. Lipscomb.
Mario J. Molina.
Joseph E. Murray.
Daniel Nathans.
Marshall Nirenberg.
Arno A. Penzias.
Norman F. Ramsey.
Burton Richter.
Richard J. Roberts.
Martin Rodbell.
F. Sherwood Rowland.
Glenn T. Seaborg.

Herbert A. Simon.
Phillip A. Sharp.
R. E. Smalley.
Robert M. Solow.
Jack Steinberger.
Henry Taube.
James Tobin.
Charles H. Townes.
Eric Wieschaus.
Robert R. Wilson.

RELIGIOUS GROUPS

American Friends Service Committee.
The American Jewish Committee.
American-Jewish Congress.
Anti-Defamation League.
B'nai B'rith.
Church of the Brethren, Washington Office.
Church Women United.
Commission on Social Action of Reform Judaism.
The Episcopal Church.
Episcopal Peace Fellowship.
Evangelical Lutheran Church of America.
Friends Committee on National Legislation.
Maryknoll Justice and Peace Office.
Mennonite Central Committee.
Methodists United for Peace with Justice.
National Council of Churches.
National Jewish Community Relations Advisory Council.
NETWORK: A National Catholic Social Justice Lobby.
Presbyterian Church (USA).
Union of American Hebrew Congregations.
Unitarian Universalist Association.
United Church of Christ, Office for Church in Society.
United Methodist Board of Church and Society.
United States Catholic Conference.
The United Synagogue of Conservative Judaism.

PUBLIC INTEREST GROUPS

American Association for the Advancement of Science.
American Bar Association.
Americans for Democratic Action.
American Public Health Association.
Arms Control Association.
Association of the Bar of the City of New York.
Center for Defense Information.
Chemical Weapons Working Group.
Council for a Livable World.
CTA/Bellona Foundation USA.
Demilitarization for Democracy.
Economists Allied for Arms Reductions.
Federation of American Scientists.
Friends of the Earth.
Fund for New Priorities in America.
Greenpeace.
Henry L. Stimson Center.
Human Rights Watch.
International Center.
Lawyer's Alliance for World Security.
League of Women Voters.
National Resources Defense Council.
Peace Action.
Physicians for Social Responsibility.
Plutonium Challenge.
Public Education Center.
Saferworld.
Sierra Club.
Taxpayers for Common Sense.
20/20 Vision National Project.
Union of Concerned Scientists.
Women's Action for New Directions.
Women's International League for Peace and Freedom.
Women Strike for Peace.
World Federalist Association.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. 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. HELMS. I thank the Chair.

Mr. President, I was able to hear part of the brief address by my friend from Delaware. What he apparently does not know is that I was a part of the Lott group to which he referred. I attended the meetings. I participated. That group did accomplish a few things of minor significance, but they could not do anything of importance, not in the really serious issues.

So then they fell back, and there have been no more meetings of the Lott group. My suggestion has been followed about trying to do it on the staff level. But if the Senator from Delaware, or anyone else, thinks they can drive a stake between the majority leader and me, they will have to think again.

I am not going to try to answer the many erroneous statements he has made. And I know he was ad-libbing and he was not hearing his staff whisper to him, and so forth. So he was operating under difficult circumstances.

But I say, again, I want this treaty to be made into an instrument that will be beneficial to the American people and to this country. It is my intent to continue to insist upon that. It is my intent, along with the approval of the distinguished majority leader, inasmuch as we have so many new Senators who were not here last year, the distinguished occupant of the Chair being one of them, and did not have the benefit of the testimony of witnesses, pro and con, who are highly respected in the foreign relations community.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

TRIBUTE TO MAJ. GEN. DONALD EDWARDS

Mr. LEAHY. Mr. President, I rise today to pay tribute to Maj. Gen. Donald Edwards, who has served for the last 16 years as the Adjutant General of the Vermont National Guard. Ever since Ethan Allen and his famous Green Mountain Boys took the British fort at Ticonderoga, Vermonters have had a propensity to serve their nation as citizen-soldiers. That tradition is alive and well today, and thanks to Don Edwards, the Vermont National Guard is stronger today than ever before. Don was instrumental in starting the Army National Guard Mountain and Winter Warfare School, which trains soldiers from around the Nation in the rigors of winter warfare. He also excelled at being an advocate of Vermont's interests within the Pentagon.

I remember the case of the 1–86th artillery battalion, which in 1992 was abruptly threatened with elimination, even though it had one of the highest readiness and retention rates in the entire U.S. Army. It was the kind of short-sighted bureaucratic decision that Don Edwards could not tolerate, and he made a strong case to me. I helped save that battalion, although I had to hold up a defense bill to do it. Don never wavered in his devotion to do what was right for the men and women of the Vermont National Guard.

Recently, the Vermont Air Guard received four first-place awards at the Air Force's premier air combat competition, known as William Tell. Don always stressed to the soldiers and airmen under his command the importance of training hard and as realistically as possible.

During Desert Storm, his philosophy paid off, as several Vermont Guard units deployed to Southwest Asia and performed flawlessly during that conflict. Those were anxious times, and Vermonters saw a side of Don Edwards that they had never seen before. He was a tireless advocate for our deployed soldiers, and he acted with great compassion to do whatever he could to help the families of those who were deployed overseas.

I am sure that some of that attitude was shaped by his own experiences in Vietnam. I know that his tireless devotion to Vermont veterans of all wars has helped Vermonters appreciate the extraordinary sacrifices that were made by ordinary citizens. It seemed like whenever two or three veterans gathered together, Don Edwards was there to lend weight to their cause.

As Don Edwards hangs up his uniform for the last time, I want to give him my personal thanks for all he has done for Vermont, and to wish him good luck and Godspeed in his future endeavors.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, March 18, 1997, the Federal debt stood at $5,367,674,335,377.56.

One year ago, March 18, 1996, the Federal debt stood at $5,055,610,000,000.

Five years ago, March 18, 1992, the Federal debt stood at $3,859,480,000,000.

Ten years ago, March 18, 1987, the Federal debt stood at $2,246,620,000,000.

Fifteen years ago, March 18, 1982, the Federal debt stood at $1,050,784,000,000 which reflects a debt increase of more than $4 trillion ($4,316,890,335,377.56) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING MARCH 14

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending March 14, the U.S. imported 7,849,000 barrels of oil each day, 704,000 barrels more than the 7,145,000 imported during the same week a year ago.

Americans relied on foreign oil for 55 percent of their needs last week, and

there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America s oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 7,849,000 barrels a day.

CPSC LAUNCHES ''RECALL ROUND-UP DAY''

Mr. BRYAN. Mr. President, unintentional injuries are the leading cause of death to persons under 35, and the fifth leading cause of death in the Nation overall. Unintentional injuries kill more children over age one than any disease.

It is astounding that there are an average 21,400 deaths and 29.4 million injuries each year related to consumer products under the jurisdiction of a small, but effective, Federal agency—the U.S. Consumer Product Safety Commission [CPSC]. The CPSC finds that deaths, injuries, and property damage associated with consumer products cost the Nation $200 billion annually.

In 1996, the CPSC negotiated 375 recalls involving over 85 million products that presented a significant risk of injury to the public. However, despite recall notices and public warnings, many old hazardous products such as bean bag chairs, wooden bunk beds, minihammocks and cribs—with the potential to seriously injure or kill a child—remain in homes, flea markets, garage sales or in second hand stores.

To rid consumers' homes of hazardous products, the Consumer Product Safety Commission under the leadership of Chairman Ann Brown, on April 16 of this year, will launch ''Recall Round-Up Day'' by broadcasting a video to television stations across the country. The video will have examples of hazardous products that might be in consumers homes, such as the following:

Bean bag chairs that can present a choking or suffocation hazard to children. Some bean bag chairs can be unzipped and children can then inhale the small pellets of foam filling. The CPSC is aware of at least five deaths and at least 23 other incidents in which children inhaled or ingested bean bag filling. In the past 2 years, CPSC obtained the recall of more than 10 million bean bag chairs.

Wooden bunk beds that can strangle young children. Since 1990, CPSC has received reports of 32 children who died after becoming caught in bunk beds with improper openings in the top bunk structure. Since 1995, CPSC has obtained the recall of approximately half a million hazardous bunk beds.

Mini-hammocks that can strangle children. CPSC has received reports of 12 children, ages 5 to 17 years, who became entangled and died when using mini-hammocks without spreader bars. Last year, CPSC obtained the recall of over three million minihammocks.

Old cribs that can choke or suffocate a small child. Cribs having more than 2⅜ inches between crib slats, corner posts, or cut outs on the headboard or footboard present suffocation and strangulation hazard to babies. Each year, 50 babies die when they become trapped between broken crib parts or in cribs with older, unsafe designs.

CPSC is enlisting the help of State and local officials, as well as national and State health and safety organizations, in connection with State and local governments throughout the Nation, to publicize a safety campaign, distribute information about these and other hazardous products in the home. In some States, recalled products will be rounded up and brought to a central location for disposal.

I commend Chairman Ann Brown and the CPSC for taking this bold action. My State Office in Las Vegas is working with the State chapter of the National SafeKids Campaign, Sunrise Children's Hospital, and the Clark County Health Dept. to organize local events throughout the State for Recall Roundup. We will publicize the campaign through the media to reach the general public. Special efforts will be directed to reach child care providers and especially new parents. The sellers of used articles that could include recalled products will also be alerted to the hazards that used cribs, bunk beds, minihammocks and bean bag chairs could present to prevent the resale of these items.

I encourage my colleagues to join with me in this effort and to encourage organizations in your State to take an active role in this lifesaving effort on April 16. For this reason, I ask unanimous consent to have printed in the RECORD a ''Suggested List of Local Activities'' recommended by the CPSC for this important Recall Round-Up Day on April 16.

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

RECALL ROUNDUP SUGGESTED STATE AND LOCAL ACTIVITIES

1. Organize a news conference. Contact medical professionals in pediatrics, children's hospitals, injury and disease prevention, medical examiners offices, etc., for participation in news conference.
2. Issue state and local news release in conjunction with CPSC video news release.
3. Distribute printed news release information through established networks.
4. Have State Governor, Secretary of Health, or other prominent figures issue a Proclamation to kick off the event.
5. Offer to participate in TV/radio interviews.
6. Prepare media outlets in advance for release and use of the CPSC video news release.
7. Organize local Recall Roundups using list of recalled products.
8. Monitor flea markets and secondhand stores for recalled products and provide recall information.
9. Provide recall lists to community and homeowner associations that sponsor yard sales or that issue local news letters.
10. Work with school systems and PTA groups to promote community service/community awareness activities.

Safety poster campaign
Neighborhood roundups
Display information at schools

11. Distribute recall information to family day care/group day care agencies.
12. Seek involvement of youth clubs, YM and WCA, Scouts, etc.
13. Provide recall information packages to the public upon request.

COMMENDING NATIONAL GUARD FLOOD RELIEF EFFORT

Mr. BYRD. Mr. President, I would like to take a moment to comment on the outstanding job performed by the West Virginia National Guard in response to the recent catastrophic floods that devastated sixteen West Virginia counties.

Aviation, engineer, and troop command personnel have worked diligently and wholeheartedly to deliver potable water, fuel, cleaning supplies, and medicines to their fellow citizens who have been trapped by the flood waters. They have also provided transportation, cleanup assistance, and debris removal in all sixteen counties in the emergency zone.

The approximately five-hundred men and women mobilized in these Guard units carry the double burden of civilian jobs in addition to their military roles. Despite these burdens, they are capable of responding to an emergency at a moment's notice. Thanks to the National Guard's efforts, families in many of the affected counties have been able to return to their homes and begin the repair and rebuilding process. West Virginians in Wayne and Cabell counties are still faced with removing large amounts of debris, but again, thanks to the National Guard's efforts, the cleanup is on the right track.

I would also like to thank all of the employers throughout West Virginia who have supported the National Guard. Their willingness to continue to accommodate the National Guard through all of the flood emergencies suffered by West Virginia communities in recent years is remarkable and is appreciated by every West Virginian who has benefitted from Guard efforts.

I offer my sincere thanks to all of the National Guard personnel involved in helping in West Virginia's recovery from this and every natural disaster. May their efforts to aid West Virginia's flood victims continue, and may they receive the recognition and praise that are so merited. They are, indeed, famous men and women to their fellow citizens.

MESSAGES FROM THE PRESIDENT

REPORT OF A PROPOSED RESCISSION OF BUDGETARY RESOURCES—MESSAGE FROM THE PRESIDENT—PM 23

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, and to the Committee on Energy and Natural Resources.

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one proposed rescission of budgetary resources, totaling $10 million.

The proposed rescission affects the Department of Energy.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 19, 1997.*

REPORT ON ENVIRONMENTAL QUALITY—MESSAGE FROM THE PRESIDENT—PM 24

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 Environment and Public Works.

To the Congress of the United States:

I am pleased to transmit to the Congress the Twenty-fifth Annual Report on Environmental Quality.

As a nation, the most important thing we can do as we move into the 21st century is to give all our children the chance to live up to their God-given potential and live out their dreams. In order to do that, we must offer more opportunity and demand more responsibility from all our citizens. We must help young people get the education and training they need, make our streets safer from crime, help Americans succeed at home and at work, protect our environment for generations to come, and ensure that America remains the strongest force for peace and freedom in the world. Most of all, we must come together as one community to meet our challenges.

Our Nation's leaders understood this a quarter-century ago when they launched the modern era of environmental protection with the National Environmental Policy Act. NEPA's authors understood that environmental protection, economic opportunity, and social responsibility are interrelated. NEPA determined that the Federal Government should work in concert with State and local governments and citizens "to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans."

We've made great progress in 25 years as we've sought to live up to that challenge. As we look forward to the next 25 years of environmental progress, we do so with a renewed determination. Maintaining and enhancing our environment, passing on a clean world to future generations, is a sacred obligation of citizenship. We all have an interest in clean air, pure water, safe food, and protected national treasures. Our environment is, literally, our common ground.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 19, 1997.*

MESSAGES FROM THE HOUSE

At 12:00 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 412. An act to approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District.

H.R. 514. An act to permit the waiver of District of Columbia residency requirements for certain employees of the Office of the Inspector General of the District of Columbia.

H.R. 672. An act to make technical amendments to certain provisions of title 17, United States Code.

H.R. 927. An act to amend title 28, United States Code, to provide for appointment of United States marshals by the Attorney General.

The message also announced that the House has passed the following bill, without amendment:

S. 410. A bill to extend the effective date of the Investment Advisers Supervision Coordination Act.

ENROLLED BILLS SIGNED

At 3:46 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 924. An act to amend title 18, United States Code, to give further assurance to the right of the victims to attend and observe the trials of those accused of the crime.

The enrolled bill was signed subsequently by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 672. An act to make technical amendments to certain provisions of title 17, United States Code; to the Committee on the Judiciary.

H.R. 927. An act to amend title 28, United States Code, to provide for appointment of United States marshals by the Attorney General; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BROWNBACK (for himself, Mr. LIEBERMAN, Mr. DEWINE, and Mr. KOHL):

S. 471. A bill to amend the Television Program Improvement Act of 1990 to restore the applicability of that Act to agreements relating to voluntary guidelines governing telecast material and to revise the agreements on guidelines covered by that Act; to the Committee on Commerce, Science, and Transportation.

By Mr. CRAIG (for himself, Mr. GRAHAM, Mr. D'AMATO, Mr. TORRICELLI, Mr. AKAKA, Mr. MACK, Mr. ALLARD, Mr. THOMAS, Mr. REID, Mr. BREAUX, and Mr. WARNER):

S. 472. A bill to provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BOND (for himself and Mr. NICKLES):

S. 473. A bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining that certain individuals are not employees, and for other purposes; to the Committee on Finance.

By Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HUTCHINSON, Mr. GRASSLEY, and Mr. JOHNSON):

S. 474. A bill to amend sections 1081 and 1084 of title 18, United States Code; to the Committee on the Judiciary.

By Mr. JEFFORDS (for himself, Mr. LEAHY, Mr. D'AMATO, and Mr. MOYNIHAN):

S. 475. A bill to amend the Internal Revenue Code of 1986 to clarify the excise tax treatment of draft cider; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. BIDEN, Mr. STEVENS, Mr. GREGG, and Mr. KOHL):

S. 476. A bill to provide for the establishment of not less than 2,500 Boys and Girls Clubs of America facilities by the year 2000; to the Committee on the Judiciary.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 477. A bill to amend the Antiquities Act to require an Act of Congress and the consultation with the Governor and State legislature prior to the establishment by the President on national monuments in excess of 5,00 acres; to the Committee on Energy and Natural Resources.

By Mr. COVERDELL (for himself and Mr. CLELAND):

S. 478. A bill to designate the Federal building and United States courthouse located at 475 Mulberry Street in Macon, Georgia, as the "William Augustus Bootle Federal Building and United States Courthouse"; to the Committee on Environment and Public Works.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. LOTT, Mr. BREAUX, Mr. NICKLES, Mr. MURKOWSKI, Mr. TORRICELLI, Ms. LANDRIEU, Mr. CRAIG, Mr. KERREY, Mr. HAGEL, and Mr. HUTCHINSON):

S. 479. A bill to amend the Internal Revenue Code of 1986 to provide estate tax relief, and for other purposes; to the Committee on Finance.

By Mr. WELLSTONE:

S. 480. A bill to repeal the restrictions on welfare and public benefits for aliens; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mrs. BOXER, and Ms. MOSELEY-BRAUN):

S. 481. A bill to prohibit certain abortions; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SESSIONS (for himself and Mr. SHELBY):

S. Con. Res. 13. Concurrent resolution expressing the sense of Congress regarding the display of the Ten Commandments by Judge Roy S. Moore, a judge on the circuit court of the State of Alabama; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BROWNBACK (for himself, Mr. LIEBERMAN, Mr. DEWINE, and Mr. KOHL):

S. 471. A bill to amend the Television Program Improvement Act of 1990 to restore the applicability of that Act to agreements relating to voluntary guidelines governing telecast material and to revise the agreements on guidelines covered by that Act; to the Committee on Commerce, Science, and Transportation.

THE TELEVISION IMPROVEMENT ACT OF 1997

Mr. BROWNBACK. Mr. President, I would like to address the body today on legislation that I am introducing, along with Senator LIEBERMAN, Senator DEWINE, and Senator KOHL, an act called the Television Improvement Act of 1997. It is my sincere hope that this bill will help solve one of our nation's most troubling problems.

I am fresh off the campaign trail, as the Senator from Georgia is fresh off the campaign trail. Throughout the 1996 campaign, I traveled across the State of Kansas and talked with thousands of people. I came away from that experience convinced that the most important task that we as a Nation face today is renewing the American culture.

I can recall countless meetings where individuals, particularly parents, would come up to me worried about the future of the American culture, particularly as it affects their children, and they constantly felt they were having to fight the culture to raise their kids. They hearken back to a time when they didn't feel like they were so opposed by the nature of the American culture. They recall a time when the culture was supportive of what they were doing and helped them in raising a good and solid family. They were just pleading for help. ''Help us be able to come to a point where we can effectively raise our children. Don't make us have to constantly fight our culture.''

Hollywood is the center of gravity for the American culture and, increasingly, the world's culture. Hollywood has changed the culture in this country, and, unfortunately, it has led to a decline in our culture. Over the past 15 years, television has made our children think that violence is OK, that sexuality out of wedlock is expected and encouraged, and that criminal activity is OK. Well, these things are not OK, and it's time the industry changed television to make it easier for parents to raise children.

The Television Improvement Act of 1997 is intended to encourage the broadcasting industry to make raising children easier. What it intends to do is to allow the broadcast industry—the television, cable, and motion picture industries to enter into, again, a code of conduct comparable to the one they used until 1983. They would once again be able to say that there is a standard below which they will not go, and they can collaborate to establish that standard without running afoul of Federal antitrust laws.

Previously, the NAB had a self-imposed code of conduct that governed television content. The code recognized the impact of television on our children as well as the responsibility that broadcasters shared in providing programming that used television's influence carefully. However, in 1983, a Federal district court determined that some of the advertising provisions of the code violated Federal antitrust laws.

Although the court did not rule that any of the code's programming standards violated antitrust laws, the NAB decided to stop using the entire code. The past 15 years have demonstrated that the code of conduct is sorely missed. Television has declined over the past 15 years, in no small part due to the absence of the code. I don't think anybody in this body could argue—or in this country who would disagree—that the nature of American television has declined over the past 15 years.

Let me read for the body a statement that is from the old code of conduct that the National Association of Broadcasters used until 1983. It sounds almost quaint today. But listen to the content of what the industry itself had before. It says:

> Above and beyond the requirements of the law, broadcasters must consider the family atmosphere in which many of their programs are viewed. There shall be no graphic portrayal of sexual acts by sight or sound. The portrayal of implied sexual acts must be essential to the plot and presented in a responsible and tasteful manner.

I do not think there would be many people today who would say that this reflects the nature of television today. But I think many Americans today would say, ''That is what I want television to be today so I don't have to always fight the TV to raise my kids.''

It is not enough for everybody to say, ''Just turn it off.'' My wife and I are raising three children. It is a little tougher than just saying, ''Turn it off.'' It is about being there all the time. We are trying. One of us is there all the time. It is also not enough to say, ''Well, we have a rating code so you know what is on television.''

We are pleading with the industry, saying, ''Let's go back to that time when you used a code because television was better then and it so directly impacts the culture and the soul of America.'' The average American spends 5 hours a day watching TV. Most would liken it to a stovepipe of black soot going into the mind and into the soul. Why don't we change that back to the way it used to be, and have it as a well of fresh spring water going into the mind and into the soul?

The industry is fully capable of doing this. Witness some of the current shows, especially ''Touched by an Angel,'' which is a leading show by CBS today. It is a good, positive, and uplifting show. But, sadly, there are far more that are far more degrading that would lead one more to the stovepipe analogy rather than the fresh spring well water.

We are pleading with the industry with this bill. This bill provides no additional authority to the Federal Government; not an ounce of additional authority to the FCC. It is a plea to the industry to help us. We are having trouble. The American family has been under attack. In many places it has disintegrated. In our inner cities we have 70 percent of our children born to single moms. In many places we no longer have families, one of the basic tenets of culture.

We are asking by this very simple act and pleading with the industry. ''Let's go back to the time when television did not hurt our lives.'' And we are not suggesting censorship. If we have a better product coming out of this industry, we will have a better American culture. We will have a better world culture because Hollywood is the center of gravity for not only this culture but increasingly the world's culture. It is coming up time and time again.

So we are introducing this bill today, a bipartisan bill, requesting that the industry negotiate and work together on a code of conduct the like of which it had before.

We will be holding hearings in the Governmental Affairs Committee. We have been joined by the chairman and the ranking member of the appropriate Judiciary subcommittee who are cosponsoring this bill. We anticipate that they will have hearings on it as well. It is a follow-on to Senator Simon's work in this area in 1990. We hope that it will be much more successful. If it is not, there will be further action coming to try to address this corrosive effect that, unfortunately, television has on our society and, indeed, on the world.

So, Mr. President, we are introducing this bill today asking the industry for help to lead our culture back to a brighter and a better time. They can do it. They are capable of doing it.

Mr. President, again, let me say that I am pleased to introduce today with Senators LIEBERMAN, DEWINE, and KOHL, the Television Improvement Act of 1997, a bill that I believe will help solve one of our Nation's most troubling problems. Throughout the 1996 campaign, I traveled across the State of Kansas and talked with thousands of

people. I came away from that experience with the conclusion that the most important task that we as a nation face today is renewing the American culture.

People are desperately worried about the decline of our culture and about the decline of the American family. Many of the parents that I spoke with during the summer and fall believe that they increasingly have to fight their culture to raise their children. These parents feel that American culture in the 1990's actually makes it more difficult to raise children.

Hollywood is the center of gravity for the American culture and increasingly the world's culture. Hollywood has changed the culture in this country, and, unfortunately, it has led to a decline in our culture. Over the past 15 years, television has made our children think that violence is OK, that sexuality out of wedlock is expected and encouraged, and that criminal activity is OK. Well, these things are not OK, and it's time the industry changed television to make it easier for parents to raise children.

Previously, the National Association of Broadcasters had a self-imposed code of conduct that governed television content. The code recognized the impact of television on our children as well as the responsibility that broadcasters shared in providing programming that used television's influence carefully. However, in 1983, a Federal district court determined that some of the advertising provisions included in the code violated Federal antitrust laws.

Although the court did not rule that any of the code's programming standards violated antitrust laws, the NAB decided to stop using the entire code. The past 15 years have demonstrated that the code of conduct is sorely missed. Television has declined over the past 15 years, in no small part due to the absence of the code.

For this reason, Senators LIEBERMAN, DEWINE, KOHL, and I are introducing this bill to make perfectly clear that the broadcast industry is not violating Federal antitrust laws if its members collaborate on a code of conduct that includes voluntary guidelines intended to alleviate the negative impact that television content has had on our children and to promote educational and otherwise beneficial programming.

In drafting this legislation, we have built upon Senator Simon's Television Program Improvement Act of 1990. Unlike that law, however, the Television Improvement Act of 1997 would not include a sunset provision, and we have expanded the scope of the antitrust exemption to enable the industry to tackle such issues as the proliferation of programming that contains sexual content and condones criminal behavior.

Senator LIEBERMAN and I plan to hold hearings in the Governmental Affairs Committee's Government Management and Restructuring Subcommittee, which I chair and on which Senator LIEBERMAN serves as the ranking Democrat. The hearings will explore the impact that the Federal Government has had on the ability of the television industry to broadcast more inspirational and less harmful programming. We will examine whether the application of Federal antitrust laws to a collaboration by the broadcasters to promote better programming hinders the industry's ability to police itself and has resulted in a decline in television broadcasting. The Federal Government should not be impeding any voluntary effort by the industry to improve the quality of programming; the Government should be encouraging such an effort.

Let me just reiterate that we are not calling for a government mandate to be imposed upon the industry, nor are we providing the FCC with an ounce of additional authority with respect to broadcasting. What we are doing is trying to encourage the industry to do what it did prior to 1983—broadcast less programming that harms our kids and more programming that helps us raise our kids. We want Hollywood to start producing, and we want the broadcasters to start airing, better programming.

I ask that the bill be appropriately referred.

Mr. LIEBERMAN. Mr. President, I am proud today to join with my colleagues Senator BROWNBACK, DEWINE, and KOHL in introducing the Television Program Improvement Act of 1997, a bill we believe will help directly address the public's concerns about the declining standards of television and that will hopefully lead the television industry to exercise more responsibility for the programming it puts on the air.

The industry has tried in part to respond to the concerns of parents about the negative influence television is having on children by creating a rating system for sex, violence, and vulgar content. This system is a good start, but there is a general consensus it does not go far enough in providing parents with the information they need to make wise choices for their children.

When I recently testified before the Senate Commerce Committee on this issue, I tried to get this point across by comparing the industry's system to putting up a sign in front of shark-infested waters that said ''Be careful when swimming.'' That is to say that, while these ratings provide a warning to the viewer, they don't tell us why we need to be warned.

But I also used this metaphor to make a larger point, which is regardless of how informative the ratings are, what parents really want is to get the sharks out of the water, to improve the quality of programming on the air, and make it safe for their kids to go swimming again.

The intent of the legislation we are introducing today, the Television Program Improvement Act of 1997, is to reiterate that message and to urge the industry to focus on what's at the heart of this debate over the TV rating system—a very real, broadly-felt concern that television has become a destructive force in our society and it is doing substantial damage to the hearts, minds, and souls of our children.

This bill really amounts to a plea on our part to the industry for their help. Moreover, it is an attempt to move this debate beyond the question of rights, which we all accept, acknowledge and support, and begin talking more about responsibilities.

Specifically, the kind of responsibility that broadcasters once embraced through a comprehensive code of conduct, in which they acknowledged the enormous power they commanded and the need to wield it carefully, and in which they recognized that they had an obligation under the law to serve the public interest. I would urge my colleagues to take a look at some of the standards the Nation's broadcasters set for themselves in the old NAB TV Code, which we've excerpted in the findings of our legislation, and you'll see that they are quite remarkable statements of responsibility.

After reading these principles, I would urge my colleagues to compare them to some of the comments made recently by industry leaders, such as the network official who proclaimed ''it is not the responsibility of network television to program for the children of America,'' or the MTV executive who said his network ''is not safe for kids'' but markets it directly to them anyway.

Watch what these programmers are bringing into our homes today, and it is clear that the face of television has changed dramatically since the industry abandoned the old NAB Code in 1983 and abandoned the ethic undergirding it. It is also clear that while the networks have profited from the resulting competition downward, it is the American family who is paying the price—in the form of the awful daytime talk shows that parade the most perverse forms of behavior into our living rooms and teach our children the worst ways to settle conflicts, and the excesses of prime-time comedies that amount to little more than what we used to call dirty jokes.

The rise of these programs leave little doubt that this debate is about much more than the threat of violence—which was the reason for the original Television Program Improvement Act sponsored by Senator Simon in 1990—although this threat remains a serious problem. What is driving so much of the public's concern is the deluge of casual sex and vulgarities that characterizes so much of television today. The collective force of these messages leaves parents feeling as if they are in a losing struggle to raise their own children, to give them strong values, to teach them right from wrong and guide them to acceptable forms of behavior.

With the bill we're introducing today, we are asking the television industry to do no more than what it did as recently as the early 1980's, and that is to draw some lines that they will not go below, to declare, as author and noted commentator Alan Ehrenhalt has said, ''that some things are too lurid, too violent, or too profane for a mass audience to see.''

If the industry is not willing to refill that responsible role, there will be increasing pressure on the Government to do it for them. One of the most telling polls I've seen recently appeared in the Wall Street Journal, which showed that 46 percent of Americans favor more Government controls on television to protect children. It's not a coincidence that there are bills being prepared in Congress that would in fact censor what is on the air.

Our legislation is designed to help us avoid reaching that point. It will ideally remind the industry of its obligations to the public we both serve, and that changing the subject, as some in the industry prefer to do, won't change the minds of the millions of American families who want programming that reflects rather than rejects their values. Again, to return to my metaphor, we are simply making a plea to the industry to take the sharks out of the water, and make it safe for our kids to go swimming, or perhaps more aptly, to go channel-surfing again.

Mr. President, in closing, I ask unanimous consent that the full text of my remarks be included in the appropriate place in the RECORD to accompany this legislation. I also ask unanimous consent that a summary of the Television Program Improvement Act of 1997 be printed in the RECORD. And to provide my colleagues with some additional background on the old NAB Television Code and what has happened to television since it was abandoned, I ask unanimous consent that a factsheet my staff has prepared be included in the RECORD. This factsheet helps summarize the bill's findings and put them into some historical context.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

SUMMARY OF THE TELEVISION PROGRAM IMPROVEMENT ACT OF 1997—TPIA

WHAT IS THE PURPOSE

The TPIA is an attempt to persuade the television industry to directly address the public's growing concerns about the negative influence television is having on our children and our country today. Rather than calling for any form of censorship or government restrictions on content, this legislation would encourage industry leaders to act more responsibly in choosing what kinds of programming they produce and when it is aired. The nation's broadcasters once embraced this kind of responsibility in the form of a comprehensive code of conduct, which featured a widely-followed set of baseline programming standards and which showed a special sensitivity to the impact television has on children. This code was abandoned in 1983, and the TPIA would ideally open the door to the reintroduction of a similar set of standards, one that is geared toward making television more family-friendly for 1997 America.

WHAT THE BILL WOULD DO

This proposal builds on the original Television Program Improvement Act of 1990, which created an antitrust exemption for the broadcast and cable industries that allowed them to collaborate on a set of ''voluntary guidelines'' aimed at reducing the threat of violence on television. The TPIA of 1997 would permanently reinstate that antitrust exemption (which expired at the end of 1993) and then broaden it. The new exemption would permit the television industry to collaborate on an expanded set of guidelines designed to address the public's concerns about the broad range of programming—not only violence but also sexual content, vulgar language, and the lack of quality educational programs for children.

WHAT THE BILL WOULD NOT DO

This proposal would not give the government any authority to censor or control in any way what is seen on television. Any guidelines or programming standards the industry chose to adopt would be purely voluntary and could not be enforced by the government in any way or result in any form of economic boycott. Nor would the TPIA result in the ''whitewashing'' of television or prevent networks from showcasing sophisticated, mature-themed works such as ''Schindler's List'' and ''NYPD Blue.'' Last, the television industry could not use the antitrust exemption to fix advertising prices or engage in any form of anticompetitive behavior.

TELEVISION CODE OF CONDUCT BACKGROUND SHEET

THE NAB TELEVISION CODE

The first broadcaster TV code was implemented in 1952, to provide broadcasters with guidelines for meeting their statutory obligation to serve the public interest.

The NAB required all members to follow the code, which was enforced by a committee called the NAB Code Authority. Stations that adhered to the code were permitted to display a seal of approval on screen known as the ''NAB Television Seal of Good Practice.'' Those members that were found to have violated the code could be suspended and denied the ability to display the seal.

The NAB Code was abandoned in 1983 following an antitrust challenge brought by the Reagan Justice Department.

In that case, Justice filed a motion for summary judgement in the D.C. Federal District Court in 1982 challenging three provisions restricting the sale of advertising. These provisions limited: 1) the number of minutes per hour a network or station may allocate to commercials; 2) the number of commercials which could be broadcast in an hour; and 3) the number of products that could be advertised in a commercial. The court ruled that one of the provisions—the multiple product standard—constituted a per se violation of the antitrust laws, and granted Justice's motion for summary judgement on those grounds.

In November 1982, the NAB entered into a consent decree with Justice and agreed to throw out the advertising guidelines being challenged. Then, claiming that the TV Code in general left it vulnerable to antitrust lawsuits, the NAB threw out the entire code in January of 1983.

The programming standards contained in the code were never found to violate any antitrust laws during the code's 31-year existence.

THE FAMILY HOUR CASE

In 1975, after being prodded by FCC Chairman Dick Wiley, the NAB added a family viewing policy to its TV code. This policy said that entertainment programming inappropriate for a general family audience should not be aired between the hours of 7 p.m. and 9 p.m. EST.

In October of 1975, the Writers Guild of America (led by Norman Lear) filed a lawsuit challenging the family viewing policy on First Amendment grounds, alleging that the NAB had been coerced by the government into adopting the policy.

The District Court struck down the family viewing provision in the code in 1976, concluding that FCC Chairman Wiley had engaged in a ''successful attempt . . . to pressure the networks and the NAB into adopting a programming policy they did not wish to adopt.''

However, the court decision did not rule that a voluntary family viewing policy would be unconstitutional, and said that networks were free to implement a family hour policy on their own.

In the end, the District Court's decision was vacated and remanded on appeal in 1979, on the grounds that the District Court was not the proper forum for the initial resolution of a case relating to broadcast regulation. The case was returned to the FCC for judgement, and in 1983 the FCC concluded that the family viewing policy did not violate the First Amendment, ruling that Chairman Wiley's actions amounted to permissible jawboning and not coercion.

No court has ever ruled that a voluntary family hour violates the First Amendment rights of broadcasters or of producers.

THE ORIGINAL ''TELEVISION PROGRAM IMPROVEMENT ACT''

Senator Paul Simon (D–IL) sponsored legislation in 1989 to create a temporary antitrust exemption that would allow the television industry to collaborate on a set of guidelines designed to ''alleviate the negative impact'' of television violence. The exemption had a life of three years.

This legislation was passed by Congress in the waning days of the 1990 session as part of the Judicial Improvements Act (a federal judgeships bill).

When the Simon bill first moved through the Senate in 1989, the Judiciary Committee approved an amendment that would broaden the bill's scope to cover guidelines relating to the glamorization of drug use.

The version passed by the Senate also was broadened to cover sexual content. Senator Jesse Helms (R–NC) succeeded in passing an amendment relating to sexually explicit material by a vote of 91–0.

The language relating to sexual content and the depiction of drug use was stripped from the bill that came out of conference after House Democrats objected to broadening the scope of the exemption beyond violence.

THE INDUSTRY RESPONSE TO THE SIMON BILL

A few months prior to the passage of the Simon bill, the NAB issued new ''voluntary programming principles'' in four areas: children's television, indecency and obscenity, drugs, and violence. These principles were general statements resembling several provisions in the old NAB Code, but they were strictly voluntary and unenforceable.

After the Simon bill passed, the broadcast and cable industries held a few meetings in 1991, but with no discernible results.

As concern about television violence mounted, the networks felt increasing pressure to produce some results. In December of 1992, the major broadcast networks agreed to adopt a new set of joint standards on the depiction of violence.

Although billed as being ''new,'' the networks made clear that these guidelines tracked closely with their own individual

programming standards. The joint guidelines were broadly-worded and did not make any specific statements regarding the time shows with graphic violence should be aired, noting only that the composition of the audience should be taken into consideration.

In June of 1993, the networks took the additional step of agreeing on a set of ''parental advisories'' that would be applied to programs with violent content.

With criticism from the public and Congress continuing to grow, the four major networks and the cable industry announced in February of 1994 that they would conduct separate monitoring studies to measure the level of violence in their programming. The first of these studies was done in 1995.

THE SIMON LEGACY ON VIOLENCE

The results of the Simon legislation could accurately be described as mixed.

On the one hand, the 1996 UCLA violence study suggested that the amount of violence on broadcast television had declined somewhat since it peaked a few years earlier, and industry observers generally acknowledge that primetime series television has become less violent. The UCLA study also found that the networks had taken some steps to reduce the violence in on-air promotions. ''The overall message is one of progress and improvement,'' the UCLA study concluded. ''The overall picture is not one of excessive violence.''

On the other hand, the UCLA study still found that there is still a serious problem with violence on broadcast television. It singled out the high number of violent theatrical movies, five primetime series that ''raised frequent concerns,'' and the disturbing rise of ''reality'' shows (such as Fox's ''When Animals Attack'') that often feature graphic violence.

In addition, the National Television Violence Study, the comprehensive review sponsored by the cable industry, is scheduled to release its 1996 report later this month, and it is generally expected to show that the kinds of violence depicted on both broadcast and cable television still presents a real threat to viewers.

THE CURRENT SITUATION

When asked about reviving a code of conduct, some television industry leaders have expressed concern about potential antitrust lawsuits that might arise.

The Justice Department, however, has issued rulings since the Simon exemption expired that strongly suggest that a voluntary code of conduct would not run afoul of any antitrust laws.

In a ''business review'' letter released in November 1993, the Justice Department told Simon that additional steps the industry took to reduce the threat of violence ''may be likened to traditional standard setting efforts that do not necessarily restrain competition and may have significant procompetitive benefits.''

Justice repeated this finding in another business review letter sent to Senator LIEBERMAN in January 1994 regarding the video game industry's efforts to develop a rating system for violent and sexual content.

Some in the television industry also contend that a code of conduct is unnecessary because the major broadcast networks and most local stations and cable networks all have individual programming standards to which they adhere.

The reality, however, is that few people know that these standards even exist. That's largely because they are often hidden from public view. Of the big four networks, only CBS will release its programming standards to the public. ABC, NBC, and Fox have refused to do so.

By Mr. CRAIG (for himself, Mr. GRAHAM, Mr. D'AMATO, Mr. TORRICELLI, Mr. AKAKA, Mr. MACK, Mr. ALLARD, Mr. THOMAS, Mr. REID, Mr. BREAUX and Mr. WARNER):

S. 472. A bill to provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory, and for other purposes; to the Committee on Energy and Natural Resources.

THE PUERTO RICO SELF-DETERMINATION ACT OF 1997

Mr. CRAIG. Mr. President, I am proud to join with my colleague from Florida today in the introduction of the Puerto Rico Self-Determination Act.

In the 104th Congress, I joined as a cosponsor of S. 2019, with a bipartisan effort in the Senate to deal with this issue. I know that some of my colleagues will question the need for Congress to take up this issue. The most common reaction is that we should let Puerto Ricans decide the issue for themselves. The problem with that approach is that there are two parties in that relationship: Congress, due to its constitutional plenary power expressly vested in it by the territorial clause of article IV, section 3, clause 2, on the one hand and the people of Puerto Rico who have U.S. citizenship but are not yet fully self-governing on the other.

When Congress failed to approve legislation to provide a status resolution process in 1991, the Puerto Ricans conducted a status vote, and the commonwealth option was defined on the ballot in the terms most favorable to its approval, to the point that it promised a lot more than Congress could ever approve. Even with the ballot definition that would significantly enhance the current status, the existing commonwealth relationship received less than a majority of the vote. So there is a serious issue of the legitimacy of the current less-than-equal or less-than-full self-governing status, especially given the U.S. assertion to the United Nations in 1953 that Puerto Rico was on a path toward decolonization.

That is why the legislature of Puerto Rico passed Concurrent Resolution 2, on January 23, 1997, requesting Congress to sponsor a vote based on definitions it would be willing to consider, if approved by voters. With timely approval of this legislation, 1997 will be the year Congress provides the framework for the resolution of the Puerto Rican status question, through a three-phase decisionmaking process that will culminate during the second decade of the next century. It will be a process with respect to the right of residents of Puerto Rico to become fully self-governing, based on local self-determination, and, at the same time, recognizes that the United States also has a right of self-determination in its relationship to Puerto Rico.

Consequently, resolution of the status of Puerto Rico should take place in accordance with the terms of a transition plan that is determined by Congress to be in the national interest. Acceptance of such a congressionally approved transition plan by the qualified voters of Puerto Rico in a free and informed act of self-determination will be required before the process leading to change of the present status will commence.

The bill that I am introducing today, joined in by nine other colleagues, and my colleague from Florida, creates an evenhanded process that can lead to either separate sovereignty or statehood, depending on whether Congress and the residents of Puerto Rico approve the terms of the implementation of either of the two options of full self-government. Preservation of the current status also will be an option on the plebiscite ballot. However, the existing unincorporated territory status, including the commonwealth structure of local government, is not a constitutionally guaranteed form of self-government. Thus, until full self-government is achieved for Puerto Rico, there will be a need for periodic self-determination procedures as provided in this legislation.

Whichever new status proves acceptable to Congress and the people of Puerto Rico, final implementation of the new status could be subject to approval by Congress and the people of Puerto Rico, at such time in the first or second decade of the next century as a transition process is completed.

This explanation of the bill should dispel any concern in this body or the House that empowerment of the people of Puerto Rico to exercise the right of self-determination will impair the ability of Congress to work its will regarding the status of Puerto Rico.

Mr. President, in 1956, 4 years after Congress and the people of Puerto Rico approved the Constitution of the Commonwealth of Puerto Rico, the U.S. Supreme Court considered the constitutional nature and status of unincorporated territories such as Puerto Rico. In its opinion in the case of *Reid* v. *Covert* (354 U.S. 1), the Supreme Court confirmed that the territorial clause of the U.S. Constitution—article IV, section 3, clause 2—confers on Congress the power, in the court's words, ''. . . to provide rules and regulations to govern temporarily territories with wholly dissimilar traditions and institutions . . .''

While the Reid case was not a territorial status decision, it is significant that the Supreme Court's opinion in this case recognizes the temporary nature of the unincorporated territory status defined by the high court in an earlier line of status decisions known as the Insular Cases. For even though Puerto Ricans have had statutory U.S. citizenship since 1917, and local constitutional self-government similar to that of the States since 1952, it has become quite clear that U.S. citizens residing in an unincorporated territory cannot become fully self-governing in the Federal constitutional system on the basis of equality with their fellow

citizens residing in the States of the Union.

Specifically, unincorporated territorial status with the commonwealth structure for local self-government cannot be converted into a permanent form of union with constitutionally guaranteed U.S. citizenship, or equal legal and political rights with citizens in the States including voting rights in national elections and representation in Congress. At the same time, Congress cannot abdicate, divest or dispose of its constitutional authority and responsibility under the territorial clause or be bound by a statutory conferral of special rights intended to make the citizens of a territory whole for the lack of equal rights under the Federal constitution.

The concept of an unalterable bilateral pact between Congress and the territories is politically implausible and constitutionally impermissible. A mutual consent based relationship would amount to a local veto power over acts of Congress and would give the territories rights and powers superior to those of the States. Indeed, I am not certain what the results would be if the States were given the option of trading in representation in Congress and the vote in Presidential elections for the power to veto Federal law, but it is a prospect inconsistent with American federalism.

Thus, altering our constitutional system to attempt to accommodate the unincorporated territories in this way would be a disproportionate, inequitable, and politically perverse remedy for the problems the territories are experiencing due to the lack of voting in Federal elections or representation in Congress.

Moreover, the concept of enhancing a less-than-equal status so that the disenfranchisement of U.S. citizens in the Federal political proces becomes permanent would arrest the process of self-determination and decolonization that began when the local constitution was established by Congress and the voters in the territory in 1952.

It would reverse the progress that has been made toward full self-government to attempt to transform a temporary territorial status into a permanent one, although that is precisely what has been attempted by some in Puerto Rico for the last 40 years. Some in Congress have facilitated and promoted the fatally flawed notion that Puerto Rico could become a nation within a nation—if only at the level of partisan politics while being careful never to formally accept or commit that it could be constitutionally sustained.

In reality, Puerto Rico is capable of becoming a State or a separate nation, or of remaining under the territorial clause if that is what the people and Congress prefer. But a decision to retain territorial status must be based on acceptance that this is a temporary status under the territorial clause, which can lead to full self-government outside the territorial clause only when Congress and the voters determine to pursue a recognized form of separate nationhood or full incorporation into the Federal political process leading to statehood.

Thus, the question becomes one of how long can a less-than-equal and non-self-governing status continue now that Puerto Rico has constitutional self-government at the local level and has established institutions and traditions which are based upon, modeled after, and highly compatible with those of the United States? How long is temporary when we consider that Puerto Rico has been within U.S. sovereignty and the U.S. customs territory for a century?

The proposals in the past that the self-determination process be self-executing may have had the appearance of empowering the people to determine their destiny. However, any attempt to bind Congress and the people to a choice the full effect and implications of which cannot be known at the time the initial choice is made is actually a form of disempowerment. For self-determination to be legitimate it must be informed, and a one-stage binding and self-executing process prevent both parties to the process—Congress and the people—from knowing what it is they are approving.

Any process which does not enable Congress and the voters to define the options and approve the terms for implementation through a democratic process which involves a response by each party to the freely expressed wishes of the other as part of an orderly self-determination procedure is a formula for stagnation under the status quo.

That is why the legislation defining a self-determination process for Puerto Rico must be based on the successful process Congress prescribed in 1950 through which the current constitution was approved by Congress and the voters in 1952. That process empowered the people and Congress to approve the process itself, then approve the new relationship defined through the process.

As explained below, this is the most democratic procedure possible given the complicated dilemma faced by the United States and Puerto Rico. For only when the people express their preference between status options defined in a manner acceptable to Congress can the United States inform the people of the terms under which the preferred option could be accepted by Congress. This would empower the people to then engage in an informed act of self-determination, and it would empower Congress to define the national interest throughout the process.

In the 104th Congress, S. 2019, was a response to Concurrent Resolution 62, adopted by the Legislature of Puerto Rico on December 14, 1994, and directed to the U.S. Congress, requesting a response to the results of a 1993 plebiscite conducted in Puerto Rico under local law. See, CONGRESSIONAL RECORD S9555–S9559, August 2, 1996. Like a similar locally managed vote in 1967, the 1993 vote did not resolve the question of Puerto Rico's future status, in large part because of pervasive confusion and misinformation about the legal nature of Puerto Rico's current status.

The problem of chronic nonproductive debate in Puerto Rico and in Congress with respect to definition of the current status of Puerto Rico, as well as the options for change, is examined carefully in House Report 104–713, part 1, July 26, 1996, pp. 8–23, 29–36. In addition to responding to Resolution 62 by introducing legislation addressing the subject matter of that request by the elected representatives of the residents of Puerto Rico, S. 2019 was intended to complement and support the efforts of a bipartisan group of knowledgeable Members in the House to address the troubling issues raised in House Report 104–713, part 1.

S. 2019 was a companion measure to H.R. 3024, the United States-Puerto Rico Political Status Act, which was the subject of House Report 104–713, part 1. Although H.R. 3024 was scheduled for a vote by the House in the last days of the 104th Congress, and overwhelming approval was expected, a vote was delayed due to ancillary issues. However, important amendments to H.R. 3024 were agreed upon by participants in the House deliberations, and some of these should be incorporated in any measure to be considered in the 105th Congress.

For example, because the debate in the 104th Congress and in the 1996 elections in Puerto Rico clarified certain fundamental issues regarding definition of status options, it may now be appropriate to include a three-way array of ballot options in any future status referendum. Thus, commonwealth, independence, and statehood should appear side-by-side on the ballot the next time there is a status vote in Puerto Rico.

In the 104th Congress I concurred in the bipartisan position that developed in the House deliberations in support of a two-part ballot, separating the question of preserving the current unincorporated territory status from the two options for change to a permanent form of full self-government—separate sovereignty or statehood. However, the agreed upon House bill amendments and this new Senate bill make it clear that separate nationality or statehood remain the two paths to full self-government, and that commonwealth is a territorial clause status. I believe this approach will result in a free and informed act of self-determination by the residents based on accurate definitions.

This will simplify the structure of the ballot, and make it all the more imperative that the definitions of status options also remain as simple and straightforward as possible. All the options presented on the ballot in a future status referendum must be based on the objective elements of each status option under applicable provisions

of the U.S. Constitution and international law as recognized by the United States.

In this connection, it must be noted that in the last four decades every attempt by Congress and territorial leaders to define the status options and establish a procedure to resolve the status question has failed. The last process which produced a tangible result and advanced Puerto Rico's progress toward self-government was that which Congress established in 1950 to allow the residents of Puerto Rico to organize local constitutional government.

Thus, instead of trying to revisit battles of the past over any of the bills considered by Congress in 1990 and 1991, a better model for taking the next step in the self-determination process for Puerto Rico is the one employed by Congress to authorize and establish the current commonwealth structure for local self-government based on consent of the voters. The process established under Federal law in 1950 was based on a three-stage process through which the proposed new form of self-government was defined, approved and implemented with consent of both the United States and the residents of the territory at each stage.

In the successful 1950 process, Congress set forth in U.S. Public Law 600 an essentially three-phase procedure as follows:

Congress acted first, defining a framework under Federal law for instituting constitutional self-government over local affairs. An initial referendum was conducted in which the voters approved the terms for instituting constitutional self-government as defined by Congress.

A second referendum was conducted on the proposed constitution and the President of the United States was required under Public Law 600 to transmit the draft constitution approved in that second referendum to Congress with his findings as to its conformity with the criteria defined by Congress.

Congress approved final implementation of the new local constitution with amendments which were accepted by the locally elected constitutional convention and implemented on that basis by proclamation of the Governor.

We should adopt a similar procedure for taking the next step to complete the process leading to full self-government which began with enactment of Public Law 600 in 1950. Such a three-stage process would be one through which:

First, Congress defines the procedures and options it will accept as a basis for resolving the status question. In an initial referendum the voters then approve a status option they prefer.

Second, the President transmits a proposal with recommended terms for implementing the choice of the voters consistent with the criteria defined by Congress, and upon approval by Congress a second referendum is held to determine if the voters accept the terms upon which Congress would be willing to implement the new status.

Third, both Congress and the voters must act affirmatively to approve final implementation once the terms of the transition plan have been fulfilled.

This would track the successful model of Public Law 600, except that it improves upon it by requiring Congress and the voters to approve final implementation. This is more democratic than the procedure followed in 1952, in which Congress amended the Constitution and the revisions were accepted by the constitutional convention and put into effect by proclamation of the Governor.

To ensure that there is no ambiguity about the new relationship as there was after the current local constitution was implemented in 1952, the Congress and the voters themselves, again, should have the last word on implementation. This prevents the local political parties from attempting to exploit ambiguity and convert it into a political platform, as has been the case with the current commonwealth structure for local self-government.

In this regard, I note that there are those who continue to suggest that definitions of status options for a political status referendum should be based upon the formulations adopted by the political parties in Puerto Rico. This approach is urged in the name of consensus building. However, the history of attempts to address this problem—including the approval of H.R. 4765 by the House in 1990—makes it clear that the illusion of consensus has been achieved on status definitions in the past only by sacrificing the constitutional, legal, and political integrity of the process.

Recognizing the principle of consent by the qualified voters through an act of self-determination to retain the current status or seek change under definitions acceptable to Congress is very different from the idea that legislation to make self-determination possible cannot be enacted unless there is consent by local political parties to both the form and content of what is proposed. The qualified voters of Puerto Rico, not the local political parties, are Puerto Rico for purposes of the self-determination process.

No sleight-of-hand gimmicks or disclaimers disguised as good-faith commitments will substitute for intellectually honest status definitions. We must approve legislation that makes it clear that Congress will propose a transition plan on terms it deems to be in the best interests of the United States, and when it does the people qualified to vote in Puerto Rico will have to decide if the terms prescribed by Congress are acceptable.

If the terms for a change of status defined by Congress are not acceptable to the voters, then the right of self-determination can be exercised thereafter in an informed manner based on that outcome. There should be no stated or implied commitment to a moral obligation to consider any status definition—no matter who might propose it—which is deemed unconstitutional or unacceptable to Congress. That would be misleading and dishonest, and no clever caveat could redeem such a breach of the institutional integrity and constitutional duty of the Congress.

In 1997, Congress must take responsibility for informing the people of Puerto Rico of what the real options are based on congressional definition of the status formulations which Congress determines to be consistent with the national interest and the right of self-determination of both the United States and the people of Puerto Rico. This represents an opportunity and challenge as we seek to define our Nation in the next century, and there is an obligation for all concerned to ensure that the voters in Puerto Rico are given an opportunity for a free and informed act of self-determination.

If we accomplish that, then whatever the outcome may be will vindicate 100 years of democratization and development for Puerto Rico through its evolving relationship with the United States and the self-determination of its people.

Mr. GRAHAM. Mr. President, I rise today to introduce the Puerto Rico Self Determination Act of 1997. I am proud to cosponsor this important legislation with Senator LARRY CRAIG and a bipartisan coalition of eight other distinguished colleagues.

Mr. President, on December 10, 1898, through the Treaty of Paris that ended the Spanish-American War, Puerto Rico became part of the United States. Next year marks the 100th anniversary of this union.

Mr. President, there is no better way for us to commemorate this special occasion than to give the U.S. citizens of Puerto Rico the same right that their counterparts in all 50 States and the District of Columbia enjoy—the right to choose their political destiny.

In 1917, the Jones Act gave the people of Puerto Rico U.S. citizenship, but it was less than complete. Though they are citizens, Puerto Ricans can only vote in Presidential elections if they are registered in a State or the District of Columbia. They have a delegate in Congress—a position currently held by Congressman CARLOS ROMERO-BARCELÓ—who does not have voting privileges.

But this lack of political rights is not due to a lack of communication. Throughout their history as part of the United States, Puerto Ricans have expressed their desire to achieve full political rights. They have on various occasions let Congress know of their desire to be full participants in our democracy. And their actions speak even louder than their words.

Puerto Ricans have contributed in all aspects of American life,—in the arts, in sciences, in sports, and especially in service to the Nation. Their record of service to this country speaks for itself. In World War II alone, more than

65,000 Puerto Rican men and women served in the Armed Forces. In Vietnam, over 60,000 served. The first United States soldier killed in Somalia was Puerto Rican. One of the airmen shot down over Libya in 1986 was Puerto Rican. And it was a soldier from Puerto Rico who sounded the alarm—and saved lives—in the 1983 bombing of the Marine barracks in Beirut.

I recently received a letter from retired U.S. Army Lt. Col. Dennis Freytes, a Puerto Rican who resides in Orlando. He states in his letter:

> As an American Puerto Rican, who has proudly served our country, I think that Puerto Rico's political status should be promptly resolved, so we don't have second class citizens in our democratic form of government.

Puerto Ricans voluntarily joined our Armed Forces and have given their lives in defense of our country and democratic way of life. I emphasize ''our'' because U.S. citizens must have the same rights no matter where they were born or where they choose to live.

In 1996 and 1997, the Legislature of Puerto Rico, the democratically elected representatives of 3.7 million U.S. citizens, overwhelmingly approved resolutions requesting that the Congress and the President of the United States respond to their legitimate democratic aspirations. They requested that a plebiscite be held not later than December 31, 1998, almost exactly 100 years after Puerto Rico gained territorial status. There have been similar referendums in the past, but those were locally mandated—Congress gave no direction as to how, if at all, the results might affect Puerto Rico's political status.

It is time for the people of Puerto Rico to have a referendum process which defines the choices in a manner which are constitutionally valid, and that Congress is willing to uphold.

Mr. President, I want to particularly stress this latter point. Congress needs to understand that if it passes this bill—and I share the hope of my friend and colleague, Senator CRAIG that we will and that we will do so expeditiously—it is assuming an important political, and moral obligation to the American citizens of Puerto Rico.

This is not a bill without significant consequences. If Puerto Ricans ask to remain a Commonwealth, we need to respect their wishes. If they want to become a State, we must begin the process of incorporation. And if they desire independence, we must take steps to meet that request. To do otherwise would be to seriously undermine our credibility with the 3.7 million citizens of Puerto Rico and the nearly 300 million residents of Latin America.

Mr. President, for the last 100 years, the United States had given Puerto Ricans status as citizens but withheld some of the rights, privileges, and responsibilities that come with that privilege. It is time for that to end. Puerto Ricans do not deserve second-class political status. For all that they have done to enrich our culture and defend our Nation from external threats, they have earned the right to decide their own political destiny.

Mr. President, since the early 1900's, self-determination has been a cornerstone principle of our Nation's foreign policy.

As we approach the century mark of the union between Puerto Rico and the United States, this bill will serve as a model of American democracy at its best—providing citizens with their right to decide their own futures.

By Mr. BOND (for himself and Mr. NICKLES):

S. 473. A bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining that certain individuals are not employees, and for other purposes; to the Committee on Finance.

THE INDEPENDENT CONTRACTOR TAX REFORM ACT OF 1997

Mr. BOND. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 473

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Independent Contractor Tax Reform Act of 1997''.

SEC. 2. SAFE HARBOR FOR DETERMINING THAT CERTAIN INDIVIDUALS ARE NOT EMPLOYEES.

(a) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding after section 3510 the following new section:

''SEC. 3511. SAFE HARBOR FOR DETERMINING THAT CERTAIN INDIVIDUALS ARE NOT EMPLOYEES.

''(a) SAFE HARBOR.—

''(1) IN GENERAL.—For purposes of this title, if the requirements of subsections (b), (c), and (d), or the requirements of subsections (d) and (e), are met with respect to any service performed by any individual, then with respect to such service—

''(A) the service provider shall not be treated as an employee,

''(B) the service recipient shall not be treated as an employer,

''(C) the payor shall not be treated as an employer, and

''(D) compensation paid or received for such service shall not be treated as paid or received with respect to employment.

''(2) AVAILABILITY OF SAFE HARBOR NOT TO LIMIT APPLICATION OF OTHER LAWS.—Nothing in this section shall be construed—

''(A) as limiting the ability of a service provider, service recipient, or payor to apply other applicable provisions of this title, section 530 of the Revenue Act of 1978, or the common law in determining whether an individual is not an employee, or

''(B) as a prerequisite for the application of any provision of law described in subparagraph (A).

''(b) SERVICE PROVIDER REQUIREMENTS WITH REGARD TO THE SERVICE RECIPIENT.—For purposes of subsection (a), the requirements of this subsection are met if the service provider, in connection with performing the service—

''(1) has the ability to realize a profit or loss,

''(2) incurs unreimbursed expenses which are ordinary and necessary to the service provider's industry and which represent an amount at least equal to 2 percent of the service provider's adjusted gross income attributable to services performed pursuant to 1 or more contracts described in subsection (d), and

''(3) agrees to perform services for a particular amount of time or to complete a specific result or task.

''(c) ADDITIONAL SERVICE PROVIDER REQUIREMENTS WITH REGARD TO OTHERS.—For the purposes of subsection (a), the requirements of this subsection are met if the service provider—

''(1) has a principal place of business,

''(2) does not primarily provide the service at a single service recipient's facilities,

''(3) pays a fair market rent for use of the service recipient's facilities, or

''(4) operates primarily with equipment not supplied by the service recipient.

''(d) WRITTEN DOCUMENT REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are met if the services performed by the service provider are performed pursuant to a written contract between such service provider and the service recipient, or the payor, and such contract provides that the service provider will not be treated as an employee with respect to such services for Federal tax purposes.

''(e) BUSINESS STRUCTURE AND BENEFITS REQUIREMENT.—For purposes of subsection (a), the requirements of this subsection are met if the service provider—

''(1) conducts business as a properly constituted corporation or limited liability company under applicable State laws, and

''(2) does not receive from the service recipient or payor benefits that are provided to employees of the service recipient.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) FAILURE TO MEET REPORTING REQUIREMENTS.—If for any taxable year any service recipient or payor fails to meet the applicable reporting requirements of section 6041(a) or 6041A(a) with respect to a service provider, then, unless the failure is due to reasonable cause and not willful neglect, the safe harbor provided by this section for determining whether individuals are not employees shall not apply to such service recipient or payor with respect to that service provider.

''(2) BURDEN OF PROOF.—For purposes of subsection (a), if—

''(A) a service provider, service recipient, or payor establishes a prima facie case that it was reasonable not to treat a service provider as an employee for purposes of this section, and

''(B) the service provider, service recipient, or payor has fully cooperated with reasonable requests from the Secretary or his delegate,

then the burden of proof with respect to such treatment shall be on the Secretary.

''(3) RELATED ENTITIES.—If the service provider is performing services through an entity owned in whole or in part by such service provider, the references to 'service provider' in subsections (b) through (e) may include such entity, provided that the written contract referred to in subsection (d) is with such entity.

''(g) DETERMINATIONS BY THE SECRETARY.—For purposes of this title—

''(1) IN GENERAL.—

''(A) DETERMINATIONS WITH RESPECT TO A SERVICE RECIPIENT OR A PAYOR.—A determination by the Secretary that a service recipient or a payor should have treated a

service provider as an employee shall be effective no earlier than the notice date if—

''(i) the service recipient or the payor entered into a written contract satisfying the requirements of subsection (d),

''(ii) the service recipient or the payor satisfied the applicable reporting requirements of section 6041(a) or 6041A(a) for all taxable years covered by the agreement described in clause (i), and

''(iii) the service recipient or the payor demonstrates a reasonable basis for determining that the service provider is not an employee and that such determination was made in good faith.

''(B) DETERMINATIONS WITH RESPECT TO A SERVICE PROVIDER.—A determination by the Secretary that a service provider should have been treated as an employee shall be effective no earlier than the notice date if—

''(i) the service provider entered into a contract satisfying the requirements of subsection (d),

''(ii) the service provider satisfied the applicable reporting requirements of sections 6012(a) and 6017 for all taxable years covered by the agreement described in clause (i), and

''(iii) the service provider demonstrates a reasonable basis for determining that the service provider is not an employee and that such determination was made in good faith.

''(C) REASONABLE CAUSE EXCEPTION.—The requirements of subparagraph (A)(ii) or (B)(ii) shall be treated as being met if the failure to satisfy the applicable reporting requirements is due to reasonable cause and not willful neglect.

''(2) CONSTRUCTION.—Nothing in this subsection shall be construed as limiting any provision of law that provides an opportunity for administrative or judicial review of a determination by the Secretary.

''(3) NOTICE DATE.—For purposes of this subsection, the notice date is the 30th day after the earlier of—

''(A) the date on which the first letter of proposed deficiency that allows the service provider, the service recipient, or the payor an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent, or

''(B) the date on which the deficiency notice under section 6212 is sent.

''(h) DEFINITIONS.—For the purposes of this section—

''(1) SERVICE PROVIDER.—The term 'service provider' means any individual who performs a service for another person.

''(2) SERVICE RECIPIENT.—Except as provided in paragraph (4), the term 'service recipient' means the person for whom the service provider performs such service.

''(3) PAYOR.—Except as provided in paragraph (4), the term 'payor' means the person who pays the service provider for the performance of such service in the event that the service recipient does not pay the service provider.

''(4) EXCEPTIONS.—The terms 'service recipient' and 'payor' do not include any entity in which the service provider owns in excess of 5 percent of—

''(A) in the case of a corporation, the total combined voting power of stock in the corporation, or

''(B) in the case of an entity other than a corporation, the profits or beneficial interests in the entity.

''(5) IN CONNECTION WITH PERFORMING THE SERVICE.—The term 'in connection with performing the service' means in connection or related to the operation of the service provider's trade or business.

''(6) PRINCIPAL PLACE OF BUSINESS.—For purposes of subsection (c), a home office shall in any case qualify as the principal place of business if—

''(A) the office is the location where the service provider's essential administrative or management activities are conducted on a regular and systematic (and not incidental) basis by the service provider, and

''(B) the office is necessary because the service provider has no other location for the performance of the essential administrative or management activities of the business.

''(7) FAIR MARKET RENT.—The term 'fair market rent' means a periodic, fixed minimum rental fee which is based on the fair rental value of the facilities and is established pursuant to a written agreement with terms similar to those offered to unrelated persons for facilities of similar type and quality.''

(b) CLARIFICATION OF RULES REGARDING EVIDENCE OF CONTROL.—For purposes of determining whether an individual is an employee under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.), compliance with statutory or regulatory standards shall not be treated as evidence of control.

(c) REPEAL OF SECTION 530(d) OF THE REVENUE ACT OF 1978.—Section 530(d) of the Revenue Act of 1978 (as added by section 1706 of the Tax Reform Act of 1986) is repealed.

(d) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end the following new item:

''Sec. 3511. Safe harbor for determining that certain individuals are not employees.''

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by, and the provisions of, this section shall apply to services performed after the date of enactment of this Act.

(2) DETERMINATIONS BY SECRETARY.—Section 3511(g) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to determinations after the date of enactment of this Act.

(3) SECTION 530(d).—The amendment made by subsection (c) shall apply to periods ending after the date of enactment of this Act.

By Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HUTCHINSON, Mr. GRASSLEY, and Mr. JOHNSON):

S. 474. A bill to amend sections 1081 and 1084 of title 18, United States Code; to the Committee on the Judiciary.

THE INTERNET GAMBLING PROHIBITION ACT OF 1997

Mr. KYL. Mr. President, I rise to introduce the Internet Gambling Prohibition Act of 1997. It will outlaw gambling on the Internet. I believe it will protect children from logging on to the Internet and being exposed to activities that are normally prohibited to them. And for those people with a gambling problem, my bill will make it harder to gamble away the family paycheck.

Gambling erodes values of hard work, sacrifice, and personal responsibility. Although the social costs of gambling are difficult to quantify, research indicates they are potentially staggering. Gambling is a growing industry in the United States, with revenues approaching $550 billion last year—three times the revenues of General Motors Corp. In 1993, more Americans visited casinos than attended a major league baseball game.

The problem can only grow worse with online casinos. Now it is no longer necessary to go to a casino or store where lottery tickets are sold. Anyone with a computer and a modem will have access to a casino: Internet users can access hundreds of sites for blackjack, craps, roulette, and sports betting. Gambling addiction is already on the rise. Online gambling will only increase the problem.

Why is this bill necessary? It dispels any ambiguity by making clear that all betting, including sports betting, is illegal. Currently, nonsports betting is interpreted as legal. The bill also clarifies the definition of bets and wagers. This ensures that those who are gambling cannot circumvent the law. For example, virtual gaming businesses have been known to offer prizes instead of money, in an attempt to evade the law.

Additionally, my bill clarifies that Internet access providers are covered by the law. As the National Association of Attorneys General [NAAG] task force on Internet Gambling reported, ''this is currently the most important section to State and local law enforcement agencies, because it provides a civil enforcement mechanism.'' FCC-regulated carriers notified by any State or local law enforcement agency of the illegal nature of a site are required to discontinue services to the malfeasor. NAAG believes that this can be a very effective deterrent. The bill includes interactive computer-service providers among those entities required to discontinue such service upon notice. Federal, State, and local law enforcement entities are explicitly authorized to seek prospective injunctive relief against continued use of a communications facility for purposes of gambling.

The Internet Gambling Prohibition Act makes explicit the intent of Congress to create extraterritorial jurisdiction regarding Internet gambling activities. Too often, illicit operators of virtual casinos set up shop in friendly jurisdictions beyond the direct application of U.S. law. It will also require the DOJ to report on the difficulties associated with enforcing the statute. Finally, it places some burden on the bettor.

The Internet has great potential to promote both educational opportunities and business expansion in this country. At the same time, the Internet is fast becoming a place where inappropriate activities such as gambling, pornography, and consumer fraud thrive. Recently, many businesses have welcomed law enforcement's involvement in cracking down on consumer fraud. We must find a constitutional way to deal with the other problems raised by this revolution in communications. I believe that it is possible to impose some conditions, as we have in other areas, without violating free speech rights.

There is growing support for changes to current law. As I mentioned, the NAAG has a task force on Internet gambling, and the report of the task

force—authored by Attorneys General Dan Lungren and Hubert Humphrey—called for a legislative remedy to stem the tide of gambling electronically. NAAG has endorsed my bill.

Mr. President, the Internet Gambling Prohibition Act of 1997 ensures that the law will keep pace with technology and keep gambling off the Internet. I urge my colleagues to pass the bill.

• Mr. GRAHAM. Mr. President, I join my friend and colleague from Arizona, Senator KYL, in cosponsoring the Internet Gambling Prohibition Act introduced today, which is intended to address a growing problem in the United States as our technology continues to modernize our modes of communication.

This legislation is an attempt to take a step forward in meeting the needs of State law enforcement organizations and officials.

With the development of the Internet World Wide Web, the ability of Americans to access information for their personal and professional use has taken a quantum leap. It is safe to say that the Internet is one of the more important technological advances of the late 20th century with respect to the influence that the technology can have on the lives of so many Americans.

The number of American Internet users has grown from 1 million in 1992 to over 50 million today. This number is expected to grow to several hundred million users by the year 2000. As we bring Internet technology into our schools, we will see greater use of the Internet particularly among our youth, many who are already adept at using their home computers and surfing the Internet for educational and recreational purposes.

With this convenience and easy access to a variety of information sources, many of which are of great educational, cultural and professional value, come certain expected problems. The one that I want to speak to briefly is that of the increasing use of the Internet for the purposes of gambling.

The National Association of Attorney Generals has recently studied the problem of Internet gambling. In a 1996 report, ''Gambling on the Internet,'' the Association cited the following:

> The availability of gambling on the Internet * * * threatens to disrupt each State's careful balancing of its own public welfare and fiscal concerns, by making gambling available across State and national boundaries, with little or no regulatory control.
>
> There are literally hundreds of gambling-related sites on the Internet. Dozens more are being added monthly.

Let me make several key distinctions that must be understood with respect to this legislation.

First, it is important to note that the number of actual online gambling operations are few at this time due to electronic commerce and technical limitations. Advancements in technology, however, make such shortcomings temporary. Only 6 months ago, there were only 17 active Internet gambling sites on the World Wide Web. Today, there are over 200. And, today, there are hundreds of advertisements for gambling as well as informational how-to sites on the Internet. In short, the Internet's ability to serve as an information conduit for the gambling industry has been recognized.

Second, States have historically been the primary regulator of gambling activities. However, the widespread use of the Internet and its potential to serve as a conduit of gambling activities across national and State borders, serves to undermine States' regulatory control. Our legislation is not intended to disrupt this prerogative, but rather to assist States' ability to enforce its own gambling laws.

Finally, the legislation would not hold Internet access providers—such as America Online—liable for gambling activities that occur on the Internet. However, the Internet access providers are required, once notified by a State or law enforcement agency of the illegal activity, to discontinue Internet services to the malfeasor.

Mr. President, there is growing awareness of the importance of this issue in my State of Florida. The attorney general of the State of Florida wrote me on February 17, 1997, urging strong support of this legislation. I am committed to providing strong support in the Congress for Florida law enforcement concerns.

It is timely and necessary for the Congress to assist States on this growing problem which undermines States' jurisdiction and control. We should support the efforts of our State and local law enforcement officials so that they can prevent the growth of activities which are illegal in that State.

I thank my colleague from Arizona for his work in drafting this important legislation. I look forward to working with him this year in support of passage of this bill.

Mr. President, I ask my colleagues in the Senate to join us in supporting this measure.•

By Mr. JEFFORDS (for himself, Mr. LEAHY, Mr. D'AMATO, and Mr. MOYNIHAN):

S. 475. A bill to amend the Internal Revenue Code of 1986 to clarify the excise tax treatment of draft cider; to the Committee on Finance.

TAX TREATMENT OF HARD APPLE CIDER LEGISLATION

• Mr. JEFFORDS. Mr. President, I am introducing tax legislation designed to increase opportunities for the apple industry in the United States. I am pleased that Senators LEAHY, D'AMATO, and MOYNIHAN are joining me as original cosponsors of the bill.

Our bill clarifies the excise tax treatment of fermented apple cider. Current Federal tax law unfairly taxes fermented apple cider at a much higher rate than beer despite the two beverages similar alcohol levels. Currently, fermented apple cider, commonly known as draft cider, is subject to a tax of $1.07 per wine gallon, despite its alcohol level. This bill lowers the excise tax on draft cider containing not more than 7 percent alcohol to equal the beer tax rate of 22.6 cents per gallon.

I believe this small tax change would allow draft cider producers to compete more fairly in the market with comparable beverages. As draft cider becomes more competitive the market will likely grow. This will greatly benefit the apple growers throughout this Nation, by expanding the use and need for their product.

The production of draft hard cider comes from apples that are culls, processing apples or apples that are not usable in the fresh market. The conversion of culled apples into high value processed products such as draft cider is important to growers as well as to processors.

Cider and other apple byproducts are important to Vermont's economy, providing a market for otherwise unmarketable fruit. Of Vermont's average annual crop of 1.1 million bushels, approximately 20 percent, or 220,000 bushels, are graded out as culls, or processing apples. Apple production has a long history in Vermont, and is an integral part of agriculture in our State as it is in many States.

Many States have recognized the potential benefits to their apple farmers by lowering the tax on draft cider to equal the beer tax rate. State Departments of Agriculture, farm bureaus, and representatives from the apple industry across this Nation have voiced their support for lowering the cider tax rate.

This bill that I introduce today is similar to legislation that I introduced along with my friend from Vermont, Senator LEAHY, and my colleagues from New York in the last Congress. The same bill was successful in the Senate last Congress as part of the Small Business Job Protection Act of 1996, H.R. 3448. Unfortunately, the language was not included in the conference report of H.R. 3448.

Mr. President, it is my hope that this legislation will again pass in the Senate and be signed by the President. I ask my colleagues to support this legislation.•

• Mr. LEAHY. Mr. President, I am pleased to join my friend from Vermont, Senator JEFFORDS, in introducing tax legislation designed to stimulate the apple industry in the United States. I am pleased that Senators D'AMATO and MOYNIHAN are joining me as original cosponsors of the bill.

Our bill revises the Federal excise tax on fermented apple cider, more commonly known as draft cider, to beer tax rates. As one of the senior members of the Senate Agriculture Committee, I believe this small tax change will be of great benefit to cider makers and apple growers across the country.

Draft cider is one of the oldest categories of alcoholic beverages in North America. Back in colonial times, nearly every innkeeper served draft cider to

his or her patrons during the long winter. In fact, through the 19th Century, beer and draft cider sold equally in the United States.

Recently, draft cider has made a comeback in the United States and around the world. Our tax law, however, unfairly taxes draft cider at a much higher rate than beer despite the two beverages sharing the same alcohol level and consumer market. This tax treatment, I believe, creates an artificial barrier to the growth of draft cider. Our legislation will correct this inequity.

Present law taxes fermented cider, regardless of its alcohol level, as a wine at a rate of $1.07 per gallon. Our bill would clarify that draft cider containing not more than 7 percent alcohol and marketed in various size containers would be taxed at the beer rate of 22.6 cents per gallon. I believe this tax change would allow draft cider producers to compete fairly with comparable beverage makers. As draft cider grows in popularity, apple growers around the nation should prosper because draft cider is made from culled apples, the least marketable apples.

The growth of draft cider should convert these least marketable apples, which account for about 20 percent of the entire U.S. apple production, into a high value product, helping our struggling apple growers. Indeed, I have received letters from officials at state agriculture departments from across the nation—Arizona, Connecticut, Georgia, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Vermont and Virginia—supporting the taxing of draft cider at the beer rate because this change would allow apple farmers in their States to reap the benefits of an expanded culled apple market.

I have also heard from the Northeast McIntosh Apple Growers Association, the New York Apple Association, the New England Apple Council and many apple farmers, processors and cider producers that support revising the excise tax on draft cider.

This bill is identical to legislation I introduced with Senators JEFFORDS, D'AMATO and MOYNIHAN in the last Congress. That bill passed the Senate as part of the Small Business Job Protection Act of 1996, H. R. 3448, but was not included in the conference report on H.R. 3448. I am hopeful that with the leadership of Senators JEFFORDS, D'AMATO and MOYNIHAN, we can enact into law this small tax change that will have a large positive impact on the Nation's apple industry.

I urge my colleagues to support this legislation.●

By Mr. HATCH (for himself, Mr. BIDEN, Mr. STEVENS, Mr. GREGG and Mr. KOHL):

S. 476. A bill to provide for the establishment of not less than 2,500 Boys and Girls Clubs of America facilities by the year 2000; to the Committee on the Judiciary.

BOYS AND GIRLS CLUBS OF AMERICA LEGISLATION

Mr. HATCH. Mr. President, I rise today to introduce a measure to further the commitment of the Republican Congress to support the expansion of the Boys and Girls Clubs of America, one of the best examples of proven youth crime prevention. I am pleased to be joined in introducing this bill by a bipartisan group of Senators, including Senator BIDEN, the ranking Democrat on the Youth Violence Subcommittee, Senator STEVENS, the chairman of the Senate Appropriations Committee, Senator GREGG, the chairman of the Commerce, Justice, State Appropriations Subcommittee, and Senator KOHL, who serves on the Judiciary Committee.

Our legislation addresses our continuing initiative to ensure that, with Federal seed money, the Boys and Girls Clubs of America are able to expand to serve an additional 1 million young people through at least 2,500 clubs by the year 2000. The dedication of all of these Members demonstrates our commitment to both authorize and fund this effort.

Last year, in a bipartisan effort, the Republican Congress enacted legislation I authored to authorize $100 million in Federal seed money over 5 years to establish and expand Boys and Girls Clubs in public housing and distressed areas throughout our country. With the help of the Appropriations Committee, we have fully funded this initiative.

The bill we are introducing today streamlines the application process for these funds, and permits a small amount of the funds to be used to establish a role model speakers' program to encourage and motivate young people nationwide.

It is important to note that what we are providing is seed money for the construction and expansion of clubs to serve our young people. This is bricks and mortar money to open clubs, and after they are opened they will operate without any significant Federal funds. In my view, this is a model for the proper role of the Federal Government in crime prevention. The days are over when we can afford vast never-ending federally run programs. According to a GAO report last year, over the past 30 years, Congress has created 131 separate Federal programs, administered by 16 different agencies, to serve delinquent and at-risk youth. These programs cost $4 billion in fiscal year 1995. Yet we have not made significant progress in keeping our young people away from crime and drugs.

What we can and must afford is short-term, solid support for proven private sector programs like the Boys and Girls Clubs that really do make a difference. Boys and Girls Clubs are among the most effective nationwide programs to assist youth to grow into honest, caring, involved, and law-abiding adults.

We know that Boys and Girls Clubs work. Researchers at Columbia University found that public housing developments in which there was an active Boys and Girls Club had a 25 percent reduction in the presence of crack cocaine, a 22 percent reduction in overall drug activity, and a 13 percent reduction in juvenile crime. Members of Boys and Girls Clubs also do better in school, are less attracted to gangs, and feel better about themselves.

Distinguished alumni of Boys and Girls Clubs include role models such as actor Denzel Washington, basketball superstar Michael Jordan, and San Francisco 49ers quarterback Steve Young.

More important, however, are the uncelebrated success stories—the miracles performed by Boys and Girls Clubs every day. At a Judiciary Committee hearing today, we have some of these miracles with us. Amador Guzman, from my State of Utah, told us how he believes the club in his neighborhood saved his life, by keeping him from gangs, drugs, and violence.

The reason Boys and Girls Clubs work, and the Republican Congress wants to do more for them is because they are locally run, and depend mostly on community involvement for their success.

Never have our youth had a greater need for the positive influence of Boys and Girls Clubs, and never has the work of the clubs been more critical. Our young people are being assaulted from all sides with destructive messages. For instance, drug use is on the rise. Recent statistics reconfirm that drugs are ensnaring young people as never before. Overall drug use by youth ages 12 to 17 rose 105 percent between 1992 and 1995, and 33 percent between 1994 and 1995; 10.9 percent of our young people now use drugs on a monthly basis, and monthly use of marijuana is up 37 percent, monthly use of LSD is up 54 percent, and monthly cocaine use by youth is up 166 percent between 1994 and 1995.

Our young people are also being assaulted by gangs. By some estimates, there are more than 3,875 youth gangs, with 200,000 members, in the Nation's 79 largest cities, and the numbers are going up. Even my State of Utah has not been immune from this scourge. In Salt Lake City, since 1992, the number of identified gangs has increased 55 percent, from 185 to 288. The number of gang members has increased 146 percent, from 1,438 to 3545; and the number of gang-related crimes has increased a staggering 279 percent, from 1741 in 1992 to 6611 in 1996. Shockingly, 208 of these involved drive-by shootings.

Every day, our young people are being bombarded with cultural messages in music, movies, and television that undermine the development of core values of citizenship. Popular culture and the media glorify drug use, meaningless violence, and sex without commitment.

The importance of Boys and Girls Clubs in fighting drug abuse, gang recruitment, and moral poverty cannot

be overstated. The clubs across the country are a bulwark for our young people and deserve all the support we can give.

Indeed, Federal efforts are already paying off. Using over $15 million in seed money appropriated for fiscal year 1996, the Boys and Girls Clubs of America opened 208 new clubs in 1996. These clubs are providing positive places of hope, safety, learning, and encouragement for about 180,000 more kids today than in 1995. In my state of Utah, these funds have helped keep an additional 6,573 kids away from gangs, drugs, and crime.

The $20 million appropriated for fiscal year 1997 is expected to result in another 200 clubs and 200,000 more kids involved in clubs. We need now to redouble our efforts. The legislation we introduce today demonstrates our commitment to do that. I urge my colleagues to support it.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 477. A bill to amend the Antiquities Act to require an Act of Congress and the consultation with the Governor and State legislature prior to the establishment by the President of national monuments in excess of 5,000 acres; to the Committee on Energy and Natural Resources.

THE NATIONAL MONUMENT FAIRNESS ACT OF 1997

Mr. HATCH. Mr. President, along with my colleague, Senator BENNETT, I am pleased to introduce the National Monument Fairness Act of 1997. This act will promote procedural fairness in the creation of national monuments on Federal and State lands under the Antiquities Act of 1906 and further congressional efforts in the area of environmental protection. Identical legislation is being introduced today in the House of Representatives by Congressman JIM HANSEN with the support of Congressmen MERRILL COOK and CHRISTOPHER CANNON.

As my colleagues know, on September 18, 1996, President Clinton invoked the Antiquities Act of 1906 to create the Grand Staircase/Escalante Canyons National Monument. The 1.7 million acre monument, larger in size than the States of Rhode Island and Delaware combined, locks up more than 200,000 acres of State lands, along with vast energy reserves located beneath the surface.

Like the attack on Pearl Harbor, this massive proclamation came completely without notice to the public. Although State officials and members of the Utah congressional delegation were told that the Administration would consult us prior to making any change in the status of these lands, the President's announcement came as a complete surprise. The biggest Presidential land set-aside in almost 20 years was a sneak attack.

Without any notification, let alone consultation or negotiation, with our Governor or State officials in Utah, the President set aside this acreage as a national monument by the stroke of his pen. Let me emphasize this point. There was no consultation, no hearings, no town meetings, no TV or radio discussion shows, no nothing. No input from Federal managers who work in Utah and manage our public lands. As I Stated last September, in all my 20 years in the U.S. Senate, I have never seen a clearer example of the arrogance of Federal power than the proclamation creating this monument. It continues to be the mother of all land grabs.

We in Utah continue to work with the hand President Clinton has dealt us. That is, we are attempting to recognize and understand the constraints placed upon the future use of the land and resources contained within the monument's boundaries. We are trying to identify the various adverse effects this action will have on the surrounding communities.

Personally, while I would have preferred a monument designation considerably smaller in scope, I could have enthusiastically supported a monument designation for the area covered by the proclamation had I been consulted prior to last September and invited to work with the President on a designation that was tailored to address the many concerns we have heard over the years on this acreage. Two of these concerns involve the 200,000 acres of school trust lands captured within the monument boundary and the locking up of 16 billion tons of recoverable, low-sulfur, clean-burning coal.

Remember, our wilderness bill considered last year proposed designation of approximately one-quarter of this land as wilderness. I wanted to protect most of it; the people of Utah wanted to protect most of it. But, we were not consulted; we were not asked; our opinion was not sought. Rather, in an effort to score political points with a powerful interest group 48 days before a national election, President Clinton unilaterally acted.

In taking this action in this way, the President did it all backwards. Instead of knowing how the decision would be carried out—and knowing the all ramifications of this implementation and the best ways to accommodate them—the President has designated the monument and now expects over the next 3 years to make the designation work. The formal designation ought to come after the discussion period. It is how we do things in this country. Unfortunately, however, the decision is now fait accompli, and we will deal with it as best we can. I hope the President will be there to help our people in rural Utah and our school system as the implementation of the designation order takes place.

The legislation we are introducing today, the National Monument Fairness Act, is designed to correct the problems highlighted by the Clinton Antiquities Act proclamation in Utah. It will do this in two significant ways.

First, the act makes a distinction between national monument proclamations greater in size than 5,000 acres, and those 5,000 acres and less. The President retains his almost unfettered authority under the Antiquities Act over monument designations 5,000 acres and less. Specifically, the Antiquities Act delegates to the President discretion to declare as a national monument that part of Federal land that contains historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest—but only as long as the declared area is confined to the ''smallest area compatible with proper care and management of the objects to be protected.'' The 5,000 acre limitation will give effect to this ''smallest area compatible'' clause, which both the courts and past Presidents have often ignored.

For areas larger than 5,000 acres, the President must consult, through the Secretary of Interior, with the Governor of the State or States affected by the proposed proclamation. This consultation will prevent executive agencies from rolling over local concerns—local concerns that, under the dictates of modern land policy laws such as the Federal Land Policy and Management Act of 1976 [FLPMA] and the National Environmental Policy Act, certainly deserve to be aired.

The National Monument Fairness Act also provides time constraints on the consultation requirement. From the date the Secretary of Interior submits the President's proposal to the appropriate State Governor, the Governor will have 90 days to respond with written comments. Ninety days after receiving the Governor's comments, the Secretary will then submit appropriate documentation, along with the Governor's written comments, to the Congress. If the Governor fails to comment on the proposal, the Secretary will submit it to the Congress after 180 days from the date of the President's proposal. These time constraints assure that the process will be fair. It will prevent State officials from unnecessarily delaying proposed proclamations, but will allow appropriate time for State and localities to voice their concerns through the Governor's comments on the President's actions.

Consequently, the consultation requirement ensures that large monument designations will be made fairly, and in a manner that allows the participation, through their Governor, of the people most directly affected by the proclamation.

Second, the National Monument Fairness Act allows all citizens of the United States to voice their concerns on large designations through Congress. The act provides that after the Secretary has presented the proposal, Congress must pass it into law and send it to the President for his signature before the proposal becomes final and effective. Thus, the Nation, through its elected representatives, will make the decision whether certain

lands will become national monuments. This is the way our democracy ought to operate. Indeed, it furthers the intent of the Framers in the Constitution who anticipated that laws and actions affecting one or more individual States would be placed before the legislature and debated, with a State's representatives and senators able to defend the interests of their State.

Mr. President, the purpose of our legislation is to ensure that a fair and thorough process is followed on any future large-scale monument designations under the authority granted in the Antiquities Act. Since Utah is home to many other areas of significant beauty and grandeur, I am concerned that this President or those within his administration, or a future President or administration, might consider using this authority in the same manner as last September. In other words, it will be ''deja vu all over again.'' We cannot afford to have the entire land area of our state subject to the whims of any President. Many have proposed plans, including myself, for these areas, that have been the subject of considerable public scrutiny and comment. The consensus building process must be allowed to continue without the threat that a Presidential pen will intervene to destroy any progress and goodwill that has been established or that may be underway among the citizens of our State.

I am aware that Interior Secretary Babbitt stated publicly last month that ''there are no plans for any additional executive withdrawals'' during the remaining years of the Clinton administration. That is fine. However, as my colleagues know perfectly well, Secretary Babbitt told me and other members of our congressional delegation last December that there was no final decision to designate the Grand Staircase/Canyons of the Escalante Monument and that we, the congressional delegation, would be consulted prior to any designation. Since then, we have learned from press reports that many decisions leading to the monument announcement had already been made, if not finalized, prior to our meeting with the Secretary.

But, regardless of whether the Clinton administration plans to designate any more monuments, I do not think it is unreasonable to look at the authorities contained in the Antiquities Act—particularly the authority that permits such sweeping and long-lasting changes for individual States and towns without State input and congressional approval. That is the issue.

That is why we are introducing this legislation today. This matter of due process for State and local officials—as well as for small business people, ranchers, school systems, and many others affected by locking up lands—is an issue about which I believe all Senators and Congressmen need to be concerned. While Senators representing the so-called public lands States may need to pay particular attention, if the long arm of the Federal Government can do this to Utah without so much as a day's notice, it can do it to your State as well.

It is time we incorporate some common sense protections for all States into the Antiquities Act. I continue to believe that last September's act was a Federal land grab, and I unwilling to stand by and let it happen again in my State or any other State without a fair and proper airing in the court of public opinion.

Some may ask why this legislation focuses only on proposed areas over 5,000 acres. First, it is not our desire to completely withdraw the authority granted the President in the 1906 act. But, the original act is clear when it States that this authority should be limited to ''the smallest area'' possible. In my mind, this authority should be available for those areas that are small in nature that may require quick or emergency protection for which a monument designation is warranted. That is how I envision this authority being used.

Second, there is already precedence in Federal law for 5,000 acres as the threshold amount for determining certain pending or future Federal action or consequence. For example, the Wilderness Act of 1964 defines wilderness as having ''at least 5,000 acres of land.'' Also, FLPMA authorizes the Secretary to withdraw 5,000 acres or more for up to 20 years ''on his own motion or upon request by a department or agency head.'' And, there is reference to ''roadless areas of 5,000 acres or more'' in that section of FLPMA that authorizes the 15-year Bureau of Land Management wilderness study process.

I am sure that any detractors of this bill will State that had our bill been enacted in the past, some of the Nation's most gorgeous and long lasting monuments would never have been designated as a national monument. I would say two things to this point.

First, our bill will not prevent the establishment of any monument consisting of 5,000 acres or more. The bill simply modifies the process by which proposed monuments of acreage above this amount can be designated. Second, and most importantly, I understand that there are 72 national monuments in the United States. Of that number, only one-third, or 24, have a total acreage figure greater than 5,000 acres. Enactment of our bill will not bring a halt to the ability of Congress—or even the President—to designate national monuments.

In addition, I realize that some of our existing national parks, such as Arches and Canyonlands National Parks in Utah, were originally established as national monuments, only to be designated a park afterward. It is not fair to say that had our bill been in law prior to the designation of these monuments that parks like Arches and Canyonlands or the Grand Canyon National Park would never have been designated. Certainly, any monument proposal consisting of more than 5,000 acres that is proposed by the President where a consensus exists within Congress that such a designation is warranted would be favorably received and acted upon by Congress. And, at least home State senators and representatives have a voice. In many cases, it is likely that they would pursue a designation of these areas prior to the President exercising his authority under the Antiquities Act.

But, let's not lose focus of the purposes of this bill. We simply want to ensure that a public process is undertaken prior to any large monument designation under the Antiquities Act. As I stated earlier, we conduct such a process whenever a similar proposal is introduced in Congress; why can't Congress insist that it be done when the President desires to achieve the same purpose?

I mentioned that we are in the process of recognizing and understanding the constraints this proclamation will place on the economic and social aspects of the surrounding communities. When an area the size of the Grand Staircase-Escalante Canyons National Monument is withdrawn from public use and given a special designation, there are many ramifications that need to be addressed, the burden of which falls primarily on the shoulders of the local community. These include the following items:

First, county land-use plans will have to be studied and amended to address necessary changes relating to the new monument.

Second, consideration of the transportation improvements required to improve the existing inadequate transportation system to access the new monument for visitors to the area.

Third, increased visitation to the area will place greater burden on services provided by local government, such as law enforcement, fire, emergency, search-and-rescue, and solid waste collection.

Fourth, increased visitation to the area will place greater burden on the proper disposition of limited natural resources, such as water, both for culinary and irrigation purposes.

These are just a few items that are currently being discussed and reviewed by local leaders in the area of the new national monument. These are not trivial matters; they are critical to continuing the livelihood of the cities and towns in the area. So, no one should think that creating a new monument of this size, as endearing a concept as that is, does not create significant matters that must be addressed.

Of course, the other consequence the creation of this monument has created which continues to be of utmost concern to me is the final disposition of the State school trust lands captured within the monument's boundaries. The inability to access the natural resources contained on these lands will

have a devastating impact on providing crucial funds to Utah's public school educational system. The Utah Congress of Parents and Teachers has indicated that ''the income from the mineral resources within the Monument could have made a significant difference in the funding of Utah schools now and for many generations to come.'' It remains to be seen the manner in which the President will fulfill the promises he made to the children of Utah last September when he created the new monument. Specifically, he said ''creating this national monument should not and will not come at the expense of Utah's children.'' He also added that it is his desire to ''both protect the natural heritage of Utah's children and ensure them a quality educational heritage.'' I am eager to work with him to fulfill these promises.

I mention these items to simply paint a picture for my colleagues that there are many pieces to the monument puzzle that remain to be resolved. The President can come to town—or 75 miles to the south in another State—and designate a monument, but Utahns are left to pick up the pieces of his action to make sure that it works—and that it works properly. That is what I want, and I am sure that is what the President wants.

Finally, Mr. President, I must point out that the adoption of this act will likely result in more stringent environmental protection of Federal lands. The most ironic fact of the administration's monument designation in Utah is that national monuments permit a greater level of activity than does a wilderness designation. Last year, the Utah delegation proposed that 2.1 million acres of land on and around the Grand Staircase/Escalante Canyons area be declared wilderness, under the language of the Wilderness Act of 1964. The wilderness designation is far more stringent than the administration's monument designation and prevents the construction of the roads and visitors centers envisioned under the monument designation. The Utah proposal of the 104th Congress included more area than BLM had officially recommended to Congress following its 13-year inventory of the lands in Southern Utah. This is yet another compelling reason why it is vital for local and State officials to be consulted prior to national monument declarations.

Mr. President, the Antiquities Act is antiquated. It needs to be updated. It can be amended in a manner consistent with today's pressing land policy concerns without destroying the original intent behind the act. That is what we have proposed in this legislation and why I urge passage of the National Monument Fairness Act of 1997. This bill will preserve the President's ability to act to protect lands of historic and scientific significance that are threatened with development. However, the act will promote greater environmental stewardship by forcing the executive branch to consider the views of local and State officials prior to making large-scale changes in land designation and management.

Finally, the requirement that massive monument proposals be passed through the Congress, under the strictures of article I of the Constitution, will ensure that all Americans have a say in land policy decisions that fundamentally change the Nation. And, this, Mr. President, may be the most compelling reason of all to enact this measure.

I invite Senators to join me in support of this legislation and ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 477

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

section 1. short title.

This act may be cited as the ''National Monument Fairness Act of 1997.''

sec. 2. consultation with the governor and state legislature.

Section 2 of the Act of June 8, 1906, commonly referred to as the ''Antiquities Act'' (34 Stat. 225; 16 U.S.C. 432) is amended by adding the following at the end thereof: ''A proclamation under this section issued by the President to declare any area in excess of 5,000 acres to be a national monument shall not be final and effective unless and until the Secretary of the Interior submits the Presidential proclamation to Congress as a proposal and the proposal is passed as a law pursuant to the procedures set forth in Article 1 of the United States Constitution. Prior to the submission of the proposed proclamation to Congress, the Secretary of the Interior shall consult with and obtain the written comments of the Governor of the State in which the area is located. The Governor shall have 90 days to respond to the consultation concerning the area's proposed monument status. The proposed proclamation shall be submitted to Congress 90 days after receipt of the Governor's written comments or 180 days from the date of the consultation if no comments were received.''.

By Mr. GRASSLEY (for himself, Mr. MURKOWSKI, Mr. TORRICELLI, Ms. LANDRIEU, Mr. CRAIG, Mr. KERREY, Mr. HAGEL, Mr. BAUCUS, Mr. LOTT, Mr. BREAUX, Mr. NICKLES and Mr. HUTCHINSON):

S. 479. A bill to amend the Internal Revenue Code of 1986 to provide estate tax relief, and for other purposes; to the Committee on Finance.

THE ESTATE TAX RELIEF FOR THE AMERICAN FAMILY ACT

Mr. GRASSLEY. Mr. President, I rise today to introduce a bipartisan effort to relieve the estate tax burden on the American family. I want to thank the other original cosponsors and particularly the Majority Leader. Estate tax relief is on the respective top ten legislative objective lists of both parties. It is my honor to lead the effort for my party. I think that estate tax reform will happen in this Congress. Therefore, I encourage my colleagues to associate themselves with our bipartisan legislation. It doubtlessly will become the focus of the estate tax reform efforts in the Senate efforts. The list of original cosponsors already includes Senators BAUCUS, LOTT, BREAUX, NICKLES, MURKOWSKI, KERREY, HAGEL, TORRICELLI, LANDREIU, and Mr. HUTCHINSON.

I will go about this introductory statement in two steps. First, I am going to discuss the importance of this legislation to my state of Iowa. Then, I will make some remarks about the specific provisions of the bill.

In nearly every area of my state and the nation, we saw in the past decade estate tax ultimately confiscate many family farms. For example, in 1981, the children of two family farmers in Hancock County, Iowa, inherited tracks of land that were debt free. In both of these cases a father was passing the farm to one of his children. The estate was forced to borrow the amount to pay for both the state inheritance tax and the federal estate tax. At the time, the profitability of farming was low, and the value of farm land plummeted. In both cases the estate tax unfortunately brought about the foreclosure of these farms which had been in each family for four generations.

That was sixteen years ago, and the estate tax has hardly improved since then. The general estate tax exemption has risen to $600,000, but that number is over $200,000 behind the rate of inflation. The important thing to keep in mind about estate tax reform is that estates do not pay taxes, surviving families pay taxes. This bill is simply about fairness and equity for families. Furthermore, it is about correcting latent defects in the estate tax rules that make tax lawyers rich, but also make families crazy.

Reform in this legislation comes in three major parts. First, we increase the broad based estate tax exemption from $600,000 to $1,000,000 over a period of six years. Second, we grant family owned businesses relief similar to what was introduced by former Senators Dole and Pryor. For businesses passed down among the family, this bill provides a complete exemption for the first $1,500,000 of family business assets. It also provides an additional 50 percent exemption on the next $8,500,000. Thus, there is a $10,000,000 cap on our family-owned business relief. This provision is therefore a smaller provision than the original Dole/Pryor legislation.

Finally there is a section that I call repair and maintenance. Here we improve some popular existing provisions. For example, housekeeping and improvement is done to special use valuation. The Government financed estate tax deferral provision is improved. A generation skipping tax equity problem is fixed that has already been passed twice but vetoed for unrelated reasons. Finally, an IRS gift tax audit statute of limitations problem for families is fixed.

Because it is especially complicated, I want to discuss the generation skipping transfer tax problem that is addressed in the repair and maintenance section of this bill. For reference purposes, this legislation was known as bill number S. 1170 in the 104th Congress. It too was passed on the Balanced Budget Act of 1995 which was subsequently vetoed.

The GST tax is an extra tax that families pay when a grandparent makes a gift to a grandchild. The provision in our bill has the support of over 200 charities in the Nation including the public universities in my State of Iowa. It has passed twice in the last 10 years, but was not enacted because the greater legislation was vetoed for unrelated reasons.

Our provision expands the current law predeceased parent exception. This is an exception to the GST tax where a grandparent gifts to a grandchild but the grandchild's parent has already died. The grandchild steps up into the place of the parent. In our bill, this exception is broadened to include gifts not only to grandchildren with predeceased parents but also grandnieces and grandnephews. The expansion to include these gifts that are affected by trusts is necessary to promote charitable giving and also protect families. The White House supported this provision during the debate of the Balanced Budget Act of 1995, given the prospective effective date as in our bill.

Humility requires me to admit that each of these provisions passed as part of the vetoed Balanced Budget Act of 1995. In some places we have made technical improvements suggested by the tax experts, but by and large there is little original thought here. If you have good legislation you don't need to improve upon it.

Some will ask about how this estate tax bill fits into the debate over a balanced budget. The answer is that the balanced budget is still a No. 1 priority and this bill will need to fit in a balanced budget. Since the White House has supported provisions in the President's budget similar to these provisions, we should expect the White House to offer assistance to us in resolving the estate tax problem. If the era of big government is over, then the White House should step up to the plate and aid us in eliminating estate tax theft upon surviving families.

Mr. BAUCUS. Mr. President, I am very pleased to join with Senator GRASSLEY and my other colleagues in introducing the Estate Tax Relief for the American Family Act of 1997 today. This bill is designed to provide farmers, ranchers, and others who own family businesses and much needed relief from the estate tax.

Montana is a small-town, rural State, Mr. President. People run farms, ranches, and work in small businesses. One of the wonderful things about life in rural Montana is the way these operations stay in the family. It holds communities together, and creates a lasting bond between generations.

As I listen to farmers, ranchers and small business owners, one topic comes up every time, and that is the estate and gift tax. I hear about the burden it puts on agricultural producers and small businesses, and about how difficult this tax makes it to hand down an operation to your sons and daughters.

To avoid this tax, an operation today has to be under $600,000 in value. That amount hasn't budged since 1987. Our State, one the other hand, has changed a lot in that time. In 1988, the average Montana farm was worth $579,735. In 1995, that amount was up to $867,769. If we had figures for today, I am confident this amount would be even higher.

So if you're an average fellow, you often have three choices when your farm goes on to the next generation. You can subdivide the land and thus decrease production. You can sell off part of the farm to pay the taxes. Or, you can sell the whole thing and get out of farming altogether. None of these options are good for the family, nor are they necessarily good for the community. Unbridled development brings with it its share of problems, and changes the nature of Montana life—not always for the better. Our farms, ranches and other small businesses are a part of our heritage and valuable contributors to our economy and the Montana way of life. It is simply not right to destroy them with onerous estate taxes.

The Estate Tax Relief for the American Family Act of 1997 is the first step toward bringing the estate tax up to date and making it more fair. Our bill raises the unified credit to cover estates up to $1 million, which is roughly where the cap would be if the credit had kept pace with inflation all these years. We give folks a bit longer to pay off the bill when they do have a tax due, by lengthening the deferral from 10 years to 20. We provide additional exemptions for family-owned small businesses, by allowing them to exclude completely the first $1.5 million in value of their estates, and one-half of the next $8.5 million. We also make a few other common-sense changes to make it easier to keep these business operations in the family.

That's good news for farmers, ranchers and small business owners. It's good for the communities they live in. And more than anything else, it's the right thing to do. So I'm very proud to be a part of this effort today, and I look forward to working with my other colleagues, and with the administration, to get this relief enacted into law this year.

Mr. LOTT. Mr. President, I am delighted to take part in introducing the first bipartisan family tax relief bill of the 105th Congress—the Estate Tax Relief for the American Family Act.

Today, the Government can confiscate up to 55 percent of an estate in tax when a person dies. This tax is a grotesque relic of an earlier era when some people believed it was the Government's job to determine who should be allowed to keep what they earn. They believed it was the Federal Government's job to confiscate the hard-earned dollars of working Americans when they died.

The estate tax is a monster that must be exterminated. If it were up to me, we would simply repeal the estate tax in its entirety. Unfortunately, our budget process does not allow us to completely repeal this tax all at once. We must do it in stages.

Therefore, the bill we are introducing today will increase the amount of every estate that will be exempt from estate tax. When fully phased in, up to $1 million will be automatically excluded from every estate before imposition of the estate tax.

The bill also creates a new category of excludable assets for family-owned businesses that are passed on to succeeding generations. No longer will small business owners be forced to sell part or all of their business assets merely to feed the voracious tax appetite of the Federal Government. Our bill allows an exclusion of $1.5 million of the assets of a family-owned business from the estate tax, and 50 percent of the next $8.5 million. For many small businesses this will make the difference between staying viable and closing their doors. It will preserve jobs, give many communities around the country stability and certainty, and encourage entrepreneurship. It is the right thing to do for our farmers, for our ranchers, for every American who owns a small business that he or she wishes to keep in the family.

These businesses are, after all, the engines of prosperity in communities across America, and we must help them to remain so.

This bill is the first step. The tax on death should be zero, and that is what we will continue to work for.

I want to thank Senator GRASSLEY for his leadership on this bill, and Senator BAUCUS and Senator BREAUX as well for joining in this bipartisan effort to reduce the crushing tax load on all Americans.

Mr. BREAUX. Mr. President, today I join with several of my colleagues to introduce the Estate Tax Relief for the American Family Act of 1997.

Tax policy should meet two criteria. It should provide an effective and efficient way to collect taxes for the operation of our Government and it should encourage positive economic and social policies. This tax does neither. After looking at the current system, I have concluded that Federal estate and gift taxes are not worth the cost to our economy, to businesses and to American families.

In 1995, the estate tax generated $14.8 billion in revenue, only 1.09 percent of total Federal revenues. Conversely, the cost of collecting and enforcing the estate tax to the Government and taxpayers was 65 cents of every dollar collected.

The effects of the estate tax are felt most by family-owned businesses. More than 70 percent of family-owned businesses do not survive the second generation and 87 percent do not survive the third generation. Many families are forced to liquefy their businesses in order to pay the estate tax.

There is a definite need to remedy these problem and this bill takes steps in the right direction. The legislation would increase the estate tax exemption from $600,000 to $1 million, and allow estate tax-free transfers of certain qualified small business assets.

I hope that any tax bill we put forth this year will include estate tax relief based on the principles we have put forth in this bill.

Mr. NICKLES. Mr. President, I have always believed that economic freedom is a critical part of life, liberty, and the pursuit of happiness. Unfortunately, the Internal Revenue Code does not always promote or encourage economic freedom, and one area where this is strikingly clear is the confiscatory, anti-family, anti-growth estate tax.

Most Americans work diligently throughout their lives to provide for their families and give their children and grandchildren a better future. This work often results in the accumulation of assets like homes, businesses, and farms; all acquired with hard work and bought with after-tax dollars. Unfortunately, those without high-paid lawyers and accountants realize too late that up to 55 percent of those assets could be confiscated by the Federal Government upon their death.

Some people mistakenly believe estate taxes only affect the rich, but there are thousands of small businesses and farms throughout the country owned and operated by middle-income Americans that are affected by existing estate tax laws. These small businesses may appear to be economically significant on paper, but often they have little liquid assets to cover estate tax liabilities. Historically, these businesses have created most of the new jobs in this country and fueled the growth of the economy.

The unfortunate result of high estate taxes is that families are frequently forced to sell off part of the family business to pay the taxes incurred by the deceased family member's estate. This liquidation of productive assets to finance tax liabilities is anti-family and anti-business. At the very least, families and businesses are forced to employ an army of expensive experts to avoid the worst estate taxes, a make-work exercise that exacerbates the inefficiency of the system.

Mr. President, I believe it is patently unfair for the Federal Government to assume that it has the right to take an individual's hard-earned assets and redistribute them to others. If our goal as a society and a government is to encourage long-term, private savings and investment we cannot continue the policy of confiscating estates. With an average savings rate in the United States of 2.9 percent, which is lower than that of any other industrialized country, we should be encouraging individuals, families, and businesses to save and invest.

Since 1987, a unified tax credit for gifts and estate transfers has effectively exempted $600,000 worth of assets from estate taxes. This basic exemption has increased modestly over the years, from $60,000 in the 1940's, 1950's and 1960's to $225,000 in 1982. Unfortunately, the current estate exemption of $600,000 has been greatly eroded by inflation.

The legislation I am introducing today with the Senate majority leader, Senator GRASSLEY, Senator BREAUX, Senator BAUCUS, and others addresses the problems associated with the estate tax in a thoughtful, bipartisan manner. It is not the perfect solution to these problems, Mr. President, but it is a good first step. I believe that ultimately we must radically restructure the estate tax by reducing marginal rates, which now exceed 55 percent for estates larger than $3 million, and I believe we must strive to treat all types of family businesses equally. However, I recognize the budget constraints Congress is working under, and I believe it is important to move forward in a bipartisan manner.

The legislation we are introducing today increases the estate tax exemption from $600,000 to $1,000,000, thus allowing more homeowners, farmers, and small businesses to keep their hard-earned wealth. Further, our bill would provide special relief for closely-held family businesses. We would allow estate-tax free transfers of up to $1.5 million in small business assets to qualified family members, and a 50 percent exclusion for up to $8.5 million in assets above that threshold, as long as the heirs continue to operate the business.

The legislation we are introducing today makes simple pro-family, pro-business, and pro-economy changes to our tax code. It will allow more homeowners, farmers, and small businesses to keep their hard-earned wealth. I encourage my colleagues to join us as cosponsors of this bill.

Mr. TORRICELLI. Mr. President, I am proud to include my name as an original cosponsor of the Estate Tax Relief for the American Family Act of 1997, which was introduced today. This is a critical tax reform bill that will modernize our antiquated estate tax policy, provide significantly improved economic security for family businesses, promote efficient and pro-growth economic policy and ensure sound financial practices for millions of American working families.

This legislation gradually increases over 6 years the estate and gift tax exemption from the current limit of $600,000 to $1 million. The graduated time schedule would increase the exemption by $100,000 in each of the first 2 years following enactment and $50,000 in each of the next 4 years.

For families with their own small business, the bill would provide a new small business exemption of $1.5 million of business-related assets above the first $1 million in an estate as well as 50 percent of the next $8.5 million of such assets. This proposal would provide new safeguards for family business solvency that is not currently provided under current law.

These changes are desperately needed as our current estate tax policy has not been upgraded in a decade. Even worst, the current policy has proven to be a economic failure. Estate and gift taxes are one of the smallest sources of revenue, collecting only $10 to $15 billion per year, mostly because Americans have found legal means of avoiding the tax. Indeed, Prof. Douglas Bernheim of Stanford University has theorized that more income tax revenue may be lost through clever estate planning than is actually collected through the estate tax.

Even worse, the current policy encourages Americans to spend capital on consumption items rather than save because saving their money would increase the value of their estate and, ultimately, their estate tax liability. Indeed, it has been estimated that the tax cost of a dollar saved increases by an amount somewhere between 7.4 cents and 55 cents because of current estate tax law.

And for small business, the current policy is devastating. The family-owned pizza parlor, dry cleaning store, grocery and family farm are failing to provide the kind of generational economic continuity that national policy should be encouraging. Indeed, more than 70 percent of family businesses don't survive the second generation and almost 90 percent don't survive to a third generation. Most of these failures occur because current estate tax policy drains a family's financial ability to keep a business afloat as it passes from one generation to the next.

The existing estate tax policy creates economic inefficiencies and places its heaviest burdens on the middle class. The rates of estate taxes are excessive, unfair, punitive, and contrary to the interests of both business owners and their employees. Indeed, these taxes destroy the work of a lifetime and the dreams of a generation of Americans. The time to make genuine and sensible changes is now.

Enactment of the Estate Tax Relief for the American Family Act of 1997 is an essential part of any plan to balance the budget by 2002. It would likely provide a net increase in revenues while at the same time restore tax fairness for millions of Americans. I am proud to be an original cosponsor of this legislation and will be a tireless advocate for its enactment into law.

By Mr. WELLSTONE:

S. 480. A bill to repeal the restrictions on welfare and public benefits for aliens; to the Committee on Finance.

THE FAIRNESS TO IMMIGRANTS ACT

• Mr. WELLSTONE. Mr. President, on April 1, the Nation will begin to see the disastrous effects of the Personal Responsibility and Work Act of 1996, passed and signed into law in the 104th Congress. When Congress debated the bill, strong arguments were made for getting people off welfare and back to work. I supported those intents. However, I believed then as I do now that the bill we were debating went beyond what is humanly justifiable in terms of repealing basic assistance to people who are in need. This bill was not about able bodied people working. It was about good people suffering. Under the guise of able bodied people working, we are forcing disabled and elderly people into hunger, into homelessness.

Beginning around April 1, roughly 500,000 legal immigrants will lose their SSI benefits and about 1 million will lose food stamps. By the year 2002, approximately, 260,000 elderly immigrants and 140,000 children will lose Medicaid coverage.

The bill I am introducing today restores those benefits to elderly and disabled immigrants by repealing provisions of the Personal Responsibility Act of 1996.

When the American people supported welfare reform, they supported that able bodied people would work. I want that. You want that. However, I do not think that the American people intended the ensuing consequences.

These consequences are people like Yanira, who, with her husband came to the United States legally 20 years ago from her native El Salvador. For 20 years they raised three children. For 20 years, they paid income taxes. For 20 years, they paid sales taxes. For 20 years they paid State taxes. For 20 years, they paid their car registration. For 20 years, they abided by the laws and rules here.

Then Yanira's husband divorced her. So, Yanira got a job. For about 8 years she cleaned toilets, washed floors and laundered towels in a hotel near her home. Eventually, the work became too demanding physically and she quit. At 64, Yanira has received SSI for a few years. Soon, she will not.

Since her husband is no longer married to her, she is not entitled to count her husband's work history toward the required 40 quarters—10 years. In spite of the fact that we willingly took her taxes and other fiscal contributions, we are denying her the basics for human survival, human dignity. How will Yanira survive? She doesn't know. Neither do I.

Yanira's situation is not isolated. There are Yaniras living in Minnesota, in Ohio, in New York and Mississippi. They are here legally but will not receive SSI until they become U.S. citizens. Many of them are elderly and cannot work and considering their age, learn all that is necessary to become citizens. They will be denied benefits for the rest of their lives.

Gladys has lived in the United States for 40 years, working as a nanny—caring for children in our Nation. Though she paid taxes and followed all the rules of the United States, she will lose her SSI benefits in July. She does have the option of struggling through forms and tests to become a citizen. Sounds like a good option until you realize: Gladys is 105 years old, blind and housebound. Gladys spent a good share of her times caring for and nurturing our children. She now needs the same.

Lucrecia has lived here for 17 years. For 8 of them, she labored in a factory, assembling artificial Christmas trees. At 75, facing the loss of her sole means of support, Lucrecia is desperate.

Rose, a 92-year-old, came from Lebanon 76 years ago. She has lived in a nursing home for the past 30 years. She has dementia. In December, she received a letter from the Government. The letter said, in essence, Rose had been shirking her responsibilities and she will no longer receive her benefits that support her stay in a nursing home. She can't speak for herself. I think we should speak for her. We should send the message that this is unacceptable. We must not let this happen to Rose.

During my many visits with communities in Minnesota and while talking with folks here, I have never seen more fear in the faces of so many people, so many good people, people who came to this country and followed the rules. I hear stories every day of people so full of fear that they take their own lives.

The Personal Responsibility and Work Opportunity and Reconciliation Act has abjured the contributions the legal immigrants like Yanira have made to our economic livelihood. I ask, How will their contributions be rewarded? Taxation without benefits is morally wrong.

Last year, we discussed and debated the merits and failings of the welfare reform law. As you know, I voted against it. I did not vote against it because I am against people working, people contributing to our country. I did not vote against it because I am against paychecks replacing welfare checks. I voted against it because I am against pushing the unemployable into poverty. I am talking about benefits for the disabled and elderly immigrants in our country. On April 1, we will see the first trickle in the torrent of suffering that this bill will inflict on our Nation's most vulnerable.

Around this time last year, we heard testimony from Robert Rector of the Heritage Foundation that "welfare is becoming a way of life for elderly immigrants." A picture was painted depicting newly arrived immigrants being picked up by a sponsor at the airport and driven in a Cadillac directly to the welfare office to sign up for benefits such as SSI and food stamps. While I will not argue with you that there has been some abuse, I think this assertion is absurd.

Last year, Robert Rector also testified that "the presence of large numbers of elderly immigrants on welfare is a violation of the spirit, arguably, the letter, of U.S. immigration law." I beg to differ. This country was based on the dignity of the human spirit, fairness and equity. The spirit of this country is to give voice to the voiceless, to care for the elderly and to nurture the children.

When we talk about reform, we should focus on change for the better, improvements to the system, revisions on our mistakes. When we talk of reform, we should not be discussing more people in hunger, more people who are homeless, more people in poverty. That is what this "reform" has led to.

People who supported the welfare reform bill said they "responded to the wishes of the American people and put an end to the widespread use and abuse of our welfare system." I am asking you now to respond to the voice of the American people. A recent nationwide L.A. Times poll found that 56 percent of the American people favor restoring cuts to legal immigrants. Not too long ago, several Republican Governors were here. They are already anticipating the effects of this legislation. The American people do not want people like Gladys and Lucrecia left hungry and homeless. They want responsible, ethical government.

Responsible, ethical government costs money. I know that. I propose that instead of taking food from our Nation's elderly and children, we tax oil companies, we tax tobacco companies, we tax pharmaceutical companies. Why should wealthy corporations flourish and benefit from our policies while hardworking, law abiding people go hungry? This is not reform. This is a sham. Furthermore, it is shameful.

People like Gladys and Lucrecia don't have high-paid lobbyists. Privileged industries avoid paying their fair share of taxes because of the efforts of lobbyists. I propose that we take away the privileges of the wealthy and provide necessities for the poor.

Today, I am imploring you to look beyond politics and look beyond polls and see the faces and hear the stories that this reform will portend. This is no longer a political issue. This is an issue concerning humanity. To disregard this population, to turn our backs on those who are so vulnerable is disgraceful and dishonorable. Tonight, you know where you are sleeping. Tonight, you know what you will eat. Soon, Gladys and Lucrecia will not be able to say the same.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 480

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL.

(a) IN GENERAL.—Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193;

110 Stat. 2260–2277), as amended by title V of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–1772–3009–1803), is repealed.

(b) NOTICE AND REDETERMINATION.—Not later than 30 days after the date of enactment of this Act, any Federal or State official responsible for the administration of a Federally funded program that provides benefits or assistance to an individual who, as of such date, has been determined to be ineligible for such program as a result of the provisions of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2260–2277) (as so amended), shall—

(1) notify the individual that the individual's eligibility for such program shall be redetermined; and

(2) shall conduct such redetermination in a timely manner.●

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. THURMOND, the name of the Senator from Wyoming [Mr. ENZI] was added as a cosponsor of S. 28, a bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes.

S. 66

At the request of Mr. HATCH, the names of the Senator from Nebraska [Mr. HAGEL], and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 66, a bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes.

S. 72

At the request of Mr. KYL, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 72, a bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gain rates for all taxpayers, and for other purposes.

S. 75

At the request of Mr. KYL, the names of the Senator from Missouri [Mr. ASHCROFT], the Senator from Idaho [Mr. CRAIG], the Senator from Ohio [Mr. DEWINE], the Senator from Wyoming [Mr. ENZI], the Senator from Utah [Mr. HATCH], the Senator from Oregon [Mr. SMITH], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of S. 75, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 114

At the request of Mr. INOUYE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 114, a bill to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 219

At the request of Mr. DASCHLE, the names of the Senator from South Dakota [Mr. JOHNSON], the Senator from North Dakota [Mr. CONRAD], and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 219, a bill to amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for value-added agricultural products of the United States.

S. 239

At the request of Mr. DASCHLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 239, a bill to amend the Internal Revenue Code of 1986 relating to the treatment of livestock sold on account of weather-related conditions.

S. 295

At the request of Mr. JEFFORDS, the names of the Senator from Colorado [Mr. ALLARD], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 295, a bill to amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes.

S. 306

At the request of Mr. FORD, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 306, a bill to amend the Internal Revenue Code of 1986 to provide a decrease in the maximum rate of tax on capital gains which is based on the length of time the taxpayer held the capital asset.

S. 314

At the request of Mr. THOMAS, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 314, a bill to require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes.

S. 388

At the request of Mr. LUGAR, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 388, a bill to amend the Food Stamp Act of 1977 to assist States in implementing a program to prevent prisoners from receiving food stamps.

S. 400

At the request of Mr. GRASSLEY, the names of the Senator from Michigan [Mr. ABRAHAM] and the Senator from Arkansas [Mr. HUTCHINSON] were added as cosponsors of S. 400, a bill to amend rule 11 of the Federal Rules of Civil Procedure, relating to representations in court and sanctions for violating such rule, and for other purposes.

S. 413

At the request of Mrs. HUTCHISON, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 413, a bill to amend the Food Stamp Act of 1977 to require States to verify that prisoners are not receiving food stamps.

S. 440

At the request of Mr. FEINGOLD, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 440, a bill to deauthorize the Animas-La Plata Federal reclamation project and to direct the Secretary of the Interior to enter into negotiations to satisfy, in a manner consistent with all Federal laws, the water rights interests of the Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe.

S. 447

At the request of Mr. NICKLES, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 447, a bill to amend title 18, United States Code, to give further assurance to the right of victims of crime to attend and observe the trials of those accused of the crime, and for other purposes.

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 447, supra.

S. 456

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 456, a bill to establish a partnership to rebuild and modernize America's school facilities.

SENATE JOINT RESOLUTION 19

At the request of Mr. HELMS, the names of the Senator from Arkansas [Mr. HUTCHINSON] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 19, a joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997.

SENATE JOINT RESOLUTION 20

At the request of Mr. HELMS, the names of the Senator from Arkansas [Mr. HUTCHINSON] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 20, a joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997.

SENATE JOINT RESOLUTION 21

At the request of Mr. COVERDELL, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of Senate Joint Resolution 21, a joint resolution to disaprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding assistance for Mexico during fiscal year 1997, and to provide for the termination of the withholding of and opposition to assistance that results from the disapproval.

At the request of Mr. HELMS, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 21, supra.

SENATE CONCURRENT RESOLUTION 11

At the request of Mr. GREGG, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Nevada [Mr. REID], the Senator from North Dakota [Mr. DORGAN], and the Senator from Nebraska [Mr. HAGEL] were added as cosponsors of Senate Concurrent

Resolution 11, a concurrent resolution recognizing the 25th anniversary of the establishment of the first nutrition program for the elderly under the Older Americans Act of 1965.

SENATE CONCURRENT RESOLUTION 13—REGARDING A DISPLAY OF THE TEN COMMANDMENTS

Mr. SESSIONS (for himself and Mr. SHELBY) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 13

Whereas Judge Roy S. Moore, a lifelong resident of Etowah County, Alabama, graduate of the United States Military Academy with distinguished service to his country in Vietnam, and graduate of the University of Alabama School of Law, has served his country and his community with uncommon distinction;

Whereas another circuit judge in Alabama, has ordered Judge Moore to remove a copy of the Ten Commandments posted in his courtroom and the Alabama Supreme Court has granted a stay to review the matter;

Whereas the Ten Commandments have had a significant impact on the development of the fundamental legal principles of Western Civilization; and

Whereas the Ten Commandments set forth a code of moral conduct, observance of which is universally acknowledged to promote respect for our system of laws and the good of society: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the Ten Commandments are a declaration of fundamental principles that are the cornerstones of a fair and just society; and

(2) the public display, including display in government offices and courthouses, of the Ten Commandments should be permitted.

Mr. SESSIONS. Mr. President, I rise to send a resolution to the desk on behalf of myself and my home state colleague Senator SHELBY.

Mr. President, this concurrent resolution we are introducing today expresses the sense of the Congress that the display of the Ten Commandments in government offices and courthouses should be permitted. This resolution is identical to House Concurrent Resolution 31, sponsored by my good friend, Representative ADERHOLT, which passed the House of Representatives on March 5, 295 to 125.

The Constitution guarantees freedom of religion. This resolution does not endorse any one religion but, rather, states that a religious symbol which has deep-rooted significance for our Nation and its history should not be excluded from public display.

Mr. President, the Founders wisely realized that in a free society, it is imperative that individuals practice forbearance, respect, and temperance. These are the very values taught by all the world's major religions. The Founders devised a Constitution that depended on religion serving as a civilizing force in societal life. John Adams, our second President, and one of the intellectual forces behind the formation of our Nation, said that ''our Constitution was designed for a moral and religious people only. It is wholly inadequate to any other.''

But strangely today, there are those who seem determined to drive all trace of religion from the public sphere. They ignore the religious traditions on which this great Nation was founded and work to drive religion and religious people out of public life.

Many of my colleagues are aware Judge Roy Moore, circuit court judge in Gadsden, AL, has been ordered to take down a two-plaque replica of the Ten Commandments displayed in his courtroom.

The irrationality of the action is highlighted by the fact that the judge's display is consistent with other displays involving religious symbols and art in our public property. In fact, a door to the U.S. Supreme Court bears two tablets numbered one to ten, which we interpret to represent the Ten Commandments. And yet a judge in a small Alabama town cannot hang a simple display of the Ten Commandments on the wall without being sued?

Mr. President, this resolution is not just about Judge Moore and it is not just about the display of the Ten Commandments in Gadsden, AL. This resolution provides a good opportunity to discuss this curious governmental hostility towards the display of these plaques that are important to our law, our Nation, and our culture.

The Ten Commandments represent a key part of the foundation of western civilization of our legal system in America. To exclude a display of the Ten Commandments because it suggests an establishment of religion is not consistent with our national history, let alone common sense itself. This Nation was founded on religious traditions that are an integral part of the fabric of American cultural, political, and societal life.

Mr. President, it is time for common sense. No member of this body, on either side of the aisle, should oppose the simple display of documents that are important to our law, to our Nation, and to our culture.

Mr. SHELBY. Mr. President, I rise today to express support for Judge Roy S. Moore. Judge Moore is a judge on the circuit court of the State of Alabama. Judge Moore is a lifelong resident of Etowah County, a graduate of the United States Military Academy, a distinguished veteran of the Vietnam War, and a graduate of the University of Alabama School of Law. Judge Moore has always and continues to serve his community, Alabama, and this country with distinction and principle.

It is because of his principles that Judge Moore has become an issue. Two years ago, Judge Moore was sued by the Alabama chapter of the American Civil Liberties Union because he opened his court with a prayer and because he displayed the Ten Commandments over his bench. A lower court judge enjoined Judge Moore from praying before court sessions and later barred his display of the Ten Commandments. The Supreme Court of Alabama has since issued a stay of the order barring display of the Ten Commandments.

Judge Moore has refused to acknowledge the orders which stop him from praying and displaying the Ten Commandments. I support Judge Moore in his actions. I do not believe that his convocation prayer or the presence of the Ten Commandments in the courtroom violates the Constitution.

As the Members of this body well know, a prayer, said from the floor of this Chamber, begins every day in which the Senate is in session. This practice is also followed in the House of Representatives. Furthermore, the Marshal of the Supreme Court, in calling each session to order, implores ''God {to} save the United States and this honorable court.'' It has also become a tradition for Presidents to conclude their State of the Union Addresses with the simple prayer, ''God Bless America.'' I believe these are just a few of the many instances where the Lord is invoked during civil ceremonies and occasions. I believe that these examples are entirely appropriate and in line with the provisions of the Constitution. I feel that our history teaches that the Founding Fathers were against government making efforts to promote specific religions at the expense of others. I do not think it was ever the view of the Founders that the government should adopt a position of Godless neutrality. It is constitutional, it is traditionally appropriate and it is just simply right for our leaders to request the assistance of God in their daily deliberations.

I believe that Judge Moore is also correct in refusing to remove the Ten Commandments from his courtroom. The Judge's display is consistent with other displays involving religious symbols and art in or on public property. In fact, a door to the Supreme Court of the United States bears two tablets numbered one to ten, which I interpret to represent the Ten Commandments. Moreover, there are friezes within the Supreme Court which depict Moses, King Solomon, Confucius, Mohammed, St. Louis and a figure called ''Divine Inspiration.'' I believe that these symbolic representations, just like Judge Moore's, are appropriately placed within our public spaces. Their very presence provides guidance and inspiration for our Nation's leaders.

AMENDMENTS SUBMITTED

DECENNIAL CENSUS CONCURRENT RESOLUTION

ABRAHAM AMENDMENT NO. 24

(Ordered referred to the Committee on Governmental Affairs.)

Mr. ABRAHAM submitted an amendment intended to be proposed by him

to the concurrent resolution (S. Con. Res. 12) expressing the sense of the Congress with respect to the collection on data on ancestry in the decennial census; as follows:

In the preamble, in the fifth clause, insert '', but is not intended to be used for racial preference programs'' before the colon.

Mr. ABRAHAM. Mr. President, I rise today to offer my support as a co-sponsor to S. Con. Res 12. This resolution expresses the sense of the Congress that the decennial census should collect data on the ancestral backgrounds of all Americans. Ours is a nation of immigrants, of people with many different ethnic origins and backgrounds. People came here from around the world to become a part of a nation of opportunity and freedom. They did not come here to forget who they are and where they came from.

The Census Bureau has collected information on ancestry and ethnic composition in the past two decennial censuses. Thus, it collects the only complete information on the ethnic makeup of the United States and provides very useful data pertaining to numbers, household income, and educational status of Americans from numerous backgrounds. This data, in turn, is used by a wide variety of people and organizations in both the public and the private sector—including researchers, businesses, community organizations, ethnic institutions, and policymakers.

It is important to note that the ancestry data does not relate in any way to questions of race as defined by civil rights statutes, and therefore is not utilized for preference programs. To make this point crystal clear, I have offered an amendment to S. Con. Res. 12 stating that this data is not intended to be used for racial preference programs.

When the Census Bureau approaches Congress for approval of its recommendations for the 2000 Census, I and my colleagues who co-sponsored this resolution hope that the ancestry question will be included in the recommendations and contained on the long form the Census Bureau asks Americans to fill out.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on March 19, 1997, at 2 p.m. on PROCODE (S. 377).

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

COMMITTEE ON FINANCE

Mr. NICKLES. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, March 19, 1997, beginning at 10 a.m. in room 215 Dirksen.

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

COMMITTEE ON THE JUDICIARY

The Senate Committee on the Judiciary would request unanimous consent to hold a hearing on Wednesday, March 19, 1997, at 2 p.m. in room 226 of the Senate Dirksen Building, on ''What Works: The Efforts of Private Individuals, Community Organizations, and Religious Groups to Prevent Juvenile Crime.''

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Food and Drug Administration reform, during the session of the Senate on Wednesday, March 19, 1997, at 9:30 a.m.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. NICKLES. The Committee on Veterans' Affairs would like to request unanimous consent to hold a joint hearing with the House Committee on Veterans' Affairs to receive the legislative presentation of the Disabled American Veterans. The hearing will be held on March 19, 1997, at 9:30 a.m., in room 345 of the Cannon House Office Building.

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

SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY

Mr. NICKLES. Mr. President, I ask unanimous consent that the Subcommittee on Acquisition and Technology of the Committee on Armed Services be authorized to meet at 10 a.m. on Wednesday, March 19, 1997, in open session, to review the status of acquisition reform in the Department of Defense.

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

SUBCOMMITTEE ON COMMUNICATIONS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on March 19, 1997, at 9:30 a.m. on universal service.

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

SUBCOMMITTEE ON READINESS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet on Wednesday, March 19, 1997, at 2 p.m. in open session, to receive testimony on the President's budget request for the operation and maintenance, spare parts, and ammunition accounts for fiscal year 1998.

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

SUBCOMMITTEE ON SEAPOWER

Mr. NICKLES. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet at 2 p.m. on Wednesday, March 19, 1997, in open session, to receive testimony in review of the Defense authorization request for fiscal year 1998 and the future years defense program.

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

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. NICKLES. Mr. President. I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be granted permission to conduct a hearing Wednesday, March 19, 9:30 a.m., hearing room (SD–406), on the Intermodal Surface Transportation Efficiency Act [ISTEA] and environmental programs and statewide and metropolitan planning.

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

ADDITIONAL STATEMENTS

FAMILY HERITAGE PRESERVATION ACT OF 1997

• Mr. BURNS. Mr. President, as a cosponsor of S. 75, the Family Heritage Preservation Act, I urge my colleagues to support the immediate passage of this measure before more family businesses and farms are lost.

They say the only things that are certain in life are death and taxes. The Government has done a perverse job of combining the two in the Federal estate and gift taxes and the tax on generation-skipping transfers, known as the death taxes. These are the taxes assessed on assets passed from one generation to another, such as family businesses, ranches, and farms. The tax rate starts at 37 percent and quickly rises to a whopping 55 percent, often forcing the liquidation of assets just to pay the tax.

S. 75, introduced by Senator KYL, will repeal the death taxes. It is clear that these taxes do more harm than good, raising only 1 percent of Federal revenues but consuming 8 percent of annual savings. What's more, enforcement and compliance with these taxes takes up 65 cents for each dollar collected. The effects of the taxes on the economy are equally stark: Over an 8-year period without the taxes, the gross domestic product would have been $80 billion higher and 228,000 more jobs would have been created.

These death taxes punish hard work and wealth accumulation and drive many family businesses into the ground by forcing them to sell assets to pay the tax. Family farms are hit especially hard—over 90 percent of farms and ranches are sole proprietorships or family partnerships, subjecting most to the taxes when ownership is transferred.

I want to note that S. 75 is endorsed by a broad range of small business groups as well as the American Farm Bureau Federation. I thank Senator KYL for his leadership on this issue.•

JUDGE FRED J. BORCHARD

• Mr. LEVIN. Mr. President, I rise today to pay tribute to one of the iron men of our judicial system, Judge Fred J. Borchard, who has served the State of Michigan for over 50 years. Judge Borchard's tenure marks the longest term of service of any Michigan judge in history.

Judge Borchard put himself through the University of Michigan and its law school by working various full time jobs. His law practice was postponed while he served his country as a forward gun observer in the Pacific theater during World War II. In 1947, he was elected municipal judge and in 1954, he was elected Probate Judge.

In 1958, Gov. G. Mennen Williams appointed Judge Borchard to the Saginaw circuit bench, where he served until his retirement in 1989. Since then, he has continued to serve Michigan by filling in for judges away on vacations and conferences.

Judge Borchard's love of law has kept him fully engaged during his long service on the bench. His court was known for its courteous and efficient atmosphere where citizens could settle their disputes. He wholeheartedly believes in the ability of our legal system to make a positive difference in our lives. It is these traits that have made Judge Borchard a favorite among his colleagues, constituents and contemporaries. Judge Borchard has been a leader in his community as well. He has served in the University of Michigan Club, Germania of Saginaw, and the Kiwanis Club of Saginaw. He has served on the Board of Directors of both St. Luke's Hospital and the Saginaw County Chamber of Commerce. He has also shown his commitment to serving others through the work he has done with his church.

Judge Borchard was married to the late Helen Fay Honeywell for almost 50 years, and they had four children Fred, Barb, Jim, and Sara. They have carried on Judge Borchard's ideals of service to the public in their own lives. Judge Borchard has been married to Dorothy Denton for the past 5 years.

I know my Senate colleagues will join me in honoring Judge Fred J. Borchard for his 50 historic years of service to the State of Michigan's judicial system.•

GREEK INDEPENDENCE DAY

• Ms. SNOWE. Mr. President, March 25, 1997, marks a special day for the Greek people and for all the friends of Greece around the world. It is the 176th anniversary of the day in 1821 when the people of Greece declared their independence from centuries of political, religious and cultural repression under the Ottoman Empire. Greek independence was recognized 8 years later only after a long, hard-fought struggle during which the people of Greece made countless sacrifices for their freedom.

Contemporary American leaders, such as James Monroe and Daniel Webster, recognized that the ideals of the American Revolution—individual liberty, representative democracy, and personal dignity—were also the foundation for Greece's declaration of independence. Americans in the 1820's quickly identified with the struggle of the Greek patriots because they knew in their hearts that it was a continuation of their own struggle for political and religious freedom. The same spirit of democracy that was born and flourished in Greece a thousand years ago, and which fanned the flames of the American revolution, inspired the Greek patriots to persevere in their struggle against their Turkish oppressors.

The United States and Greece are now old friends and trusted allies. Our two nations and people are bound by unbreakable bonds which link us through common interests, values, and political heritage. It is clear that our cherished ideals of democracy and freedom are as strong as ever and continue to inspire other countries to follow our example. One need look no further than to the fledgling democracies of Eastern Europe and the New Independent States of the former Soviet Union to see the huge impact these ideals are still having on our world as we enter the 21st century.

Independence, of course, must be guarded vigilantly, and in the past 176 years Greece's independence has been challenged by forces both external and internal. Therefore, even as we recognize and celebrate Greece's long independence today, we must also be mindful of the threats which Greece faces in today's world. The ongoing dispute with Turkey over the islet of Imia and the Albanian Government's recent military action near the Greek border serve as troubling reminders of Greece's vulnerability and the instability of the Balkan region.

On this, the 176th anniversary of Greek independence, let us extend our warmest congratulations to the people of Greece. And let us also rededicate America's commitment to Greece and to strengthening the solidarity that exists between our two great nations.•

ARTURO HALE

• Mr. LEAHY. Mr. President, one of my duties as ranking member of the Senate Judiciary Committee is oversight of Immigration and Naturalization policy. It is a role to which I give the highest importance. My own grandparents came to the United States from Italy and Ireland for a better life.

I am pleased that on April 9 we will welcome another new citizen. Arturo Hale came to the United States from Mexico to attend the University of Minnesota, where he earned a doctorate in chemical engineering. He now works at Bell Laboratories, conducting research on optical fibers. I have had the pleasure of meeting Arturo on a few occasions. He has contributed to our Nation not only as a researcher and taxpayer, but as a caring, involved resident. He has shown that he accepts all the responsibilities of a citizen, and I am proud that he will now have the rights of a citizen as well.

On behalf of the Senate, I would like to welcome Arturo Hale as a citizen of the United States.•

HOME-BASED BUSINESS FAIRNESS ACT OF 1997

• Mr. BURNS. Mr. President, as an original cosponsor of the Home-Based Business Fairness Act of 1997, introduced yesterday by Senate Small Business Committee Chairman BOND, I rise in strong support of this measure and urge the Senate to approve it as soon as possible.

This legislation is composed of three vitally important provisions, and together they make this measure one of the most important the Senate will consider during this Congress. First, this legislation will increase the health insurance deduction for self-employed individuals to 100 percent from the current 40 percent. Second, it will restore the home-office tax deduction where a taxpayer performs essential business functions in a home office used exclusively for business purposes. Finally, it will clarify when a worker is an employee versus an independent contractor, removing the uncertainty of the IRS's current test which can hit small businesses retroactively with liability for back taxes, interest, and penalties. These measures are especially important in Montana, where 98 percent of our businesses are small businesses, accounting for 72.7 percent of all employment in our State. This 72 percent is considerably higher than the 53 percent for the United States as a whole. And we're growing: Montana leads the Nation in new business incorporations. So when we talk about small business issues such as the home-office tax deduction, the health insurance deduction for the self-employed, the independent contractor classification, and other issues, these are the issues affecting Montana businesses.

Many of today's workers spend part of their time working at home, often performing administrative duties such as billing. These workers either have no permanent office or perform their main duties in an unconventional environment, such as an operating room. For them, the work performed in a home office is an essential part of their job, even though it may not be the main part of their job. Back in 1993, the Supreme Court in Commissioner versus Soliman created a restrictive test for determining eligible home-based functions. Functions such as billing, though essential, do not meet the Soliman test. The Court went well beyond congressional intent and even beyond the IRS's own interpretation of the law.

Shortly after the Soliman decision, I introduced the Home Office Tax Deduction Bill, and I've been pushing for it

ever since. We must allow a tax deduction for essential activities, such as billing, performed in the home when that is the only available place for such activities. As the law now stands, workers like Dr. Soliman who spend 15 hours per week doing billing in an exclusive home office are denied the deduction. That's not right. Home offices that are used regularly and solely for business purposes—whether it's by physicians, salespeople, or mothers working at home—should be an allowable deduction. I am proud to be a cosponsor of Sen. HATCH's bill which, like this bill, will restore the deduction for essential functions.

I was very pleased that last Congress we enacted an increase in the health insurance tax deduction for the self-employed to 80 percent by 2006. This is a positive first step, but why should not small businesses receive a 100 percent deduction just like big businesses? Health care costs are one of the main barriers to successful self-run businesses, and this modest proposal will go a long way toward helping these businesses survive and thrive.

Finally, the top priority of small businesses is clarification of the independent contractor definition. The current 20-part test used by the IRS to determine who is an employee, for which, of course, employers must pay Federal taxes, is confusing and imprecise. The law is tough to follow when it is unpredictable from case to case. This bill simply clarifies who is an independent contractor by applying a clear three-part test. Businesspeople need a simple rule to follow, and this will provide it. No business should be subject to the whim of the IRS.

I thank Chairman BOND for his leadership on this bill and I look forward to working with him to get it to the President's desk.●

CONGRATULATING NORTHWEST NAZARENE COLLEGE'S NATIONAL CHAMPIONS

● Mr. KEMPTHORNE. Mr. President, I rise with great pride today to pay tribute to an outstanding group of young women who have reached the pinnacle of their sport. Northwest Nazarene College's women's basketball team last night won its first-ever national title. The Lady Crusaders beat Black Hills State 64–46 to claim the National Association of Intercollegiate Athletics Division 2 tournament championship. It was the school's first national championship in any sport.

NNC, located in Nampa, ID, is one of America's finest colleges. It consistently ranks among the top schools in academic national rankings. Now it proudly sits at the top in athletic rankings as well.

Coach Roger Schmidt's Lady Crusaders entered the 1996–97 season ranked 11th in the country. The team finished the season with the most wins in school history at 27–7, and also won the Cascade Collegiate Conference title.

In the national championship game, NNC broke open a tight contest and pulled away to claim the trophy. It was just 25–24 at halftime, but a pressing and aggressive Crusader defense did the trick and helped clinch the game.

Staci Wilson paced the NNC attack, with 22 points. She also was the leading rebounder with 13. Erica Walton scored 12 points, and was named the tournament's most valuable player. Kari Smith added 11 points for the Lady Crusaders.

Mr. President, I'm pleased to say that seven of the 12 players on the Northwest Nazarene College roster are Idahoans. Here is the roster of this outstanding team: Christy Farrar of Hillsboro, OR; Jessica Knowlton of Craigmont, ID; Jennifer Myers of Parma, ID; Kimberly Riggs of Boise, ID; Brooke Warren of Pomeroy, Washington; Kari Smith of Meridian, ID; Ellen Duncan of McCall, ID; Chelsey Hall of Grangeville, ID; Staci Wilson of Molalla, OR; Staci Kirk of Boise, ID; Sunshine Cecrle of Hillsboro, OR; and Erica Walton of Ontario, OR.

I also congratulate the head coach, Roger Schmidt, and his assistant coaches, Becky Nichols and Duane Slemmer. And my congratulations also go to NNC President Dr. Richard Hagood and Athletic Director Eric Forseth.

I am sure all Idahoans join me in proudly recognizing the accomplishments of these young women and the support of the students, faculty, staff, alumni, and community at Northwest Nazarene College.

OLDER AMERICANS FREEDOM TO WORK ACT

● Mr. BURNS. Mr. President, I want to commend the majority leader for reintroducing the Older Americans Freedom to Work Act, S. 202, which I recently have cosponsored. This bill will repeal the Social Security earnings limitation, which punishes seniors between the ages of 65 and 69 for working. That's right—for working.

The earnings limit, like so many other Government policies, is outdated. Back in the 1930's, it may have made sense to encourage older workers to leave the work force by reducing their Social Security benefits if they worked beyond age 65. But today, the opposite is true: With the baby boomers getting ready to retire, and with a higher life expectancy, we should be encouraging folks to work longer. Most important, workers should have the freedom to work longer if they want to.

Last year, after a long-fought effort by Majority Leader LOTT and many others, we enacted a gradual increase in the earnings limit from $13,500 today to $30,000 per year in 2002. That is, for seniors between the ages of 65 and 69, each $3 earned over $30,000 per year reduces the worker's Social Security benefits by $1. While this increase is certainly helpful, there is no sound reason for retaining any earnings limitation on seniors who continue to work. That's why this bill is so important. Let's not discourage seniors from working—let's guarantee their freedom to work.●

APPOINTMENTS BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Democratic leader, pursuant to Public Law 104–264, appoints the following individuals to the National Civil Aviation Review Commission: Linda Barker, of South Dakota, and William Bacon, of South Dakota.

ORDERS FOR THURSDAY, MARCH 20, 1997

Mr. HELMS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m., on Thursday, March 20. I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted, with the time for the two leaders reserved unless it is used.

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

PROGRAM

Mr. HELMS. Mr. President, for the information of all Senators, on Thursday the Senate may consider a resolution relating to the decertification of Mexico. The Senate may also proceed to the consideration of the nuclear waste legislation. Senators should be aware that rollcall votes may occur at any time during Thursday's session of the Senate. The Senate may also consider any other legislative or executive items that can be cleared.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. HELMS. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:20 p.m., adjourned until Thursday, March 20, 1997, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate, March 19, 1997:

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

JAMES H. ATKINS, OF ARKANSAS, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING SEPTEMBER 25, 2000. (REAPPOINTMENT)

DEPARTMENT OF LABOR

KATHRYN O'LEARY HIGGINS, OF SOUTH DAKOTA, TO BE DEPUTY SECRETARY OF LABOR, VICE THOMAS P. GLYNN, RESIGNED.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

KEVIN EMANUAL MARCHMAN, OF COLORADO, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE JOSEPH SHULDINER.

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

RICHARD THOMAS WHITE, OF MICHIGAN, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 1999. (REAPPOINTMENT)

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be rear admiral (lower half)

CAPT. KAREN A. HARMEYER, 0000.

CONFIRMATION

Executive nomination confirmed by the Senate, March 19, 1997:

THE JUDICIARY

MERRICK B. GARLAND, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT.

EXTENSIONS OF REMARKS

PAYING TRIBUTE TO THE OLDER AMERICANS ACT NUTRITION PROGRAMS

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. GOODLING. Mr. Speaker, I would like to take this opportunity to pay tribute to the Older Americans Act nutrition programs on the occasion of their 25th anniversary.

On March 22, 1972, President Richard Nixon signed into law the National Nutritional Program for the Elderly. This legislation added one of the most important components of the Older Americans Act.

Over the years, countless numbers of our Nation's senior citizens have benefited from the nutritional services provided through the Older Americans Act.

For homebound seniors, the program provides nutritional assistance which allows them to remain independent in their homes. In addition, in some instances, it can actually save their lives. In my congressional district, for instance, one elderly constituent of mine had become ill. They were unable to respond to the individual delivering their meal. The individual delivering the meal, concerned about the well-being of the client, contacted local authorities, who were able to bring needed medical attention to the homebound senior.

Meals served under the Older Americans Act are also served in congregate settings, including senior centers and senior day care facilities. In these instances, the individual not only receives a nutritious meal but has an opportunity to socialize with their peers.

Studies have shown these nutrition programs to be beneficial to program participants. For example, older individuals receiving benefits through the Older Americans Act programs tend to have better nutrition than similarly situated older individuals who do not participate in these programs.

Mr. Speaker, in 1995, these programs provided 123,000,000 meals to approximately 2,500,000 older individuals in congregate settings and 119,000,000 meals to 989,000 homebound older persons. They have performed a tremendous service in allowing our Nations' senior citizens to live longer, healthier lives and they deserve our support.

I urge my colleagues to join me in recognizing the 25th anniversary of the establishment of the first nutrition program for the elderly under the Older Americans Act.

HONORING THE OLDER AMERICANS ACT NUTRITION PROGRAMS

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. RIGGS. Mr. Speaker, I want to take this opportunity to commend the Older Americans Act nutrition programs for 25 years of providing nutritious meals to senior citizens.

Saturday, March 22, 1997, marks the 25th anniversary of the signing of the law authorizing the nutrition programs under the Older Americans Act.

While nutrition assistance is but one of many services provided to senior citizens through the Older Americans Act, it is one of the most successful in helping senior citizens live long, healthy, productive lives.

Without this nutrition assistance, many seniors would be forced out of their homes and into nursing homes. For senior citizens no longer able to prepare meals in their home, the in-home meals program, often known as Meals on Wheels, assures they receive nutritional meals. Coupled with other in-home services, this program allows seniors to remain in their local community with friends and family and not be forced prematurely into a nursing home setting.

For senior citizens who are not homebound, the congregate meals program offers them meals in a setting with other seniors, allowing them to socialize with other seniors and participate in a variety of other activities.

I am certain the millions of senior citizens that benefit from these programs each year join me in paying tribute to this successful program. The fact that they voluntarily contribute to the cost of their meals is a sure sign that the program is providing them with meals that are not only healthy and nutritious, but appealing as well.

Because of the importance of these programs that serve our Nation's elderly, I am particularly looking forward to working on the authorization of the Older Americans Act this year. It is my intent to pass legislation that improves services to seniors and helps them live fuller, more active lives. We want to improve services by making sure that funds are being sent where they are needed the most, by increasing flexibility for State and local programs and by helping to improve the quality of all programs under the act. These vital programs help keep many of our Nation's seniors healthy and strong and I look forward to working with my colleagues on this issue.

TRIBUTE TO COL. NORMAN S. BRINSLEY ON THE OCCASION OF HIS RETIREMENT

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. EWING. Mr. Speaker, today I rise to pay tribute to a distinguished and dedicated military officer who has served this Nation with great honor and distinction. Col. Norman S. Brinsley will retire on April 4, 1997, after 30 years of commissioned service in the U.S. Army and Army Reserve. His career accomplishments reflect the type of military leader this Nation has depended upon in times of both peace and war. Today I would like to take a few minutes to highlight Colonel Brinsley's career.

Col. Norman S. Brinsley's distinguished career in the U.S. Army and Army Reserve has spanned more than three decades. He enlisted in the Army in May of 1966, during which he attended the Infantry Officer Candidate School at Fort Benning, GA. After earning a commission as a second lieutenant, Colonel Brinsley attended the infantry school's basic Airborne course to learn the fine art of Army parachuting.

Colonel Brinsley served three tours in Vietnam in a variety of assignments. He served in operations and logistics with the 7th Special Forces Group as well as in logistics and administration with the 5th Special Forces Group. He commanded Company E, 4th Battalion, 503d Infantry, with the 173d Airborne Brigade. Colonel Brinsley returned to the 5th Special Forces Group where he was plans officer. His last assignment in Vietnam was as assistant logistics officer with U.S. Army Republic of Vietnam, Special Mission Advisory Group.

Colonel Brinsley became a drilling Army reservist in September of 1971 and held a number of positions of increasing responsibility for 12 years in the 3220th U.S. Army Garrison, the 81st U.S. Army Reserve Command and the 12th Special Forces Group. His final assignment as a drilling reservist was as a manpower analyst and Chief of Force Development and Modernization with the 86th U.S. Army Reserve Command in Chicago, IL.

Colonel Brinsley entered the Active/Guard Reserve [AGR] program in 1984 and has held demanding positions in resource management, internal review, and Reserve component support. He was assigned to the 22d Support Command in Saudi Arabia during both Operation Desert Shield and Desert Storm. Upon his return from the Persian Gulf, he assumed command of the Army Reserve Readiness Training Center of Fort McCoy, WI. Colonel Brinsley was later selected as the deputy commander of the Army Reserve Personnel Center in St. Louis and later became the commander.

During his distinguished career, Colonel Brinsley has been a highly decorated officer. His awards include the Legion of Merit, the Bronze Star with three oak leaf clusters, the Vietnam Service Medal and seven bronze service stars, the Combat Infantryman Badge, the Master Parachutist Badge and the Special Forces Tab.

Service and dedication to duty have been hallmarks of Colonel Brinsley's career. He has served this country with reliability, distinction, spirit of dedication, devotion to duty, and the unflinching bravery that is the legacy of this Nation and its people. Mr. Speaker, it is an honor for me to present the distinguished credentials of Col. Norman S. Brinsley before the Congress today.

TAX CREDIT FOR HISTORIC HOME REHABILITATION AND COMMUNITY REVITALIZATION

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. NEAL of Massachusetts. Mr. Speaker, today I join Representatives SHAW and KENNELLY in cosponsoring legislation that would provide a tax credit for the rehabilitation of a historic home. This legislation would help those who rehabilitate or purchase a newly rehabilitated home and occupy it as a principle residence.

This tax credit would provide an incentive for the revitalization of many neighborhoods by promoting economic stability and home ownership. I represent the city of Springfield which has many older communities which would benefit greatly from this bill. The city of Springfield and its surrounding communities have many beautiful older historic homes and this tax credit provides a great opportunity for individuals to restore and live in these houses.

The credit is capped at $50,000 and it would be for 20 percent of qualified rehabilitation expenditures. The credit is not based on the individual's income. However, the property must be used as a taxpayer's principle residence.

Single-family and multifamily homes would qualify for the credit. A developer may rehabilitate a qualifying property for sale and pass the credit through to the home buyer. Properties eligible for the credit are those listed individually on the National Register of Historic Places or on a State or local register, as well as contributing buildings in national, State, and local historic districts.

This tax credit is essential for revitalizing historic districts of our older cities. We have many beautiful homes and neighborhoods in our older cities and we should do everything possible to preserve their unique beauty. This tax credit helps preserve our history. I urge my colleagues to cosponsor this legislation.

JAMES F. COSGROVE, VOICE OF DEMOCRACY CONTEST WINNER

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. CASTLE. Mr. Speaker, I am pleased to call the attention of the House to the work of James F. Cosgrove of Wilmington, DE. James is Delaware's State winner of the Veterans of Foreign War's Voice of Democracy scriptwriting contest and has received a $1,500 Edward A. Nardi Scholarship award. I congratulate James, his family, and VFW Post 3257 and its Ladies Auxiliary in Wilmington, DE for sponsoring this excellent program.

As my colleagues know, the VFW has sponsored the Voice of Democracy Competition for 50 years to promote patriotic and civic responsibility among our young people and to help them attend college through the scholarship awards. The competition requires students to write and record a 3- to 5-minute essay on a patriotic theme. This year, over 109,000 students participated in the contest on the theme: ''Democracy—Above and Beyond.'' I am very proud to share with the House James' excellent essay on the need for young people to become actively involved in making our country a better place to live.

Again, congratulations to James, the Cosgrove family, and the members of VFW Post 3257 and their ladies Auxiliary for their fine work.

DEMOCRACY—ABOVE AND BEYOND

1996–97 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM

(By Delaware winner James Cosgrove)

The phone rang. The caller quickly told me to turn on CNN. Although confused, I turned on the television. I was soon shocked to hear what Wolf Blitzer had to report. The United States of America, under the direction of President Bush, had attacked the Iraqi capital of Baghdad.

As the initial shock subsided, a dread thought invaded my mind. Would my father be sent to fight as well? At that time my father was a Lieutenant Commander in the Navy stationed at Camp Pendelton, California. If the fighting continued, he too would be among the masses of Marines being deployed from the base.

The war raged on and the weeks passed. An air of tension enveloped our household since that first day in January when the telephone rang. We were anxious about what was to become of our father. As the war continued, I became increasingly frustrated with my government. They were endangering the life of my father on behalf of Kuwait, a country that I had not heard of in the six years I had been attending elementary school. For me, each day of stressful waiting increased my level of disenchantment.

A few months later, the phone rang a second time. It was my father's commanding officer, informing my dad that he was scheduled to join the next shipment of Marines as a member of the medical corps. The will was written. The bags were packed. The family was morbid. At first I wanted to cry as my mother so often did. I decided instead to follow the example of my father's serene confidence and sense of duty. His air of determination comforted me and gave me hope that he would emerge from the Gulf unscathed. It was then that I realized what sets our nation apart from all other nations.

The American people are what establishes our system of government above and beyond all other forms of government. People who vote. People who own their own businesses. People who feel such a strong devotion to their country that they would be willing to lay down their lives for it. People like my father. The system of democracy places the power to pass laws, support the economy, and protect the country in the hands of the people. This trust, an essential element of democracy, is what truly makes our government excel. Everyone can flourish in an environment where they receive the respect, trust and power necessary to make their government ''by the people and for the people.'' Such is the case of the United States of America!

Thankfully my father was not deployed overseas. Instead, he was assigned to a stateside medical facility. As a sixth grader, I was not conscious of the fact that the democracy in which I lived was the model government. I was not able to comprehend that the freedom and individual rights that I experienced were not present in other countries. Greed and corruption may infest other governments but for 220 years have not been able to control democratic America. Americans should feel pride in being the key ingredient in a recipe that has produced the greatest nation in the world! A nation governed by a philosophy that is above and beyond that of all other nations.

SPECIAL RECOGNITION OF HICKMAN COUNTY LADY 'DAWGS 1996–97 CHAMPIONSHIP TEAM

HON. ED BRYANT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. BRYANT. Mr. Speaker, I would like to recognize the 1997 Double AA State Champions for Tennessee girls high school basketball. The Hickman County Lady Bulldogs finished their season with a record of 32–4, an impressive mark by any standard.

The achievement of any team rests in the genius of those who guide its players and point them down the pathway of success. Coach Barry Wortman, assistant coaches Misty Shelton and Aaron Taylor, team manager Rocky Stinson, and team trainers Mark Buck and Brian Johnson, are to be commended for their hard work and love of the game of basketball, as well as for their devotion to the girls who brought them and all of Hickman County this distinctive honor.

Among other accomplished athletes, this year's Lady 'Dawgs team included All-State players Becky Myatt and Talisha Scates. In fact Becky Myatt's athleticism and mastery of the game of basketball landed her with perhaps the most prestigious award any high school player can earn, Athlete of the Year. In addition to the achievement of Myatt and Scates, Jennifer Dick and Emily Vincent earned All-Tournament honors. And Amanda Judd was an All-State Tournament Award winner as well.

Rounding out the roster of this middle Tennessee girls high school basketball powerhouse were Eugenia McClain, Cassidy Jenkins, Brandi Jimerson, Heidi McDonald, Jenny Powers, Racheal Buchanan, and Brandy Martin. Without these players, the Lady 'Dawgs surely would not have been quite the exceptional team they went on to be.

As Hickman County's representative in Congress, I am proud to see its residents and communities enjoy this well deserved recognition. The 1996–97 Lady 'Dawgs have left a legacy which will be remembered next year and many years to come in Hickman County and throughout Tennessee. To the future Lady 'Dawgs teams, I wish you well in your endeavors to carry forward with the championship and winning traditions of Hickman County High School. Congratulations.

HONORING LARRY WENNLUND

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. WELLER. Mr. Speaker, I rise today to honor the work and dedication of a great statesman, Representative Larry Wennlund, after 11 years of public service to the people of Illinois and the residents of the 38th District.

Representative Wennlund has been a lifelong resident of New Lenox, IL, and received a bachelor of arts from the University of Illinois

at Champaign, and a juris doctor from the John Marshall Law School in Chicago, IL.

Representative Wennlund has been an active member and leader of his community as a member of: Trinity Lutheran Church, the New Lenox Lions Club, the New Lenox Chamber of Commerce and as a member of the New Lenox Grade School Board of Education.

Representative Wennlund remains a leader in his growing community as an advocate for building a strong transportation network, economic development for the area, reforming the Juvenile Justice system, welfare-to-work initiatives and real property tax reform.

Representative Larry Wennlund has also been honored for his talents and accomplishments by being selected from among his peers to serve as a member of the Republican Leadership Team. Representative Larry Wennlund is an honorable man, worthy of praise for his many years of service, leadership and accomplishments for the people of his district.

FREEDOM AND PROSPERITY FOR THE CNMI

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. DELAY. Mr. Speaker, last week, joined by my colleague and friend PHIL CRANE, the chairman of the Trade Subcommittee, I had the pleasure of meeting Gov. Froilan Tenorio of the Commonwealth of the Northern Marianas Islands [CNMI]. Governor Tenorio has embarked on a bold course to promote economic and political liberty in the CNMI. The brave men and women who died for freedom at the battle of Saipan would be proud to know that Governor Tenorio has been a true champion of freedom in the Western Pacific.

Governor Tenorio recognizes that the market, and not the government, is the engine of job creation. Governor Tenorio has pushed forward with a program of privatization, fiscal restraint, and lower taxes for his people. Governor Tenorio did not come to Washington looking for taxpayer benefits, welfare, or handouts. He came to promote his market reforms. Mr. Speaker, Governor Tenorio deserves our support.

During his administration, Governor Tenorio has actively pursued and courted businesses around the globe to open shop in the CNMI. Like President Reagan in the 1980's, Tenorio has kept taxes low. Low tax rates have actually increased productivity, which in turn, increased revenue for the government of the CNMI. Additionally, the Governor has recognized the importance of trade and has demonstrated how trade with Asian markets can bring prosperity.

The economic changes that have taken place in the CNMI have been nothing short of miraculous. In 1970 most roads were unpaved and most homes lacked running water. There were 55 licensed businesses on the islands, with combined assets of $2 million. There was one bank and one credit union. Then the island tried free markets.

CNMI dropped laws common elsewhere in Micronesia that restricted foreign investment. It reduced the regulatory burden on business. The island also reformed its punitive tax system. The result has been economic growth. As Peter Ferrara of Americans for Tax Reform said, ''Once a dismal outpost of failed state socialism, the islands have now been thoroughly integrated in the dynamic economy of the Pacific Rim.''

The number of businesses on the islands has grown from 55 to 5,000. Gross business revenue rose from $244.4 million in 1986 to $1.477 billion in 1994. Only 1,056 people were employed in 1970, most by the government. Twenty years later, 25,965 people were working, 22,795 of them for the private sector. Unemployment has fallen from 15 percent to 4 percent since 1980.

The pro-growth economic policies of the CNMI have been in stark contrast to the experiences of other American territories in the Pacific, such as Guam and American Samoa. The unemployment rate in Samoa is close to 16 percent. The government is the most important provider of jobs in the American Samoa and, as of 1989, nearly 60 percent of the residents had incomes below the poverty lines. In Guam, where the local economy has benefited from United States military presence on the island, but the unemployment rate remains higher than in the CNMI.

The Governor's efforts have not come without criticism by some who believe that Washington knows better how to create jobs for the people of the islands than the people of the CNMI themselves. Rep GEORGE MILLER of California believes that Washington should impose the Federal minimum wage on the people of the CNMI. Make no mistake about it, passage of that bill would kill jobs, growth, and opportunity.

Most Members of Congress recognize that a higher minimum wage would result in a withdrawal of industry from the islands and widespread unemployment. Factories would move from the CNMI to other Pacific outposts that were not burdened by Washington wage controls.

Instead of trying to impose redtape and mandates on the people of the CNMI, we should look to the CNMI as a model of reform. Like the CNMI, Washington should provide tax relief for the American people. We should recognize that pro-business policies create jobs. And we should recognize that free trade creates prosperity. The CNMI is proof positive that these policies work.

While we shouldn't impose Washington mandates on the CNMI, we should also allow the people of the island more control over their own lands. Governor Tenorio described to Mr. CRANE and me the trouble the people of Tinian are having with unreasonable Federal control of their land. Governor Tenorio asked us to look into assisting the people of Tinian with opening up more of their land for development and use in accordance with their cultural and economic interests. Congressman CRANE and I hope to become active in bringing a positive resolution to this matter and other areas where we can help the people of the CNMI.

The CNMI is on the right track. Their Pacific neighbors should view the economic policies on the CNMI as a model. Washington should also acknowledge that Governor Tenorio's policies are on the right track. Let's not nip job creation and economic reform in the bud with ill-conceived Washington knows best legislation. It's time that we recognize and respect the impressive progress that this group of American citizens halfway around the world has achieved.

FREE SPEECH ON THE INTERNET

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. NADLER. Mr. Speaker, I rise today to support the efforts of citizens everywhere to protect free speech on the Internet.

Today, the Supreme Court heard arguments to determine the constitutionality of the Communications Decency Act [CDA], which criminalizes certain speech on the Internet.

It is because of the hard work and dedication to free speech by netizens everywhere that this issue has gained the attention of the public, and now, our Nation's highest court.

I have maintained from the very beginning that the CDA is unconstitutional, and I eagerly await the Supreme Court's decision on this case.

I was one of the few Members of this body to vote against the Telecommunications Act, in large part, due to the CDA provision that imposes unacceptable limits on free speech.

While the stated intent of this provision is to limit minors' access to indecent material, in fact, its effect will be much farther reaching. This so-called decency language will dangerously constrain electronic free speech. I still believe that it is the cyberspace equivalent to book burning.

When this bill first became law, I turned my web page black to protest this dangerous assault on free speech. I have been working actively to overturn the CDA ever since. I received thousands of e-mail messages from around the world from people concerned with the threat to free speech imposed by the CDA. I pledged to join with concerned citizens all across the country to fight the CDA in Congress, in the courts, and in the chat rooms and online forums of the Internet itself. And we have. We won in Philadelphia, we won in New York, and we are now poised to win in the Supreme Court of the United States. We promised not to give up the fight, and to continue our efforts to keep the Internet free, and we have done just that.

Now this case is finally before the Supreme Court. Soon we will learn of the outcome of our efforts. Have we successfully challenged this unjust act? Will the Supreme Court uphold the lower court's ruling which struck down the CDA? Will the Justices join the choir of voices who have declared this bill an indecent assault on American liberty? I believe they will.

I believe they will recognize what the lower courts have already determined, that ''as the most participatory form of mass speech yet developed, the Internet deserves the highest protection from governmental intrusion,'' that the CDA is unconstitutional, and that it dangerously constrains electronic free speech.

I applaud everyone who has taken action to support the first amendment, and who has spoken out against this bill to ensure that future generations are able to enjoy the same rights and liberties on the Internet that we have enjoyed in other arenas of expression for the past two centuries.

SECRECY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 19, 1997 into the CONGRESSIONAL RECORD.

GOVERNMENT SECRECY

For many years during the Cold War, the United States took extraordinary steps to restrict the access of American citizens to national security information. By limiting certain information only to government officials specially cleared to see it, we tried to keep it out of the hands of our adversaries. This system of protecting information helped keep us more secure.

But the end of the Cold War has given us an opportunity to reassess the role and costs of government secrecy. Certainly restricting access to military plans and weapon designs made sense, but in many ways too much information was kept secret, with even the menu for a dinner party hosted by a U.S. official once classified. I have come to the view that it is an urgent national priority to reform the government's existing system of secrecy. We must bring the system for classifying, safeguarding, and declassifying national security information into line with our view of American democracy and the threats it faces in the post-Cold War world.

SECRECY IN GOVERNMENT TODAY

It is remarkable that Congress has never passed a law specifically setting up the process governing secrecy. Since 1947, decisions on what information should be kept secret have been governed entirely by presidential executive orders. The President relies on his constitutional authority for conducting foreign policy and protecting national security to issue such orders, but there are no laws that tell the President how to classify anything.

Under the current system, tens of thousands of U.S. officials are authorized to classify information. Every year they stamp ''secret'' on several million new documents. Warehouses now hold an astonishing 1.5 billion pages of classified documents that are more than 25 years old, but only a few hundred officials are assigned to review these documents for declassification. The backlog of secret documents grows year after year.

PROBLEMS OF EXCESSIVE SECRECY

All of us recognize that in a dangerous world some secrecy is vital to save lives, to protect national security, to engage in effective diplomacy, and to bring criminals to justice. But we should also understand the immense costs of secrecy. Government agencies and private firms spend $5–6 billion annually to manage and protect classified material. Reviewing older documents for declassification is time-consuming and expensive.

Excessive secrecy cripples debate in a free society. Policymakers are not fully informed and government is not held accountable for its actions. Too often I have had the impression that information has been made secret not to protect national security, but to protect officials and their policy decisions from public inquiry.

Information and open debate are the lifeblood of democracy. Surely one of the keys to a successful democracy is to assure that the people are adequately informed about the issues of the day. Openness and publicity may cause some inconvenience, perhaps even some losses from time to time, but I believe openness and accountability will greatly increase the chances that we will avoid major mistakes.

I also believe that a culture of secrecy threatens our capacity to keep secrets that must be kept. As former Supreme Court Justice Potter Stewart said, ''When everything is classified then nothing is classified.'' If we have too much secrecy, we cannot focus enough on protecting the truly important secrets. Secrecy can best be preserved when the credibility of the system is assured.

WHAT SHOULD BE DONE

The key then is to strike an appropriate balance. We need to reduce sharply the level of secrecy within our government and make available to the American people millions of documents that have been maintained in secrecy. On the other hand, we want to safeguard better the information necessary to protect our nation and our citizens, information that is critical to the pursuit of our national security. Such a classification system should protect our national security in a reasonable and cost-effective manner.

President Clinton has taken some useful steps to try to reduce government secrecy. He shortened the number of years that most documents may remain secret and gave agencies five years to declassify most documents in their possession that are older than 25 years. The President also ordered the release of millions of World War II-era documents. Unfortunately, there has been resistance to the President's reforms. Some agencies have been slow to adopt new classification procedures, and several are behind schedule on meeting the five-year declassification target.

During the past two years I have served on a twelve-member commission on government secrecy made up of private citizens, Executive Branch officials, and Members of Congress. The commission concluded that current policies have encouraged secrecy, and we made several recommendations to improve the classification process.

First, we need to pass a law establishing broad standards for appropriate classification and declassification. A statute would give the secrecy system greater stability and inspire greater respect than the numerous presidential executive orders issued since World War II. Second, we should create a Declassification Center within the National Archives. It would declassify documents under the guidance of national security agencies, and should eventually be able to declassify more documents, at a lower cost, than individual agencies can today. Third, officials who classify documents should be specially trained to weigh the benefits of public access against the need to protect a particular piece of information, and they should provide a written justification when information is classified for the first time. Fourth, to strengthen individual accountability, officials should be required to identify themselves by name on the documents they classify, and classification should be a regular part of job performance evaluations. Finally, a single Executive Branch agency should be put in charge of coordinating classification policies governmentwide. This agency must have the authority to demand compliance with Administration policies.

CONCLUSION

The Cold War has ended, and so has the justification for a vast array of secrets whose very existence is contrary to free and open government. It is time for a new way of thinking about secrecy. The best way to ensure that secrecy is respected is for secrecy to be returned to a limited but necessary role. We will better protect necessary secrets, and our democracy, if secrecy is reduced overall.

HIGH SCHOOL CHEERLEADING CHAMPIONS

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. COBLE. Mr. Speaker, as we are in the middle of what is known as March Madness, all eyes are focused on the basketball arenas of America. An integral part of what makes the game so much fun and adds to the fans' excitement are the cheerleaders. These young men and women who exhort the crowd to support their team add much to the pageantry of college basketball and, for that matter, all sports.

We are particularly mindful of the contributions that cheerleaders make to the enjoyment of all types of sports these days because the Sixth District of North Carolina is the home of the 1996–97 North Carolina high school cheerleading champions. Southwestern Randolph High School [SWRHS] near Asheboro, NC, last month captured the State 2–A cheerleading championship. This championship is all the more special because it came in the final year of Coach LuEllen Loflin's tremendous career at SWRHS. Led by Loflin, the Cougars have won North Carolina's 2–A cheerleading championship 5 of the past 6 years and 6 of the past 8.

As written in the Asheboro Courier-Tribune:

> For the past 15 years, Loflin has been involved as the coach of the varsity cheerleaders, a span of time which has seen cheerleading evolve from a group of girls who jump up during sporting events to a group of skilled athletes who spend hundreds of hours each year perfecting dance routines loaded with acrobatics and precision maneuvers.

Members of her squad told the Courier-Tribune that Coach Loflin will be missed. ''She's a pillar of support and confidence and love and friendship and all those wonderful adjectives,'' senior cocaptain Christine Copple told the Asheboro newspaper. ''She's one of us,'' fellow cocaptain Lisa Sizemore told the Courier-Tribune about Coach Loflin. ''We can all go to her and talk about anything. She's a second mother to us. Without her, we wouldn't be where we are today.'' Darian Walker, the lone male on the team, was pleased to capture another trophy for a great coach. ''To come back and win it one more time before Miss Loflin left was really great,'' Walker said. ''It was one of the best feelings I ever had.''

In addition to Copple, Sizemore, and Walker, every member of the Cougar cheerleading squad is to be congratulated for a championship season, including senior captain Melissa Pritchard, and fellow seniors Nicki McKensie, Stephanie Stone, and Amy Sykes; juniors Sara Knapp and Alicia Miller; sophomores Katie Copple, Misty Cox, Ann Culpepper, and Jamie Parrish; and freshmen Kelly Bryant and Marie Nance.

After 15 years of dedicated service to SWRHS, LuEllen Loflin will step down as coach of the cheerleading squad. She leaves a tremendous legacy of achievement. On behalf of the citizens of the Sixth District of North Carolina, we congratulate Coach Loflin and the Southwestern Randolph Cougars for winning the 2–A high school cheerleading championship.

GREEK INDEPENDENCE DAY, 176 YEARS OF FREEDOM AND DEMOCRACY

SPEECH OF

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. BATEMAN. Mr. Speaker, I am proud to join my colleagues today in recognizing the 176th anniversary of the beginning of the revolution that freed the Greeks from the subjugation of Ottoman rule.

On March 25, 1821, Greek patriots began their long struggle for freedom and for independence from the Ottoman Empire. However, the arduous journey to democracy did not end with achievement of independence of 1829. During World War II, the Greeks fought courageously and suffered severe casualties in their tireless efforts to fend off Nazi armies. There were forced to fight once again in the 1940's in order to turn back the forces of communism, a resistance in which we were proud to extend a hand. Although the years since have been marked by hardships and sacrifice, the people of Greece have shown their resolve, courage, and fortitude. Their dedication to freedom has demonstrated itself in the ultimate success of democracy in modern-day Greece.

We cannot discount our indebtedness to Greece and her people. Western art, architecture, literature, and philosophy all stem from the achievements of the ancient Greeks. Without question, the Greek people have left an indelible impression on world history. But, of all the contributions Greeks have made toward the betterment of mankind, I believe their greatest contribution to be the ideal of democracy. It is fitting that we, the United States of America, should have founded the wellspring of our Nation's laws and ideals in the democratic traditions of Athens and other Greek city-states. And, it was indeed appropriate that during the Greek war for independence, they looked to our Declaration of Independence to guide them in their struggle to rediscover democracy.

In closing, I would like to note that no nation has contributed more to modern Western civilization than Greece, and no nation has had to struggle harder or more often to preserve its liberties. In recognition of all that Greece means to the world, and in tribute to its patriots throughout the centuries, we salute our friends in Greece—and our many Greek-American citizens—on this day of independence.

LA PROGRESIVA PRESBYTERIAN SCHOOL TWENTY-FIFTH YEAR ANNIVERSARY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize La Progresiva Presbyterian School for its 25th school year anniversary.

The Presbyterian school, La Progresiva, was founded in Cardenas, Cuba by a North American missionary named Dr. Robert L. Wharton on the 11th of November, 1900. On that day, La Progresiva opened its doors with only 14 students and with the reading of the first book of Corinthians chapter.

The school developed into one of the finest educational establishments of Cuba, expanding its facilities to accommodate the increasing enrollment of students. Its growing reputation as a fine center of learning, however, was put to a stop in 1961 with the arrival of communism in the island.

Communism was able to put an end to the material aspect of La Progresiva in Cardenas, but it could never destroy the spirit and ideals which still remained alive. So in September 1971, with the help of the First Spanish Presbyterian Church of Miami and the alumni of the old La Progresiva, the new Progresiva opened its doors. It started with humble beginnings in much the same way its predecessor had.

Like the old school, this new one grew in popularity and as a result of the increasing demand for enrollment, La Progresiva added another wing to its main building in 1978. The school continued its expansion adding more classrooms to accommodate the demand for admittance into the school. Along with growing in educational capacity, La Progresiva also bettered itself in the athletic department, improving over the years in its sports and, presently, plans are being discussed for a gymnasium.

The Progresiva spirit has prevailed through the years to produce a center of learning which will stand long into the future and one which makes all ''Progresivistas'' proud.

On this, La Progresivas' 25th school year anniversary, the school's motto is stronger than ever: ''Una Vez de La Progresiva, Siempre de La Progresiva.''

RURAL ROADS FUNDING

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mrs. JOHNSON of Connecticut. Mr. Speaker, anticipating this year's reauthorization of the 1991 Intermodal Surface Transportation Efficiency Act [ISTEA], I am introducing legislation today that will provide rural area roads eligibility for a small percentage of funding under the Surface Transportation Program [STP].

The intent of ISTEA's STP initiative was to provide greater flexibility to State and local authorities for transportation needs by providing States with block grant-type authority. However, ISTEA regulations prohibit roads classified as local or rural minor collectors from receiving Federal-aid highway funding. Since most roads in rural areas fall under this classification, they are not eligible for funding and remain in severe disrepair.

Under ISTEA's current STP distribution formula, States are required to set aside 10 percent of their STP funds for safety programs and 10 percent for transportation enhancement programs. The remaining 80 percent of STP funding goes into a general purposes fund, with a remaining distribution account receiving 50 percent, and a statewide distribution account receiving 30 percent.

Under the remaining distribution account, funding is provided to areas over 200,000 population, while only a minimal level of funding is provided to rural areas under 5,000 population based on a fiscal year 1991 funding level. Unfortunately, congressional attempts to provide State flexibility do not ensure adequate and equitable distribution of Federal assistance to rural area roads. Moreover, roads functionally classified as local or rural minor collectors are not currently eligible for the rural areas under 5,000 population funding and, since most rural roads fall under these two classifications, they are ineligible for Federal assistance.

My legislation would allow roads functionally classified as local or rural minor collectors eligibility for STP funds under the existing special account for areas under 5,000 population only. My legislation would not amend the road classification system. Rather, it would only modify 23 U.S.C. 133(c) to allow roads functionally classified as local and rural minor collectors STP funding eligibility under the areas under 5,000 population account 23 U.S.C. 133(d)(3)(B).

In addition, my legislation provides that of the 50 percent to be obligated under the remaining distribution account, at least 20 percent, or the existing minimum requirement, whichever is greater, should go to the rural areas under 5,000 population account. Finally, my legislation would amend the statewide planning process by requiring States to also consider the transportation needs of rural areas, including local and rural minor collectors.

I urge my colleagues to support this necessary legislation as it will provide the flexibility ISTEA was intended to produce and will greatly improve our roadway system by allowing local and rural communities the opportunity to decide which roads should be repaired.

EXTENDING EFFECTIVE DATE OF INVESTMENT ADVISERS SUPERVISION COORDINATION ACT

SPEECH OF

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. OXLEY. Mr. Speaker, this legislation will provide an extension of 90 days to the effective date of title III of the National Securities Markets Improvement Act of 1996.

The extension of the effective date, which was requested by Securities and Exchange Commission Chairman Arthur Levitt, will help ensure the orderly implementation of the important changes that will be effected by the Investment Advisers Supervision Coordination Act, which is title III of the Improvement Act. I strongly support this responsible request. The Institute of Certified Financial Planners, which represents many of the investment advisers who will be affected by the Improvement Act, also supports the extension of the effective date of title III. I include for the RECORD copies of Chairman Levitt's letter to Chairman BLILEY, as well as a letter from the Institute of Certified Financial Planners to myself offering their support for this legislation.

In addition, I wish to clarify the intent of a provision in title III of the Improvement Act that provides for the establishment of a telephonic or other communication means to provide information about investment advisers' backgrounds. The act directs the Commission to

"provide for the establishment and maintenance" of this information service. I wish to make it clear that it is entirely within the Commission's authority and consistent with the intention of this provision for the Commission to delegate the responsibility to establish and maintain this service to a third party, as the Commission has done for purposes of the information service provided pursuant to section 15A(i) of the Securities Exchange Act of 1934. It is also consistent with the purposes of title III that such a third party be able to charge reasonable fees of commercial users of the information service.

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, February 12, 1997.

Hon. THOMAS J. BLILEY,
Chairman, Committee on Commerce, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN BLILEY: I am writing to request that Congress extend the effective date of Title III of the National Securities Markets Improvement Act of 1996 for 90 days, from April 9 to July 8, 1997. Title III reallocates regulatory responsibilities over investment advisers between the states and the Commission.

The Commission has made substantial progress in completing the many rulemaking directives given to the Commission in the Improvement Act. In October, the Commission proposed a rule providing a safe harbor to allow journalists access to off-shore press conferences. In December, we proposed rules implementing new exemptions from the Investment Company Act for pools sold only to qualified investors. The Commission also proposed, on December 18, 1996, rules to implement Title III.

The Commission is making every effort to meet the legislative deadlines of the Improvement Act. Our rule proposals were issued only two months after the legislation was enacted, and the comment period for the proposals ended earlier this week. While we believe the Commission should be able to finish work on the adoption of the proposed rules by April 9, the effective date of Title III, we are very concerned that this timetable is likely not to afford investment advisers sufficient time to examine the new rules, consult with counsel as to their continuing regulatory status, and properly complete and submit the required forms.

We are also concerned about the effect of the April 9th effective date on state regulatory programs. As you know, Title III assigns important responsibilities for the regulation of investment advisers to state regulators. Because Title III will become effective on April 9th (whether or not the proposed rules are adopted), state law will be preempted as to all advisers still registered with the Commission, including those advisers that will be exclusively regulated by the states. If all (or most) advisers remain registered with the Commission on April 9 because they have not submitted the required forms, much of state investment adviser laws will be preempted, compromising state regulatory and enforcement programs.

By dividing jurisdiction over the 22,500 advisers currently registered with the Commission, the Improvement Act promises to provide more efficient and effective regulation of the investment advisory industry. The Commission strongly supported the enactment of the Act and has moved quickly to implement its purposes. We believe that by providing an additional 90 days, Congress will allow investment advisers adequate time to meet their obligations under the new rules and will avoid disrupting state regulatory efforts that are important if the goals of Title III of the Improvement Act are to be achieved.

If I or any of the Commission staff can answer any questions, please do not hesitate to contact us.

Sincerely,

ARTHUR LEVITT,
Chairman.

THE INSTITUTE OF
CERTIFIED FINANCIAL PLANNERS,
Denver, CO, March 12, 1997.

Hon. MICHAEL G. OXLEY,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN OXLEY: The Institute of Certified Financial Planners[13] is strongly in support of S. 410, a bill which would extend the April 9 effective date of the Investment Advisers Supervision Coordination Act (the "Coordination Act") by 90 days. We offer two basic but highly important reasons for supporting this delay in the effective date to July 8, 1997.

First, as a professional association involved in the original legislative process, we are fully aware of the substantive changes made to the Investment Advisers Act of 1940 that led to the current regulatory challenges facing the Securities and Exchange Commission (the "SEC"). And we strongly commend the SEC on having successfully met the initial challenge of the implementation process by issuing a proposed rulemaking within a tight deadline and addressing all of the critical issues raised thereunder. We are concerned, however, that the remaining amount of time is not enough to address the many formal comment letters (including our own) which were submitted prior to the February 10 deadline—a total of about 80 mostly substantive comment letters—as we understand it. We believe that the SEC needs additional time to properly respond to the issues raised by these comments, resulting actions that will result in a momentous sea-change of regulation for 22,000-plus registered individual investment advisers and firms.

Second, as you are aware, up to 80 percent of all current SEC registrants will withdraw their registration and be subject to state regulation. Once the SEC approves the final rulemaking, additional time is necessary to adjust to the new regulatory environment. The SEC must have adequate time to distribute the final published forms, and current registrants must have time to digest the new mandates, and return the appropriate forms for de-registration or continued federal registration. Further, the Institute and others raised questions about the ability of certain advisers to be able to report accurately, for example, the aggregate assets under management without some minor changes in the reporting requirements suggested in the proposed rulemaking. For many of these registrants, the proposed rulemaking itself raised new questions and issues. No doubt the final rule also will generate some additional questions, but even if the major issues are clarified, the unique nature of each individual adviser's practice will leave some questions unanswered.[14]

This situation, while obviously smaller in scale, is not unlike Congress passing major tax legislation at the end of the year, and leaving the Internal Revenue Service little time to clarify certain aspects of the new tax code that affect thousands of Americans. Distributing new 1040s and related forms within a month of April 15th would no doubt be disastrous.

For the above reasons, we strongly support S. 410 and thank you for supporting the original conference report. An additional 90 days should be more than adequate time to allow the SEC to properly fulfill its mission and for registrants to properly comply with the new changes.

I would be happy to respond to any questions that you might have regarding the above comments.

Sincerely,

JUDY LAU, CFP,
President.

[13] The Institute of Certified Financial Planners is a Denver-based professional organization representing 11,000 Certified Financial Planner members nationwide. The Institute serves as a resource to federal and state legislators on issues related to financial planning.

[14] The questions received from members are of course too numerous to recount in this letter. To provide one example not addressed in the proposed rulemaking was a situation involving an SEC-registered adviser in the state of Ohio which has no state investment adviser statute. The adviser provides personal advice to a few clients but primarily offers through her advisory firm investment management seminars in other states, on behalf of corporations which administer their own 401(k) plans, or on behalf of other investment management firms that contracted them to perform this specific service. It was not clear to this person whether the adviser's employees who provided advice on these 401(k) plans would be subject to state or federal registration or notice filings, etc., as investment adviser representatives, supervised persons, etc., under the proposed rulemaking. This unique situation is one of many that undoubtedly will not be addressed under the final rulemaking.

GREEK INDEPENDENCE DAY, 176 YEARS OF FREEDOM AND DEMOCRACY

SPEECH OF

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. PORTER. Mr. Speaker, I rise along with many of my other colleagues to commemorate Greek Independence Day. On March 25, 1821, Greece became independent of the Ottoman Empire and began its long, and sometimes difficult, journey back to democracy, freedom, stability, and prosperity.

As the birthplace of democracy, Greece has always been a special place for America and Americans. In this diverse and culturally rich land, we see ourselves, our hopes, our past and our future. I am pleased to rise today as a friend of Greece and the Greek people, and congratulate them on their dynamic society and their triumph of will.

As our NATO ally and partner in the global village, we work closely with Greece to bring about goals of mutual aspiration and concern. I must take this opportunity to thank and congratulate the Greek Government for the positive role that they are playing in mediating with the Serbian government in a quiet, behind the scenes manner—they have been effective where others have failed in persuading Milosevic to loosen his strangle-hold on Serbia and begin moving toward reform. I also call on them to be this same kind of force for good with their neighbor Albania during these difficult days for that country.

I congratulate Greece on its efforts to mend fences with its neighbor Turkey and resolve their differences. While these overtures have not always been well received, the effort is always worth making, and Greece is the better for these efforts.

I thank my colleague, MICHAEL BILIRAKIS from Florida, for organizing this special order, and I appreciate his leadership on this issue. I have enjoyed working with him on a wide

range of human rights issues, and I look forward to continuing to do so in the future. I also thank the Greek-American community for holding Members of Congress to a high standard, and supporting the work that we do in the Congress. This is a special day for all of us—I look forward to celebrating it every year and sending fondest good wishes to Hellenes all over the world.

PRIVATIZING SOCIAL SECURITY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. CRANE. Mr. Speaker, the Social Security system in the United States is headed toward bankruptcy. Neglecting to discuss fundamental reforms of this program, will only lead to last minute band-aid solutions, which means Congress will be back dealing with the issue again, sooner rather than later. Instead of deciding how best to extend Social Security's solvency, past arguments in Congress have sadly focused on blame shifting between political parties—more about who is trying to cut Social Security and less about how to save Social Security.

I am inserting an article in the RECORD which was published in the Wall Street Journal, that includes several ideas for privatizing our Social Security System. While some may be unsure that privatization is the long-term solution to Social Security, I submit this article in the hope it will generate discussions on this issue. I hope my colleagues have a few minutes to review this article, and will look at fundamental reform of Social Security as the only way to truly address the issue at stake:

[From the Wall Street Journal, Jan. 16, 1997]

SOCIAL SECURITY PRIVATIZATION IS HERE

(By E.J. Myers)

The report issued last week by President Clinton's Advisory Committee on Social Security has confused more than a few concerned citizens—not just because of its heavy dosage of technical jargon, but also because the committee itself was incapable of reaching a clear consensus on what to do about Social Security. And now there are serious questions about whether the technical jargon spun out by the committee is even worth the graph paper it's printed on. It appears that the old adage about a camel being a horse put together by a committee was right on target. And when that committee is based in Washington, the camel is likely to end up with three humps.

While Washington may be incapable of putting together a solution for a problem of its own making, the rest of us don't have to give up on Social Security reform. In fact, from Thomas Jefferson to Howard Jarvis, Americans have a long tradition of trumping central government dictates with local solutions that work. And in south Texas, along the windswept Gulf Coast, there are three history-filled counties—Galveston, Brazoria and Matagorda—that years ago put into effect Social Security privatization plans that Washington policy wonks still haven't even conceived of.

BEAUTIFUL SIMPLICITY

Until the early 1980s, state and local governments had the right to opt out of Social Security and establish their own retirement systems for public employees. This option was provided by the Social Security Act, passed in the 1930s.

Galveston County looked into this idea in 1979. Then-County Attorney Bill Decker asked Don Kebodeaux, president of First Financial Capital Corp. of Houston, to devise a plan for the county's employees to opt out of Social Security. Mr. Kebodeaux and First Financial's Rick Gornto designed a retirement plan that was many times better than Social Security program. In 1980 they presented their plan to former Galveston County Judge Ray Holbrook, County Attorney Bill Decker and the Commissioners Court, the county's administrative body.

The first beauty of the plan was its simplicity. The 6.13% payroll tax that the federal government had been taking from county employees for Social Security would now go into the employees' pension fund and would be matched by the county with an additional 6.13%. The new plan included the same employee benefits Social Security did: pensions and life and disability insurance. In recent years the county has increased its participation to 7.65%, which covered the payments of all premiums for life and disability insurance. The life insurance benefit for those under age 70 is 300% of one's annual earnings; the minimum benefit is $50,000 and the maximum $150,000.

The local unions fought the idea at first, and several Galveston County officials also opposed the action. Many spirited debates between Social Security representatives and the men from First Financial were held throughout the county; county employees listened carefully and made sure they got answers to all their questions. Voting on the question was held in 1981. By a resounding margin of 78% to 22%, the Galveston County employees endorsed the idea and the county opted out of Social Security.

Years later, a retired Mr. Decker told the story of how a number of unionized county workers thanked him for his wisdom and guidance. They said that at first they had serious doubts about giving up Social Security's guarantee of fixed income, but that now that they were getting ready to retire with significantly higher benefits, they were very happy they did.

''Of all the things I accomplished while county judge, setting up this retirement system for Galveston County employees is one of my proudest achievements,'' says Judge Holbrook, who retired in 1994. He points out that after just 12 years of service under the alternate plan he is now receiving twice as much as he would have under Social Security.

Seeing the tremendous potential in a plan like Galveston's, in 1982 Brazoria County opted out of Social Security in favor of a similar plan. A year later Matagorda County did, too. Both of these counties made their employees' contributions 6.7%, improving a great retirement plan by providing for even greater returns.

Tolbert Newman, the First Financial fund manager who oversees the retirement plans for these three counties, cites the following example of the growth that can be achieved in such an alternate pension fund. If an individual begins working at 25 years old and makes a $2,000 annual contribution for just 10 years, assuming an 8% interest rate, he will have $314,870 when he retires at age 65. If an employee works continuously for 40 years, depending on contributions, his portion of the pension fund could be more than $1 million.

Galveston's once-fledgling employee benefit plan has stood the test of time, showing that it can and does outperform Social Security. Today, with more than 5,000 employees from these three counties, First Financial has grown a very healthy and sizable portfolio. Those who retire after 20 years of service will receive three to four times the monthly benefit they would have under Social Security.

This plan is not just an isolated act by a group of extraordinarily responsible and dedicated Texans. In 1937 the Houston Fire Department set up its own retirement system, which now has more than $1 billion in assets. Retired firefighters receive more than three times the amount Social Security pensioners do. There are countless other examples of other local and state governments showing the same responsibility and initiative. Five states have opted out of Social Security and have their own plans: California, Nevada, Maine, Ohio and Colorado.

Congress knows that privatization will succeed—or it should know. In 1984 it set up the Thrift Savings Plan, for government employees only, whose ''C'' Fund is administered entirely by Wells Fargo Funds and has succeeded well beyond anyone's imagination. The plan's three funds today total more than $28 billion. Under the Thrift Savings Plan, if an employee making $35,000 per year invests 10% of his pay each year, after 30 years he will have more than $1.2 million in the retirement fund.

In August 1996 Frost Bank of San Antonio published a survey on Social Security in which 40% of its respondents strongly supported retirement accounts consisting of stocks and bonds and 55% opposed raising payroll taxes.

If Social Security were privatized for all Americans, those who work in the private sector, including the self-employed, would benefit as never before. Phasing out the employer's share of the Social Security tax would, over time, return to the business community more than $169.2 billion per year. Freedom from these payroll taxes would be a tremendous boon to the economy, allowing the creation of countless new jobs in every sector.

A WINNER FOR DECADES

''We currently pay over $1.3 million in matching Social Security taxes annually,'' says Larry N. Forehand, president of the Texas Restaurant Association and founder of Casa Olé Mexican Restaurants, a fast growing Texas restaurant chain. ''If our company had that $1.3 million a year to invest in new locations, we could build six additional restaurants, employ an additional 450 people and add $7.2 million to the economy every year. It is estimated that all the restaurants in Texas will save $1.2 billion per year.''

Privatization has been a winner for decades for various government entities. It's time to extend the benefits to all.

THE MICROCREDIT FOR SELF-RELIANCE ACT OF 1997

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1997

Mr. HOUGHTON. Mr. Speaker, I rise today with my good friend and colleague, TONY HALL, and a bipartisan group of over 20 other Members, to introduce the Microcredit for Self-Reliance Act of 1997.

The goal of this bill is to help impoverished people around the world achieve dignity and economic independence for themselves and their families through microenterprise—a program designed to help provide people with small, low interest loans to start a business and bring themselves out of poverty.

Specifically, the Microcredit for Self-Reliance Act is a vehicle through which the United

States can give a higher priority to microcredit internationally, and work toward the goal of the 1997 Microcredit Summit—to reach 100 million of the world's poorest families, especially the women of those families, with credit for self-employment and financial and business services by 2005.

Our bill builds upon the successes of the Grameen Bank of Bangladesh, which was started by Mohammed Yunus in 1983. I'd recommend that each of my colleagues read the book ''Give Us Credit,'' by Alex Counts, which eloquently tells the story of how Mr. Yunus brought so many of his fellow citizens out of poverty through microlending.

The U.S. Agency for International Development [USAID], under the able leadership of Brian Atwood, has also been involved in microenterprise for awhile now, and has been doing a good job at it. Also, groups such as Results, a grass roots support group headed up by Sam Daley-Harris, has worked tirelessly in promoting the ideals of microcredit, culminating in their successful Microcredit Summit, which was held here in Washington last month.

Mr. Speaker, this bill calls for no new funds. Rather, we're calling for more of our existing funds to be used to support microcredit programs. Specifically, the bill asks for $170 million for fiscal year 1998 and $180 million for fiscal year 1999 to be allocated to USAID for microcredit assistance. Half these resources, at least $85 million for fiscal year 1998, and $90 million for fiscal 1999, would go to institutions serving the poorest 50 percent of those living below the poverty line, especially women, with loans under $300.

In addition, we'd like to provide $20 million for special initiative within the International Fund for Agricultural Development [IFAD] to support community based micro-finance institutions that serve the very poor in rural areas.

Why Microcredit? Well, the World Health Organization reports that poverty is the leading cause of death worldwide. Over 1 billion people—or one-fifth the world's population—live in extreme poverty. Microcredit is one of the most effective antipoverty tools in existence, allowing people to eradicate poverty and hunger in their own lives.

The microcredit program enjoys broad bipartisan support. These programs not only help millions work their own way out of poverty, but also recycle foreign aid dollars through loan repayments. Microcredit loans are self-sustainable. They are easily replicable and powerful vehicles for social development.

Mr. Speaker, I hope you'll join me in support of the Microcredit for Self Reliance Act of 1997.

HONORING CELINA HIGH SCHOOL GIRLS BASKETBALL TEAM FOR AN OUTSTANDING SEASON

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. GORDON. Mr. Speaker, I rise today to acknowledge the accomplishments of a dedicated group of young women who worked together in the true spirit of sportsmanship to achieve a long-awaited goal.

The group is the Celina High School Lady Bulldogs basketball team of Celina, TN, and that goal was making it to the State Class A championship game. Although they were not victorious, the hardwork and dedication they demonstrated throughout the year will not be without notice. After all, they were honored as: 1997 Tri-Lakes Conference Champions, 1997 District 5 Champions, 1997 Region 3 Champions, and 1997 State Runner-up.

These women of Celina High School trained vigorously, played tirelessly, and deserve recognition for a job well done.

I congratulate each member of the team, their head coach, Joe Sims, and all the assistant coaches, managers, school administrators, and all other support staff. I know they won't soon forget this milestone, and those that are still to come.

The players are true champions: Nicole Davis, Jennifer Davenport, Kaylin Walker, Amanda Kendall, Tara Ashlock, Michelle Chambers, Crystal Price, Amber Isenberg, Andrea McLerran, Trinity Weddle, Amanda Thompson, Erica Melton, Janet Barlow, Courtney Cross, Dana Key, Cera Burnette, and Claudia Bailey.

TRIBUTE ASBURY PARK ON ITS 100TH ANNIVERSARY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. PALLONE. Mr. Speaker, I am very honored to represent the city of Asbury Park, NJ, which this week is celebrating its 100th anniversary.

If you mention Asbury Park to anyone in this country under the age of 45, they will often recognize it as the city Bruce Springsteen put on the map.

I am a great fan of Bruce Springsteen whom I consider a true musical talent and whose album ''Greetings from Asbury Park,'' did indeed familiarize millions with our city. But I am quick to point out that Asbury Park was a famous seashore resort for almost a century before Bruce Springsteen entered the musical scene.

In fact, Asbury Park was attracting great musical talent starting perhaps in 1904 when Arthur Pryer, a member of the John Philip Sousa band, began a series of concerts on the boardwalk. According to a history compiled by Florence Moss, ''Men in white straw hats and women in white-linen bustled dresses, carrying lace-trimmed umbrellas, would promenade the length of the mile long boardwalk.''

Founded decades earlier by James A. Bradley, a developer with great foresight, and named after Francis Asbury, the father of Methodism in the United States, Asbury Park changed from sand dunes and forests to an exclusive seashore resort during the latter part of the 1800's. Until the rail line was extended farther south, wealthy residents of Newark and New York would take the train to Long Branch and then be picked up by horse and carriage and transported to Asbury Park.

The twenties was a rip-roaring era at the Jersey Shore featuring a rather booming and lucrative prohibition period. This in turn was followed some years later by the big bands and the likes of Count Basie and Frank Sinatra and other music greats.

During World War II, the British Navy took residence in the Monterey and Berkeley Carteret hotels and the British Army inhabited the Kingsley Arms Hotel. This presence enabled local residents to survive gas rationing and other wartime shortages.

On the nearby boardwalk, the Casino and Convention Hall were utilized for other purposes. Since the twenties, entertainers performed and trade shows and folk festivals were held in these massive structures which were designed by architects Warren and Wetmore, who also designed New York's Grand Central Station.

Asbury Park can also claim the distinction of being the first seaside resort in the country to adopt a sanitary sewer system and its trolley system was only the second electric system built in the United States.

Mr. Speaker, while Asbury Park has suffered from a loss of revenues in recent years and the relocation of many stores to the shopping malls, it still boasts wonderful beaches, a great boardwalk, wide streets, historic architecture and a corps of dedicated citizens and public officials dedicated to its rebirth. In my mind, the restoration of Asbury Park to its position as a premier vacation and cultural center is well within our grasp and I pledge to work hard to see that this dream of ours is realized.

THE INDONESIA MILITARY ASSISTANCE ACCOUNTABILITY ACT

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. KENNEDY of Rhode Island. Mr. Speaker, as you are aware, I am very concerned about conditions in the former Portuguese colony of East Timor. Particularly, I believe I bring a unique perspective to the debate because I am one of the few Members of Congress to have visited the good people of East Timor. As a legislator, I have been privy to the debate in Congress over the responsibility of the United States to fight for human rights world wide.

Up until 21 years ago, East Timor was a colony of Portugal. In 1975, the small, emerging nation of East Timor was brutally invaded by the nation of Indonesia. Over the past 21 years, the people of East Timor have been subjected to some of the worst abuses of human rights in the world. The Indonesian government has been a cruel and repressive dictatorship.

More than 200,000 East Timorese—almost one-third of the population—have been killed or have died from starvation after being forced from their villages. All attempts at peaceful protest have been met with violent oppression. This attack cannot be countenanced and this violence must end.

Abduction, torture, suppression of dissent, and disappearances are common occurrences under the Indonesian occupation of East Timor. Suppression of the East Timorese independence movement includes arbitrary detention, use of secret detention facilities, rape, torture frequently resulting in death. These abuses occur in large part due to the free hand given to the military to suppress the independence movement.

In December of last year, I visited the Indonesian-occupied land of East Timor. One of

the greatest honors of my life was attending Christmas midnight mass celebrated by Bishop Belo, one of the two 1996 Nobel Peace Prize winners, and spending Christmas Day with him. My visit there has made me truly redouble my efforts on behalf of the people of East Timor and Indonesia.

There is no question that the attacks and abuses are escalating throughout Indonesia. Since Christmas Eve, there have been numerous roundups by security forces. A recent New York Times editorial cited the effects of this crack down on nongovernmental organizations. This latest instance of violence against the people of East Timor and Indonesia requires an immediate response from the U.S. Government.

As a former Portuguese colony, the concerns of the Portuguese-Americans for the human rights situation in East Timor have been great. Indeed, as I travel across the country, it is primarily in the Portuguese communities, and of course the large Portuguese communities in Rhode Island, that I hear concerns over the plight of these people half way around the globe. Senator Pell and former Representative Ron Machtley both raised my awareness of this issue. Unfortunately, things have not changed. What was true then was true now, human rights in East Timor have not improved.

This year's U.S. Department of State human rights report clearly classifies the country of Indonesia as one of the worst violators of human rights. The report highlights those actions based on authoritarian efforts to suppress dissent, enforce cohesion and restrict opposition groups and nongovernmental organizations. The report has over 30 pages dedicated to the intolerable human rights situation in Indonesia.

The bill that I am introducing today, the Indonesian Military Assistance Accountability Act, will attempt to confirm a commitment from Indonesia to cease the human rights violations throughout the country. The bill imposes military sanctions on the country of Indonesia if its human rights record fails to improve.

I have worked closely with numerous human rights groups, and nongovernmental organizations, to establish the most effective way to protect the people of East Timor and other parts of Indonesia, such as Aryan Jaya, where human rights atrocities are being committed.

Specifically, the bill conditions United States arms sales and transfers on a few achievable policy reforms by the Government of Indonesia in the areas of free and fair elections, labor rights, protection of nongovernmental organizations, including human rights, environmental, and religious foundations, rights and protections for the people of East Timor, release of political prisoners, and fair trials for such persons.

Indonesia repeatedly denies that there is a problem. If this is true, the Indonesians have nothing to fear by a close investigation of their human rights practices.

Unfortunately, they do have much to fear and they have been very vocal about any possible legislation that I or other congressional Members may introduce.

The bill I am introducing is clearly for military sanctions only. But it will send a message to Indonesia and it will take away the $26 million in military assistance that it receives every year if it does not change its ways. We have waited too long for change and it will not come without a law on the books to impose change on Indonesia. I look to the rest of my congressional colleagues to support this legislation, in order that we send a clear and unmistakable message to Indonesia—that they must cease violating the human rights of the people of Indonesia, particularly in East Timor.

PARTNERS IN ACHIEVING LITERACY

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to the Vacaville Reporter, Solano County businesses, the students and kids who participate in the Partners in Achieving Literacy Program.

I am proud to say that more than 100 businesses throughout Solano County have come forward to join Partners in Achieving Literacy (PAL) with the Vacaville Reporter in helping local kids stay on top of their school work and their citizenship.

More than 5,000 students in Travis, Dixon, Vacaville and Fairfield/Suisun School District participate and benefit from this year's program alone. Teachers from more than 120 classrooms use the Reporter as a teaching tool in subjects ranging from geography to economics to civics to current events. Thanks to lesson plans that have been suggested to local teachers by the Reporter, reading and math skills have been heightened. We need more interaction between business and students like Partners in Literacy if we are to prepare our children and students for the challenges of the 21st century.

Weekly features in the Reporter like Kids Tech, Rooster Tails and Kids Talk have gotten even more kids involved in learning about the issues of the day and the issues that affect their community.

Programs like the Reporter's PAL Program is an essential component to our overall national education strategy. As employers in our community come to depend more and more on a skilled and technical workforce for tomorrow's economy, it is critical that we have the educated labor pool to fill those jobs.

Mr. Speaker, please join me in honoring The Vacaville Reporter, the businesses of Solano County and most of all the kids and schools who participate in the Partners in Literacy program.

PERSONAL EXPLANATION

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Ms. MCCARTHY of Missouri. Mr. Speaker, the RECORD for Thursday, March 13, incorrectly listed my declared intention to vote on rollcall vote Nos. 49 and 50 regarding moving the previous question and final passage of the Paperwork Reduction Act.

Had I been present, I would have voted ''no'' on rollcall 49 and ''yes'' on rollcall 50. I was present and voted on rollcall No. 48.

UPS: BREAKING THE SOUND BARRIER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. TOWNS. Mr. Speaker, I want to highlight a monumental achievement accomplished by one of America's premier deliverers of mail and packages, the United Parcel Service [UPS]. As part of a national mandate, UPS has become the first major North American airline to fully comply with stage 3 aircraft noise reduction regulations, 3 years before the federally mandated deadline.

Indeed, this ambitious and expensive initiative undertaken by UPS speaks volumes about the company's commitment to promoting quieter and more efficient transport of parcels. Today, all 197 jets in the UPS fleet will comply with the stage 3 noise-reduction rule. The number of residents in noise-impacted areas will be reduced by 80 percent. Clearly, UPS has set a standard that other airlines should strive to emulate.

Using current technology, UPS planes will now utilize 18 percent less fuel. Additionally, instead of a 22-square-mile area being affected by noise, the area will now be 6.5 miles.

1997 marks the 50-year anniversary of the historic flight in which Capt. Chuck Yeager exceeded the speed of sound. UPS has now broken a new sound barrier that will provide long-term benefits for the environment, the airline industry, and citizens. Other airlines should follow the lead of UPS and achieve early compliance with stage 3 aircraft noise reduction regulations.

MARY MULHOLLAND: THE SPIRIT OF SERVICE

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to pay tribute to Mary Mulholland, an extraordinary woman from Morris County, NJ, for her years of dedicated service to the people of our county and State.

Mr. Speaker, there is hardly a person in Morris County who has not been touched by the innate kindness of Mary Mulholland. Over the years, she has been ever present in the many volunteer and service organizations that make our county one of America's most wonderful places to live, work and raise a family.

Educated at the College of Saint Elizabeth in Convent Station, Mary went on to work for the New York Telephone Co. soon thereafter. By the 1950's she was married and raising six children with her husband, the late Dr. Robert E. Mulholland. Yet somehow, Mary found the time to become involved in community service. True to form, Mary jumped in with both feet and before long she helped found the Morris County Aftercare Clinic and the Dope Open, Inc., which became the first in a long line of public service commitments she would lead.

Mary devotes her time to numerous organizations, including St. Clares Riverside Foundation, Dover General Hospital and Medical

Center, Hope House, the College of Saint Elizabeth, Centenary College, the United Way, the Easter Seal Society and even the Governor's Advisory Council for Drug/Alcohol Abuse. However, nowhere is her presence more evident than at the Dope Open, Inc., of which she is the founder and president. In three decades with the Dope Open, she has, through her charming personality, conviction and absolute tenacity, raised more than $1 million to fight drug abuse and chemical dependency. Each year, Mary continues her relentless battle to help juveniles in our community who have been robbed of their youth and innocence by the scourge of drugs. The Dope Open provides hope for these lost children and I am certain that without Mary's foresight, fortitude and dedication to this effort, many of them would have nowhere to turn.

The one thing everyone who knows Mary can agree on is that a person cannot help but be energized into action when she speaks. When Mary decides to take on a commitment to help people in our community, she installs in all of us a sense of urgency about the issue—a sort of call to arms. And Mary is no figurehead, she provides both the spark, dynamism and energy needed to take on any task, no matter how daunting or demanding. To that end, she does us all a public service by bringing out our own compassion and sense of duty to help our less fortunate neighbors.

Mr. Speaker, each day, thanks to the Herculean efforts of Mary Mulholland, the future of Morris County is a little more promising. Mary Mulholland truly embodies the spirit of service and I thank her for all she has done for our community throughout the years.

PERSONAL EXPLANATION

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. RUSH. Mr. Speaker, on March 5, 1997, I voted ''aye'' for rollcall No. 31, which expressed the sense of Congress that the display of the Ten Commandments in public buildings should be allowed. My vote was based on my personal brief in the Ten Commandments as a basic fundament of Christian doctrine. After further examination I came to the realization that, in spite of my personal beliefs, I must recognize that one's personal beliefs, including my own, cannot usurp the tenets which our country is based upon. One of those tenets is the separation of church and state. This measure is in direct opposition to the aforementioned principle. Thus, I would like the RECORD to reflect that I am not in support of this measure.

PRESERVE THE ILLINOIS AND MICHIGAN CANAL

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. LIPINSKI. Mr. Speaker, on February 12, I introduced legislation to preserve and enhance the Illinois and Michigan Canal National Heritage Corridor. H.R. 1042 extends the I&M Canal National Heritage Corridor Commission for another 5 years to 2004.

Designated by Congress in 1984, the I&M Canal National Heritage Corridor was the first ''partnership park'' of its kind and is now a model for such parks throughout the Nation. The Corridor stretches 100 miles across Illinois, from Chicago to LaSalle/Peru and encompasses 450 square miles. Its rich heritage and recreational opportunities attract countless visitors to the area and enhance the pride of local residents. Simply put, the Corridor is of great historical significance to the State of Illinois, as well as the entire Nation.

Since the creation of the Commission, which coordinates the efforts and resources of Federal, State, and local agencies, we have seen significant progress being made along the Corridor. However, there is still a great deal more that needs to be done. We must continue to work to preserve this unique treasure for future generations. H.R. 1042 will allow the Commission to continue its vital work and further the successful partnership between Federal, State, and local agencies as they work to preserve this important piece of our Nation's history.

I strongly urge my colleagues to support my bill, H.R. 1042.

104 KRBE

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. GREEN. Mr. Speaker, it is very seldom that I get the opportunity to recognize local personalities who have unselfishly devoted their time and effort to improve the world we live in. In Houston we are fortunate to have someone like Sam Malone. Sam Malone has been firing up the radio waves for 4 years in Houston with his cohosts of the ''Morning Show'' Maria Todd and Psychoo Robbie on 104 KRBE. Aside from providing lively entertainment, they have held numerous charity events to help our city, including blood drives, food drives, and clothing drives. In recognition of their 4th year anniversary, I would like to take this opportunity to thank Sam and the ''Morning Show'' for their hard work and commend everyone at KRBE for their continued support to our organizations and charities.

Here's to you Sam, happy anniversary, we look forward to many more years to come. See ya.

THE COLORECTAL CANCER SCREENING ACT OF 1997

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. HASTINGS of Florida. Mr. Speaker, I am today introducing the Colorectal Cancer Screening Act of 1997 in order to establish colorectal cancer screening as a covered benefit under the Medicare program. Colorectal cancer screening is an important element of what should be a comprehensive program of preventive health care for our senior citizens. Unfortunately, the current Medicare program provides little incentive for Medicare recipients to have regular check-ups and undergo the routine tests that will prevent serious illnesses and detect diseases at their earliest, most treatable stage. This legislation, if enacted, would encourage Medicare recipients to be screened for colorectal cancer by providing Medicare coverage of those tests. I am pleased to be joined by 14 cosponsors in introducing this important legislation.

It is particularly timely that this legislation be considered at this time. Over the past 2 to 3 years, there has been a significant amount of work done within the medical community to develop Guidelines and recommendations on how to screen for colorectal cancer. Several new screening guidelines and revised screening recommendations have been released within the past two months, and new screening recommendations are expected to be issued within the next few weeks by the American Cancer Society. These Guidelines and recommendations indicate that there is an emerging consensus that there are a number of different procedures that can be used to screen for colorectal cancer. This legisaltion is based upon that consensus.

The move to develop new screening guidelines really started in the spring of 1995 with the release of the ''Guide to Clinical Preventive Services'' by the U.S. Preventive Services Task Force. In this report, the Task Force reversed the position taken in its 1989 report and concluded that there was a sufficient scientific basis upon which to recommend colorectal cancer screening, starting at age 50 for most individuals. The report specifically recommended screening average risk individuals with two procedures—FOBT and sigmoidoscopy—though it raised concerns about the limited effectiveness of these procedures and questioned the willingness of patients to comply with these tests. The report also noted discussed screening with colonoscopy and the barium enema, and concluded that there was insufficient evidence to recommend for or against screening with either test. The report also raised questions regarding the overall cost and risks of screening, particularly with regard to colonoscopy.

Many of the questions raised by the U.S. Preventive Services report have been answered. The release of the Task Force report prompted the Agency for Health Care Policy and Research [AHCPR] of the Department of Health and Human Services to initiate a 2-year project to examine the scientific and medical literature on all available options for colorectal cancer screening and to develop Clinical Practice Guidelines on colorectal cancer screening. The AHCPR terminated the development of specific screening recommendations last April, but has completed an ''Evidence Report'' summarizing the current evidence on the various screening procedures. A summary of this report, released in February, concludes that there is evidence to support colorectal cancer screening with all of the screening procedures identified in the Preventive Services Task Force report—FOBT, sigmoidoscopy, the barium enema and colonoscopy. I ask unanimous consent that the Summary of the AHCPR Evidence Report be included in the RECORD with these remarks.

The effort to develop Clinical Guidelines for Colorectal Cancer Screening did not, however, end with AHCPR's decision not to complete

the project. Colorectal Cancer Screening Guidelines based on the AHCPR project were completed and published in the February 1997 issue of the medical journal ''Gastroenterology.'' The 16 members of the multidisciplinary expert panel first assembled by the AHCPR were listed as the authors of the Guidelines, and the project was completed under the direction of the American Gastroenterological Association and a consortium of four other gastroenterology organizations that had served as the contractor to the AHCPR. These new Guidelines are endorsed by the American Cancer Society, American College of Gastroenterology, American Gastroenterological Association, American Society of Colon and Rectal Surgeons, American Society for Gastrointestinal Endoscopy, Crohn's and Colitis Foundation of America, Oncology Nursing Society and the Society of American Gastrointestinal Endoscopic Surgeons.

The Colorectal Cancer Screening Act of 1997 embodies the screening recommendations included in the clinical Guidelines and supported by the AHCPR Evidence Report. It should be noted that the legislation includes the option for individuals at average-risk and high-risk to be screened with the barium enema. It does so because providing patients and their physicians with the option of being screened with the barium enema is fully supported by these reports, and by the scientific and medical literature that provides the basis for the recommendations. To be specific with regard to the Clinical Practice Guidelines published in Gastroenterology:

The Clinical Practice Guidelines recommend screening people at average risk for colorectal cancer with double-contrast barium enema every 5–10 years;

The Clinical Practice Guidelines recommend use of the barium enema for screening individuals at high risk for colorectal cancer—individuals with close relatives who have had colorectal cancer or an adenomatous polyp and people with a family history of hereditary nonpolyposis colorectal cancer—and

The Clinical Practice Guidelines recommend use of the barium enema or colonoscopy for surveillance of people with a history of adenomatous polyps or colorectal cancer.

Although they have not yet been finalized, I understand that the American Cancer Society will soon issue new recommendations for colorectal cancer screening. The legislation that I introduce today is consistent with the approach that has been taken by the American Cancer Society in developing these new recommendations.

One final consideration guided the development of this colorectal cancer screening legislation, and it is that the colorectal cancer is a particularly deadly disease for African-Americans. This is discussed in the Summary of the AHCPR Evidence Report, which notes that the National Cancer Institute and other medical journals have found that black men and women with colorectal cancer have a 50 percent greater probability of dying of colon cancer than do white men and women. The medical literature indicates that this is caused, at least in part, by the fact that African-Americans tend to get colorectal cancer in the right—proximal—portion of the colon—the portion that is not reached by sigmoidoscopy, the most common screening procedure currently in use. The Colorectal Cancer Screening Act of 1997 provides individuals the option of a full colon screening with the barium enema in order to assure that the screening program we establish in the Medicare program is adequate for African-Americans. It also should be noted that this option is particularly important for other Americans as well, given that it has been shown to be significantly more effective than screening only one-half of the colon with sigmoidoscopy. Moreover, in addition to being effective, the barium enema is one of the most cost-effective screening procedures for both average-risk and high-risk individuals.

In conclusion, I would like to emphasize for my colleagues the cost-effectiveness of this legislation. According to the Office of Technology Assessment, colorectal cancer screening is capable of saving thousands of American lives at a cost of only about $13,250 per life year saved. Colorectal cancer screening is also cost-effective when compared with other Medicare-covered procedures such as kidney dialysis—$50,000 per life year saved—and mammography—$40,000 per life year saved. I cite these figures not to argue against these other life-saving devices and procedures, but rather to provide a comparison that demonstrates the importance of Medicare coverage for such cost-effective procedures as colorectal cancer screening at a time when we are working hard to reduce the level of spending in the overall Medicare program.

In the end, however, the Colorectal Cancer Screening Act of 1997 is not about cost-effectiveness and economics—it is about saving lives that are unnecessarily lost to this disease. Colorectal cancer strikes about 145,000 Americans each year, and about 55,000 Americans die of the disease each year. This legislation can save many of these lives, and I urge my colleagues to join me in seeking its enactment.

THE INTRODUCTION OF THE HISTORIC HOMEOWNERSHIP ASSISTANCE ACT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. SHAW. Mr. Speaker, all across America, in the small towns and great cities of this country, our heritage as a nation—the physical evidence of our past—is at risk. In virtually every corner of this land, homes in which grandparents and parents grew up, communities and neighborhoods that nurtured vibrant families, schools that were good places to learn and churches and synagogues that were filled on days of prayer, have suffered the ravages of abandonment and decay.

In the decade from 1980 to 1990, Chicago lost 41,000 housing units through abandonment, Philadelphia 10,000, and St. Louis 7,000. The story in our older small communities has been the same, and the trend continues. It is important to understand that it is not just the buildings that we are losing. It is the sense of our past, the vitality of our communities and the shared values of those precious places.

We need not stand hopelessly by as passive witnesses to the loss of these irreplaceable historic resources. We can act, and to that end I am introducing today with my colleagues, Mrs. Kennelly, Mr. Lewis, Mrs. Johnson of Connecticut, and Mr. English, the Historic Homeownership Assistance Act.

This legislation is almost identical to legislation introduced in the 104th Congress as H.R. 1662. It is patterned after the existing Historic Rehabilitation Investment tax credit. That legislation has been enormously successful in stimulating private investment in the rehabilitation of buildings of historic importance all across the country. Through its use we have been able to save and re-use a rich and diverse array of historic buildings: landmarks such as Union Station in Washington, D.C.; the Fox Paper Mills, a mixed-used project that was once a derelict in Appleton, WI; and the Rosa True School, an eight-unit low/moderate income rental project in an historic building in Portland, Maine. In my own State of Florida, since 1974, the existing Historic Rehabilitation Investment Tax Credit has resulted in over 325 rehabilitation projects, leveraging more than $238 million in private investment. These projects range from the restoration of art deco hotels in historic Miami Beach, bringing economic rebirth to this once decaying area, to the development of multifamily housing in the Springfield Historic District in Jacksonville.

The legislation that I am introducing today builds on the familiar structure of the existing tax credit but with a different focus. It is designed to empower the one major constituency that has been barred from using the existing credit—homeowners. Only those persons who rehabilitate or purchase a newly rehabilitated home and occupy it as their principal residence would be entitled to the credit that this legislation would create. There would be no passive losses, no tax shelters, and no syndications under this bill.

Like the existing investment credit, the bill would provide a credit to homeowners equal to 20 percent of the qualified rehabilitation expenditures made on an eligible building that is used as a principal residence by the owner. Eligible buildings would be those that are listed on the National Register of Historic Places, are contributing buildings in National Register Historic Districts or in nationally certified state or local historic districts or are individually listed on a nationally certified state or local register. As is the case with the existing credit, the rehabilitation work would have to be performed in compliance with the Secretary of the Interior's standards for rehabilitation, although the bill would clarify the directive that the standards be interpreted in a manner that takes into consideration economic and technical feasibility.

The bill also makes provision for lower-income home buyers who may not have sufficient federal income tax liability to use a tax credit. It would permit such persons to receive a historic rehabilitation mortgage credit certificate which they can use with their bank to obtain a lower interest rate on their mortgage. The legislation also permits home buyers in distressed areas to use the certificate to lower their down payment.

The credit would be available for condominiums and co-ops, as well as single-family buildings. If a building were to be rehabilitated by a developer for sale to a homeowner, the credit would pass through to the homeowner. Since one purpose of the bill is to provide incentives for middle-income and more affluent families to return to older towns and cities, the bill does not discriminate among taxpayers on the basis of income. It does, however, impose

a cap of $50,000 on the amount of credit which may be taken for a principal residence.

The Historic Homeownership Assistance Act will make ownership of a rehabilitated older home more affordable for homeowners of modest incomes. It will encourage more affluent families to claim a stake in older towns and neighborhoods. It affords fiscally stressed cities and towns a way to put abandoned buildings back on the tax roles, while strengthening their income and sales tax bases. It offers developers, realtors, and homebuilders a new realm of economic opportunity in revitalizing decaying buildings.

Mr. Speaker, this bill is no panacea. Although its goals are great, its reach will be modest. But it can make a difference, and an importance difference. In communities large and small all across this nation. The American dream of owning one's home is a powerful force. This bill can help it come true for those who are prepared to make a personal commitment to join in the rescue of our priceless heritage. By their actions they can help to revitalize decaying resources of historic importance, create jobs and stimulate economic development, and restore to our older towns and cities a lost sense of purpose and community.

I ask unanimous consent that the text of the bill and an explanation of its provisions be printed in the RECORD.

''HISTORIC HOMEOWNERSHIP ASSISTANCE ACT''

Legislation to create a 20 percent tax credit for the rehabilitation of a historic structure occupied by the taxpayer as his principal residence was sponsored last Congress by Representatives Clay Shaw (R–FL) and Barbara Kennelly (D–CT) in the House, and by Senators John Chafee (R–RI) and Bob Graham (D–FL) in the Senate. Although this legislation did not become law, it received considerable support in Congress and we are planning for reintroduction next session and an active campaign to secure its passage.

GOALS OF THE HISTORIC HOMEOWNERSHIP ASSISTANCE ACT

Expand homeownership opportunities for low- and middle-income individuals and families;

Stimulate the revival of declining neighborhoods and communities;

Enlarge and stabilize the tax base of cities and small towns;

Preserve and protect historic homes.

MAJOR PROVISIONS OF THE HISTORIC HOMEOWNERSHIP ASSISTANCE ACT

Rate of Credit, Eligible buildings: The rate of credit is 20 percent of qualified rehabilitation expenditures. Eligible buildings include those listed on national or federally-certified state and local historic registers, and buildings which are located in national or federally-certified state and local historic districts. Eligible buildings (or a portion) must be owned and occupied by the tax payer as his principal residence. Condominiums and cooperatives would be eligible for the tax credit. Rehabilitation would have to be performed in accordance with the Secretary of the Interior's Standards for Historic Rehabilitation.

Maximum Credit, Minimum Expenditures: The maximum credit allowable would be $50,000 for each principal residence, subject to Alternative Minimum Tax provisions. Rehabilitation must be substantial—the greater of $5,000 or the adjusted basis of the building—with an exception for buildings in census tracts targeted as distressed for Mortgage Revenue Bond purposes under I.R.C. Sec. 143(j)(1) and Enterprise and Empowerment Zones, where the minimum expenditure must be $5,000. At least 5 percent of the qualified rehabilitation expenditures would have to be spent on the exterior of the building.

Mortgage Credit Certificate Provision for Low and Moderate Income Homeowners: Taxpayers who do not have sufficient federal income tax liability to make use of the credit could elect to receive, in lieu of the credit, an Historic Rehabilitation Mortgage Credit Certificate in the face amount of the credit to which the taxpayer is entitled. The taxpayer would then transfer the certificate to the mortgage lender in exchange for a reduced interest rate on the home mortgage loan. The mortgage lender would be permitted to reduce its own federal income tax liability by the face amount of the certificate.

Targeted Flexibility for Historic Rehabilitation Standards: For buildings in census tracts targeted as distressed or located within an Enterprise and Empowerment Zone, the Secretary would be required to give consideration to: (1) the feasibility of preserving existing architectural or design elements of the interior of such building; (2) the risk of further deterioration or demolition of such building in the event that certification is denied because of the failure to preserve such interior elements; and, (3) the effects of such deterioration or demolition on neighboring historic properties.

No Passive Activity Rules, No Income Cap on Eligibility: Passive activity rules would not apply because by occupying and rehabilitating a qualifying residence, the individual is not an investor but utilizing the property as his primary residence. There would be no income cap because the proposed legislation is intended not only to foster homeownership and encourage rehabilitation of deteriorated buildings, but also to promote economic diversity within neighborhoods and increased local ad valorem real property, income and sales tax revenues.

Process for Certifying Qualified Rehabilitation Expenditures: Maintains the certification process for the existing rehab credit, but authorizes the Secretary of the Interior to enter into cooperative agreements allowing the State Historic Preservation Offices (SHPOs) and Certified Local Governments (CLGs) to certify projects within their respective jurisdictions. The SHPOs would have the authority to levy fees for processing applications for certification, provided that the proceeds of such fees are used only to defray expenses associated with the processing of the application.

Revenue Loss Estimate: The Congressional Joint Committee on Taxation has estimated the revenue loss of the Historic Homeownership Assistance Act to be $368 million over a seven year period.

HUMAN RIGHTS IN KOSOVA

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

Mr. ENGEL. Mr. Speaker, I rise to call attention to the situation in Kosova. As my colleagues are aware, Kosova is a region in the former Yugoslavia which is populated by 92 percent ethnic Albanians, but ruled by Serbia.

Since unilaterally withdrawing Kosova's autonomy, Belgrade has carried out a harsh campaign of violations of human and political rights against the Kosovans.

Dr. Alush A. Gashi, M.D., Ph.D., is a member of the Kosova Council for the Defense of Human Rights and Freedoms and is an expert on the situation in Kosova. On February 6, 1997, he addressed the Congressional Commission on Security and Cooperation in Europe.

I am inserting Dr. Gashi's statement to the Commission at this point in the CONGRESSIONAL RECORD.

STATEMENT BY ALUSH A. GASHI,

I

Mr. Chairman, ladies and gentlemen. Thank you for this opportunity to speak with CSCE on the timely and critical subject of repression of human rights and freedoms in the Republic of Kosova.

It was almost three years ago—on May 9, 1994—that I last appeared before the CSCE. Then as now, I just arrived from Prishtina, the capital of the Republic of Kosova. Then as now, I sadly reported that the human rights situation in Kosova had degenerated. Then as now, I must regrettably tell you that repression, violence and terrorism directed at Albanians has escalated. Then as now, I reaffirmed our commitment to peaceful resistance under the leadership of President Rugova and his government.

It has been said that the more things change, the more they stay the same. In Kosova, things have gotten much worse.

Although I speak to you as a human rights activist, I also speak as a citizen of the Republic of Kosova who has experienced firsthand the terrible repression of the Belgrade regime.

II

Perhaps the U.S. State Department annual human rights report described the human rights crisis in Kosova most accurately. In that report issued a week ago on January 30, 1997, the U.S. said: ''The human rights record continued to be poor. The police committed numerous, serious abuses including extrajudicial killings, torture, brutal beatings, and arbitrary arrests. Police repression continued to be directed against . . . particularly the Albanians of Kosova . . . and was also increasingly directed against any citizens who protested against the government.''

The State Department reported that Serbian authorities killed 14 Albanians in 1996. Torture and cruel forms of punishment were directed against Albanians. Serbian police frequently extracted ''confessions'' during interrogations that routinely included beating of suspects' feet, hands, genital areas and heads.'' The police use their fists, nightsticks, and occasionally electric shocks,'' the report said, adding that the police ''often beat persons in front of their families'' as a means of intimidating other innocent citizens.

The report told of an incident last July in which ''several ethnic Albanian vendors in an open market near Prishtina were beaten by Serbian financial police, who accused them of not having their vendor's licenses in order. According to the victims, the police stole all the merchandise from the vendors without even looking at their papers, and then left the scene.''

Albanian children were not spared. The Council for the Defense of Human Rights and Freedoms documented between January and June 1996 over 200 cases of mistreatment of children at the hands of Serb authorities.

And the documentation goes on. Police in Kosova use arbitrary arrest and detention. Trials are delayed. There is no justice. Freedom of speech and the press are non-existent. Peaceful assembly and association are unknown under the Belgrade regime. Freedom of movement within Kosova as well as foreign travel, and emigration which are tightly controlled while repatriation, in effect, is prohibited.

Just last Sunday, The Washington Times reported that death came for a 34-year-old Albanian school teacher with a knock on the door that has become a trademark of the Serbian police state system of terror that has gripped Kosova. Nearly 30 Serbian police circled the teacher's house at 6 in the morning before entering.

The police grabbed the teacher's wife by the neck and demanded she direct them to her husband and ''a hidden gun,'' according to family members. The teacher's father reported that the police found the teacher in his bedroom, handcuffed him, and took him away.

Two days later, the family discovered their son's body, beaten and bruised, in a state hospital. A Serbian doctor and two Albanian colleagues said he died from trauma, with evident bruises and lacerations on his legs and genitals.

In short, in Kosova we have the full denial of human and national rights of Albanians imposed by the Serbian regime which has forcefully colonized Kosova and imposed apartheid.

III

While the state of Serbian terrorism has not relented in Kosova, there are important developments in Belgrade that confirm not everything remains the same. Foremost among these are opposition protest marches and rallies in Belgrade.

While all of us in Kosova welcome movement toward democracy in Serbia, the last Communist state in Europe, and sincerely support the right of the Serbian opposition to peacefully protest and demonstrate for democratization of Serbia, our people are asking: Where was the Serbian opposition while we were protesting against the Belgrade regime?

Under the leadership of President Rugova, Albanians in Kosova for almost a decade have peacefully protested against the Belgrade regime. Unfortunately, almost ten years later, the Serbian opposition has not distanced themselves from the Belgrade tyranny or supported stopping violence against Albanians.

They have not protested or distanced themselves, even when Serbian authorities killed peaceful Albanian demonstrators in various parts of Kosova. The Serbian opposition did not protest when the Serbian regime beat Albanian physicians in front of their patients in Kosova's hospitals, or when Serbian police beat Albanian teachers, killed Albanian parents who were protecting their children in the Albanian education system.

They did not protest when the Belgrade regime held political trials of Albanians who established the Kosova parliament. Neither did they protest when Serbian authorities arbitrarily dismissed Albanians from their jobs, closed down all mass media in Albanian language, and achieved quiet ethnic cleansing in Kosova through police interrogation and torture.

Neither did they protest when Serbian apartheid endangered the health and lives of Albanian people in Kosova, which is a crime against humanity, or when the Serbian regime expelled Albanians from their apartments and replaced them with Serb colonizers from other parts of former Yugoslavia.

Unfortunately, Serbian opposition did not protest and is not protesting now, against the Serbian regime for not letting the parliament and government of Kosova function.

Serbian opposition rightfully is asking for recognition of their vote, but at the same time is denying the democratic election in which Albanians citizens of the Republic of Kosova voted for their legitimate representatives in the Kosova leadership and gave them a mandate to represent them.

When we voted in 1992, instead of getting support from the Serbian opposition, some of them were asking to cut off our hands with which we cast our vote, and to cut off our fingers with which we made the ''V'' for victory sign.

Now, we understand Serbian frustrations at not achieving their aspirations for a greater Serbia. We understand that they may want to distance themselves from the crimes. But we all respect their right to demonstrate and achieve seats in their parliament.

We have to see their program. They have not yet revealed their policy toward Kosova. We hope and we wish that they can recognize the new reality in Kosova. We hope that the Serbian opposition understands that they cannot live under a double standard. To ask respect of their vote and political will in Serbia and at the same time deny the political will of Albanians in the Republic of Kosova is unacceptable.

Albanians of Kosova are against violence. They do support the rights of Serbia to demonstrate, and they condemn any use of force against them. After one decade of peaceful protests, Albanians of Kosova once again are inviting the Serbian opposition, which has protested for several months, to join Albanians of Kosova in their demand for full freedom and democracy based on the political will of Albanians in Kosova which has been confirmed by referendum, as well as parliamentary and presidential elections.

Kosova wants to see a democratic neighbor in Serbia which will end colonization of Kosova. But until that happens, we are in danger of the possibility of transferring the conflict from Belgrade to Kosova.

The United States attitude toward the Belgrade regime has changed since I last met with you. While the Dayton Accords could not have been achieved without the support of Belgrade, the world has witnessed again the duplicity, dishonest and disdain which the tyrant demonstrates toward agreements with which they disagree.

Now, just over a year since the Dayton agreement was reached, and the outer wall of sanctions was established, the U.S. has made it clear that it opposes Communist government in Belgrade and supports the opposition protests in Belgrade.

We were encouraged by State Department statements Monday in which the spokesman, Nicholas Burns, said: ''We have always said that we believe in enhancement of the political rights of the Kosovars.''

The U.S. should continue to increase its pressure on the Belgrade regime, as it has done in recent days. While this increase of pressure is certainly appropriate, it has resulted along with the success of the opposition protests in convincing the Belgrade Communist regime to once again to play ''the Kosova card.''

Isn't it ironic. The beginning of the end of former Yugoslavia began in Kosova. And now, as the beginning of the end of Serbia-Montenegro unfolds, the focuses has again shifted to Kosova. In recent days, the Belgrade regime has attempted to stir nationalist passions against the Albanians in Kosova, just as it did at the start of the Balkans calamity in 1989.

Then as now, Belgrade regime has turned from rhetoric to rampage. As Nicholas Burns reported Monday: ''Let me give you a little bit more information about Kosova because we're very concerned by it. We understand that three ethnic Albanians were killed by Serbian police on Friday. Over 100 ethnic Albanians have been arrested by Serbian police in what appears to be a coordinated police round-up in Kosova itself. Forty are still in custody. There is a basic denial of human and political rights to the Albanian population which will remain . . . a great concern of the United States.'' This insanity must be stopped.

In Kosova, we have organized our society, our institutions, so we urge the international community to help us by ensuring that Serbia will leave us alone in our state of Republic of Kosova.

We are part of the solution. We are committed to the peaceful resolution of the crisis and achieving recognition for our right of self-determination. But structural repression against Albanians in Kosova has become unbearable and still, under the leadership of President Rugova, Albanians are continuing their peaceful attempt to decolonize Kosova and establish an internationally recognized independent state of Kosova on the basis of the referendum held on September 26, 1991, as the best way to protect human and national rights of all the population of the Republic of Kosova.

The independent Kosova will play an important role in establishing friendly relations between the Albanians and the Serbs in the Balkans and also in directly influencing long-term stability in the region. Kosova will become a bridge between the state of Albania and the Serbia. This implies special relations and open borders between Kosova and Serbia as well as between Kosova and Albania.

As Yugoslavia disintegrates, the new reality is that Kosova is an emerging state in the Balkans.

It would be tragic if a decision over the future of Kosova would be made against the political will of the people of Kosova. That would be tragic for the ideals of freedom but also definitely unacceptable for Kosova.

IV.

We are asking the United States of America to continue its policy of protecting Kosova. We hope that we have learned from the tragedy of Bosnia that we should not react too late.

With all the problems, the United States engagement in Bosnia succeeded in stopping the war and mass killings, rapes, prison camps, and the worst misery the world has seen since the Holocaust.

We are asking the U.S. leadership for a peaceful resolution of the question of Kosova and the total Albanian question in general. Maintaining the ''outer wall'' of sanctions until a final, acceptable peaceful solution for Kosova is reached is essential.

We are asking the USCSCE to exercise its influence on the Belgrade regime to accept the political reality that exists in Kosova.

Kosova is a question of international stability. Therefore, we ask the USCSCE for the return of OSCE monitors and a permanent OSCE presence in Kosova.

Other democratic nations should follow the example of the U.S. which directly engaged in Kosova through its permanent USIS office, and that of many NGOs as well. We wish to see more of such activity.

Tuesday night, President Clinton said in his State of the Union address that America must build for the next century. We as well are seeking to establish our future and that of our children in the next century.

How can we accept living under occupation and colonization, fear and violence which Serbia has imposed on Kosova? We are directed toward global goals of the 21st century, while Serbia wants to move us back to the dark ages. Kosova may be the last example of classical colonization. We are asking for support for peaceful decolonization of Kosova. We are asking for democratic support for the destruction of apartheid in Kosova.

In every crisis of European stability in this century, the United States was the country

that brought the solution and stability. We hope that the U.S. will not surrender the Balkans to the people who unjustly drew the maps with artificial borders in the Congress of Berlin in the last century. They have placed a time bomb in the Balkans which brought tragedy after tragedy for a hundred years.

As President Clinton said in the State of Union address, the enemy of our time is inaction. We are asking for U.S. action in protecting Kosova as well as the South Balkans.

We in Kosova were encouraged by President Clinton's statement: ''Our first task is to help build for the first time an undivided, democratic Europe,'' he said. We are encouraged by this statement because in a democratic Europe, abolition of colonization and apartheid in Kosova will take place.

So finally, we ask USCSCE and all other U.S. institutions and the international community to support the peaceful policy of Kosova Albanians through dialog and under U.S. leadership with international guarantees.

We are counting on the only force in the world that has the will to stop it. We are counting on the United States of America.

THE GRIM STATISTICS OF HUMAN RIGHTS VIOLATIONS IN KOSOVA

Over 150 Albanians, mostly young people, have been killed by the Serbian police and army since 1989. In 1996 alone, 14 were killed.

66 young Albanian soldiers have been killed while serving in the army under very dubious and suspicious circumstances since 1981.

During the first six months of 1996, some 3,657 ethnic Albanians were mistreated, severely beaten and tortured. By the end of the year there were more than 5000.

In the beginning of 1997, five Albanians were killed by Serbian police and at least 100 Albanians were arrested without reason within a period of one week. The majority of them are still being held in Serbian custody.

Between 1981 and 1993, over 3,200 Albanians were sentenced for one to 20 years in prison for political reasons; 30,000 received 60-day sentences; and over 800,000 were detained by police.

147,300 Albanians, almost 80 percent of all employed Albanians, have been fired by the Serbian government.

450 enterprises were placed under ''emergency administration''.

4,000 small businesses were shut down for from six months to one year.

Over one million Albanians have no means of subsistence.

Over 80 percent of health care facilities are under ''special measures;'' dozens of walk-in clinics have been shut down in villages.

Over 2,400 Albanian medical personnel have been dismissed, 157 of them from the teaching staff of the Faculty of Medicine in Prishtina.

70,000 Albanian high school students have been barred from their school buildings.

22,000 teachers have been teaching for seven years without pay.

837 professors and assistants have been dismissed from the university, representing 95 percent of the teaching and administrative staff.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 20, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 21

11:00 a.m.
Commission on Security and Cooperation in Europe
To hold a briefing on prospects for elections, reintegration, and democratization in Croatia. 2200 Rayburn Building

APRIL 8

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Environmental Protection Agency.
SD–138

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Farm Service Agency, the Foreign Agricultural Service, and the Risk Management Agency, Department of Agriculture.
SD–124

2:00 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings to examine child pornography issues.
S–146, Capitol

APRIL 9

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for Navy and Marine Corps programs.
SD–192

APRIL 10

9:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Bureau of Indian Affairs of the Department of the Interior and Indian gaming activities.
SD–124

10:00 a.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Immigration and Naturalization Service, Federal Bureau of Investigation, and the Drug Enforcement Administration.
S–146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Transportation
SD–192

APRIL 15

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Housing and Urban Development.
SD–138

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Rural Utilities Service, the Rural Housing Service, the Rural Business-Cooperative Service, and the Alternative Agricultural Research and Commercialization Center, all of the Department of Agriculture.
SD–124

2:00 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on counter-terrorism issues.
S–146, Capitol

APRIL 16

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of the Army.
SD–192

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Transportation.
SD–124

2:00 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Federal Communications Commission.
S–146, Capitol

APRIL 17

9:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Forest Service of the Department of Agriculture.
SD–192

1:30 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Supreme Court of the United States and the Judiciary.
S–146, Capitol

APRIL 22

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the National Science Foundation and the Office of Science and Technology Policy.
SD–192

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Environmental Management Program of the Department of Energy.
SD–124

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Agricultural Research Service, the Cooperative State Research, Education, and Extension Service, the Economic Research Service, and the National Agricultural Statistics Service, all of the Department of Agriculture.
SD–138

APRIL 23

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on medical programs.
SD–192

APRIL 24

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the National Endowment for the Arts/National Endowment for the Humanities.
SD–192

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Corp of Engineers and the Bureau of Reclamation, Department of the Interior.
SD–124

APRIL 29

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Veterans Affairs.
SD–138

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Commodity Futures Trading Commission, and the Food and Drug Administration, Department of Health and Human Resources.
SD–124

APRIL 30

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on the structure and modernization of the National Guard.
SD–192

MAY 1

9:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of the Interior.
SD–192

MAY 6

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the National Aeronautics and Space Administration.
SD–138

MAY 7

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD–192

MAY 14

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on environmental programs.
SD–192

MAY 21

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on Air Force programs.
SD–192

JUNE 4

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD–192

JUNE 11

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD–192

CANCELLATIONS

MARCH 20

10:00 a.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Education.
SD–192

Daily Digest

HIGHLIGHTS

The House passed the Working Families Flexibility Act of 1997

Senate

Chamber Action

Routine Proceedings, pages S2491–S2574

Measures Introduced: Eleven bills and one resolution were introduced, as follows: S. 471–481, and S. Con. Res. 13. **Pages S2552–53**

Measures Passed:

Independent Counsel: By 55 yeas to 44 nays (1 responding present) (Vote No. 32), Senate passed S.J. Res. 22, to express the sense of the Congress concerning the application by the Attorney General for the appointment of an independent counsel to investigate allegations of illegal fundraising in the 1996 Presidential election campaign. **Pages S2491–99**

Victim Allocution Clarification: Senate passed H.R. 924, to amend title 18, United States Code, to give further assurance to the right of victims of crime to attend and observe the trials of those accused of the crime, clearing the bill for the President. **Pages S2507–09**

Measure Rejected:

Independent Counsel: By 58 yeas to 41 nays (1 responding present) (Vote No. 33), Senate tabled S.J. Res. 23, expressing the sense of the Congress that the Attorney General should exercise her best professional judgment, without regard to political pressures, on whether to invoke the independent counsel process to investigate alleged criminal misconduct relating to any election campaign. **Pages S2499–S2501**

Appointments:

National Civil Aviation Review Commission: The Chair, on behalf of the Democratic Leader, pursuant to Public Law 104–264, appointed the following individuals to the National Civil Aviation Review Commission: Linda Barker, of South Dakota, and William Bacon, of South Dakota. **Page S2573**

Messages from the President: Senate received the following messages from the President of the United States:

Transmitting the report of a proposed rescission of budgetary resources; which was referred jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations, to the Committee on the Budget, and to the Committee on Energy and Natural Resources. (PM–23). **Page S2552**

Transmitting the report on environmental quality; referred to the Committee on Environment and Public Works. (PM–24). **Page S2552**

Nominations Confirmed: Senate confirmed the following nominations: By 76 yeas to 23 nays (Vote No. 34 EX), Merrick B. Garland, of Maryland, to be United States Circuit Judge for the District of Columbia Circuit. **Pages S2536, S2574**

Nominations Received: Senate received the following nominations:

James H. Atkins, of Arkansas, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 2000.

Kathryn O'Leary Higgins, of South Dakota, to be Deputy Secretary of Labor.

Kevin Emanuel Marchman, of Colorado, to be an Assistant Secretary of Housing and Urban Development.

Richard Thomas White, of Michigan, to be a Member of the Foreign Claims Settlement Commission of the United States for a term expiring September 30, 1999.

1 Navy nomination in the rank of admiral.

Pages S2573–74

Messages From the President: **Page S2552**

Messages From the House: **Page S2552**

Measures Referred: **Page S2552**

Statements on Introduced Bills: **Pages S2553–69**

Additional Cosponsors: **Pages S2569–70**

Amendments Submitted: **Pages S2570–71**

Authority for Committees: **Page S2571**

Additional Statements: **Pages S2571–73**

Record Votes: Three record votes were taken today. (Total—34) **Pages S2499, S2501, S2536**

Adjournment: Senate convened at 10:30 a.m., and adjourned at 8:20 p.m., until 9:30 a.m., on Thursday, March 20, 1997. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S2573.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS—SEC

Committee on Appropriations: Subcommittee on Commerce, Justice, State, and the Judiciary and Related Agencies held hearings on proposed budget estimates for fiscal year 1998 for the Securities and Exchange Commission, receiving testimony from Arthur Levitt, Chairman, Securities and Exchange Commission.

Subcommittee will meet again tomorrow.

APPROPRIATIONS—DEFENSE INTELLIGENCE

Committee on Appropriations: Subcommittee on Defense held closed hearings on proposed budget estimates for fiscal year 1998 for defense intelligence programs, receiving testimony from George J. Tenet, Acting Director, and Nora Slakin, Executive Director, both of the Central Intelligence Agency; and Gen. Patrick M. Hughes, USA, Director, Defense Intelligence Agency, Gen. Kenneth A. Minihan, USAF, Director, National Security Agency, and Keith R. Hall, Acting Director, National Reconnaissance Office, all of the Department of Defense.

Subcommittee will meet again on Wednesday, April 9.

DEFENSE ACQUISITION

Committee on Armed Services: Subcommittee on Acquisition and Technology held hearings to examine the status of acquisition reform in the Department of Defense, receiving testimony from Paul G. Kaminski, Under Secretary of Defense for Acquisition and Technology; John W. Douglass, Assistant Secretary of the Navy for Research, Development and Acquisition; Lt. Gen. George Muellner, Principal Deputy Assistant Secretary of the Air Force for Acquisition; Kenneth Oscar, Deputy Assistant Secretary of the Army for Procurement; Thomas J. Madden, Venable, Baetjer, Howard, and Civiletti, and Karen L. Wilson, Allied Signal, Inc., both of Washington, D.C.; John Delane, DELJEN, Inc., Rolling Hills Estates, California; and Bert M. Concklin, Professional Services Council, Vienna, Virginia.

Subcommittee recessed subject to call.

AUTHORIZATION—MILITARY READINESS

Committee on Armed Services: Subcommittee on Readiness held hearings on proposed legislation authorizing funds for fiscal year 1998 for the Department of Defense and the future years defense program, focusing on military readiness accounts, receiving testimony from Maj. Gen. Thomas A. Braaten, USMC, Assistant Deputy Chief of Staff for Programs and Resources, Headquarters Marine Corps; Rear Adm. James S. Amerault, USN, Director, Office of Budget/Fiscal Management Division; Maj. Gen. Roger G. Thompson, Jr., USA, Director of Army Budget, Office of Assistant Secretary of the Army for Financial Management; and Maj. Gen. George T. Stringer, USAF, Deputy Assistant Secretary for Budget, Office of Assistant Secretary of the Air Force/Financial Management Comptroller.

Subcommittee recessed subject to call.

AUTHORIZATION—DEFENSE

Committee on Armed Services: Subcommittee on SeaPower held hearings on proposed legislation authorizing funds for fiscal year 1998 for the Department of Defense and the future years defense program, receiving testimony from John W. Douglass, Assistant Secretary of the Navy for Research, Development and Acquisition; and Gen. Charles C. Krulak, Commandant of the Marine Corps.

Subcommittee recessed subject to call.

AUTHORIZATION—DEFENSE

Committee on Armed Services: Subcommittee on Strategic Forces resumed hearings on proposed legislation authorizing funds for fiscal year 1998 for the Department of Defense and the future years defense program, focusing on Department of Energy weapons programs, receiving testimony from Victor H. Reis, Assistant Secretary, Defense Program, Department of Defense; Gen. Eugene E. Habiger, USAF, Commander-in-Chief, U.S. Strategic Command; Sigfried S. Hecker, Director, Los Alamos National Laboratory, C. Paul Robinson, President, Sandia National Laboratories, and Bruce Tarter, Director, Lawrence Livermore National Laboratory, all of the Department of Energy; Ambrose Schwallie, Westinghouse/Savannah River Corporation, Aiken, South Carolina; Karen K. Clegg, Allied Signal, Inc., Kansas City, Missouri; F.P. Gustavson, Lockheed Martin Energy Systems, Oak Ridge, Tennessee; and William Weinreich, Mason Hanger/Pantex Plant, Amarillo, Texas.

Subcommittee recessed subject to call.

1998 BUDGET

Committee on the Budget: Committee met to discuss certain functions of the proposed fiscal year 1998 budget resolution.

Committee recessed subject to call.

PRO-CODE ACT

Committee on Commerce, Science, and Transportation: Committee held hearings on S. 377, to promote electronic commerce by facilitating the use of strong encryption, receiving testimony from Louis J. Freeh, Director, Federal Bureau of Investigation, Department of Justice; William P. Crowell, Deputy Director, National Security Agency, Department of Defense; William A. Reinsch, Under Secretary, Bureau of Export Administration, Department of Commerce; David L. Aaron, United States Permanent Representative to the Organization for Economic Cooperation and Development; James Barksdale, Netscape Communications, Inc., Mountain View, California; Edward J. Black, Computer Communications Industry Association, Washington, D.C.; and Joseph R. Kretz, FMC Corporation, Chicago, Illinois.

Hearings were recessed subject to call.

UNIVERSAL TELEPHONE SERVICE

Committee on Commerce, Science, and Transportation: Subcommittee on Communications held hearings to examine the Federal Communications Commission implementation of the Telecommunications Act of 1996, focusing on efforts to implement universal telephone service reform and FCC proposals to assess new per-minute fees on Internet service providers, receiving testimony from Gene Kimmelman, Consumers Union, Washington, D.C.; Jay Kitchen, Personal Communications Industry Association, Alexandria, Virginia; Joan Mandeville, Montana Telephone Association, Great Falls; and Donn Wonnell, Pacific Telcom, Inc., Vancouver, Washington.

Hearings were recessed subject to call.

AUTHORIZATION—SURFACE TRANSPORTATION

Committee on Environment and Public Works: Subcommittee on Transportation and Infrastructure resumed hearings on proposed legislation authorizing funds for programs of the Intermodal Surface Transportation Efficiency Act of 1991, focusing on environmental programs and statewide and metropolitan planning, receiving testimony from Jane F. Garvey, Acting Administrator, Federal Highway Administration, Department of Transportation; David M. Gardiner, Assistant Administrator for Policy, Planning and Evaluation, Environmental Protection Agency; Thomas Walker, Wisconsin Road Builders Association, Madison, on behalf of the American Road and Transportation Builders Association; Hal Hiemstra, Rails-to-Trails Conservancy, Meg Maguire, Scenic America, and Hank Dittmar, Surface Transportation Policy Project, all of Washington, D.C.; Leon S. Kenison, New Hampshire Department of Transportation, Concord; Lawrence D. Dahms, Oakland Metropolitan Transportation Commission, Oakland, California; M. Michael Cooke, Board of Douglas County Commissioners, Castle Rock, Colorado; Guillermo V. Vidal, Colorado Department of Transportation, Denver; and Timothy S. Stowe, Anderson and Associates, Blacksburg, Virginia, on behalf of the American Consulting Engineers Council.

Hearings were recessed subject to call.

MEDICARE CHOICES

Committee on Finance: Committee held hearings to examine proposals to improve choices under the Medicare program, receiving testimony from Bruce C. Vladeck, Administrator, Health Care Financing Administration, Department of Health and Human Services; Michael J. Thompson, Price Waterhouse, on behalf of the American Academy of Actuaries, and Diane Archer, Medicare Rights Center, both of New York, New York; and Mary Lou Martin, Blue Cross of California, Long Beach, on behalf of the Health Insurance Association of America and the Blue Cross/Blue Shield Association.

Hearings continue tomorrow.

SUBCOMMITTEE MEMBERSHIP

Committee on Governmental Affairs: Committee announced the following subcommittee assignments:

Subcommittee on International Security, Proliferation and Federal Services: Senators Cochran (Chair), Stevens, Collins, Domenici, Nickles, Specter, Levin, Akaka, Durbin, Torricelli, and Cleland.

Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia: Senators Brownback (Chair), Roth, Specter, Lieberman, and Cleland.

Permanent Subcommittee on Investigations: Senators Collins (Chair), Roth, Stevens, Brownback, Domenici, Cochran, Nickles, Specter, Glenn, Levin, Lieberman, Akaka, Durbin, Torricelli, and Cleland.

JUVENILE CRIME

Committee on the Judiciary: Committee concluded hearings to examine efforts by private individuals, community organizations, and religious groups to prevent juvenile crime, after receiving testimony from Steve Young, San Francisco, California, on behalf of the Sport, Education & Values Foundation; Kery Oldroyd and Amador Guzman, both of the Boys & Girls Clubs of Greater Salt Lake, Salt Lake City, Utah; Rev. Jeffrey L. Brown, Union Baptist Church, Cambridge, Massachusetts, on behalf of the

Ten Point Coalition of Boston; Mary Lyman Jackson, Exodus Youth Services, Inc., Gaithersburg, Maryland; and Father Joseph Del Vecchio, Archdiocese of Washington, Washington, D.C.

INTERNET CRIMES

Committee on the Judiciary: Subcommittee on Technology, Terrorism, and Government Information concluded hearings to examine the scope of Internet crimes affecting consumers and the Federal response, after receiving testimony from Senator Leahy; Robert S. Litt, Deputy Assistant Attorney General, Criminal Division, and Charles L. Owens, Chief, Financial Crimes Section, Federal Bureau of Investigation, both of the Department of Justice; Michael C. Stenger, Special Agent in Charge, Financial Crimes Division, U.S. Secret Service, Department of the Treasury; and Wisconsin Attorney General James E. Doyle, Madison.

FDA REFORM

Committee on Labor and Human Resources: Committee held hearings on proposals to reform the performance, efficiency, and use of resources of the Food and Drug Administration, receiving testimony from Michael A. Friedman, Lead Deputy Commissioner and Deputy Commissioner for Operations, D. Bruce Burlington, Director, Center for Devices and Radiological Health, Fred R. Shank, Director, Center for Food Safety and Applied Nutrition, Stephen F. Sundlof, Director, Center for Veterinary Medicine, Janet Woodcock, Director, Center for Drug Evaluation and Research, and Kathryn C. Zoon, Director, Center for Biologics Evaluation and Research, all of the Food and Drug Administration, Department of Health and Human Services.

Hearings were recessed subject to call.

House of Representatives

Chamber Action

Bills Introduced: 17 public bills, H.R. 1119–1135; 1 private bill, H.R. 1136; and 1 resolution, H.J. Res. 64, were introduced. **Pages H1185–86**

Reports Filed: Reports were filed as follows:

H. Res. 100, providing for consideration of H.R. 1122, to amend title 18, United States Code, to ban partial-birth abortions (H. Rept. 105–32); and

H. Res. 101, providing for consideration of H. Res. 91, providing amounts for the expenses of certain committees of the House of Representatives in the One Hundred Fifth Congress (H. Rept. 105–33). **Page H1185**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Taylor of North Carolina to act as Speaker pro tempore for today. **Page H1113**

Committee Resignation: Read a letter from Representative Ehrlich wherein he requested a leave of absence from the Committee on Government Reform and Oversight. Subsequently, and without objection, the Chair accepted the committee resignation. **Page H1115**

Working Families Flexibility Act: By a recorded vote of 222 ayes to 210 noes, Roll No. 59, the House passed H.R. 1, to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector. **Pages H1124–56**

Agreed to the Committee amendment in the nature of a substitute. **Page H1155**

Agreed to:

Goodling en bloc amendment that requires continuous employment of at least 1,000 hours within the last year before an employee may agree to or receive compensatory time and reduces the maximum hours of compensatory time accrued by the employee from 240 to 160 hours (agreed to by a recorded vote of 408 ayes to 19 noes, Roll No. 55); and **Pages H1138–40**

Boyd amendment that sunsets the private sector compensatory time provision after five years (agreed to by a recorded vote of 390 ayes to 36 noes, Roll No. 56); **Pages H1140–41**

Rejected:

Owens amendment that sought to exempt employees who earn less than 2.5 times the minimum wage (rejected by a recorded vote of 182 ayes to 237 noes, Roll No. 57); and **Pages H1141–44**

Miller of California amendment in the nature of a substitute, as modified, that sought to prohibit employers from soliciting employees to take compensatory time; require the Secretary of Labor to define what constitutes an employee decision to accept it; prohibit employers from offering compensatory time unless the employer offers all employees 24 hours of leave that may be used for family educational activities or medical care; prohibit compensatory time to employees who work less than 35 hours per week, work less than 12 months, are seasonal, or are employed in the construction, agricultural, garment, or any industry designated by the Secretary of Labor; provide that an employer may not deny compensatory time where the leave is protected by the Family and Medical Leave Act; limit the maximum hours accrued to 80 hours annually, specifies that employers may not condition benefits or availability of overtime upon an employee's decision to accept, reject, or use compensatory time; and create a commission on workplace flexibility (rejected by a recorded vote of 193 ayes to 237 noes, Roll No. 58). **Pages H1144–45**

Earlier, agreed by unanimous consent, to modify the Miller of California amendment, as specified in House Report 105–31 accompanying the rule, by making technical changes to Sections 2 and 3. **Page H1146**

H. Res. 99, the rule under which the bill was considered, was agreed to earlier by a yea-and-nay vote of 229 yeas to 195 nays, Roll No. 54. **Pages H1115–24**

Presidential Messages: Read the following messages from the President:

Budgetary Rescission—Department of Energy: Message wherein he transmits his report concerning a proposed rescission affecting the Department of Energy—referred to the Committee on Appropriations and ordered printed (H. Doc. 105–57); and **Page H1156**

Environmental Quality: Message wherein he transmits the Twenty-fifth Annual Report on Environmental Quality—referred to the Committee on Resources. **Pages H1156–57**

Referral: One Senate-passed joint resolution, S.J. Res. 22, was referred to the Committee on the Judiciary. **Page H1184**

Senate Messages: Message received from the Senate today appears on page H1131.

Quorum Calls—Votes: One yea-and-nay vote and five recorded votes developed during the proceedings of the House today and appear on pages H1123–24, H1139–40, H1141, H1144, H1154–55, and H1155–56. There were no quorum calls.

Adjournment: Met at 11:00 a.m. and adjourned at 9:36 p.m.

Committee Meetings

TREATMENT OF MINORITY AND LIMITED RESOURCE PRODUCERS

Committee on Agriculture: Subcommittee on Department Operations, Nutrition, and Foreign Agriculture held a hearing to review treatment of minority and limited resource producers by the United States Department of Agriculture. Testimony was heard from Robert Robinson, Director, Food and Agriculture Issues, GAO; and public witnesses.

AGRICULTURE, RURAL DEVELOPMENT, FDA, AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Agriculture, Rural Development, Federal Drug Administration, and Related Agencies continued appropriation hearings. Testimony was heard from Members of Congress and public witnesses.

The Subcommittee also held a hearing on Natural Resources Conservation Service. Testimony was heard from James R. Lyons, Under Secretary, Natural Resources and Environment, USDA.

COMMERCE, JUSTICE, STATE, AND JUDICIARY APPROPRIATIONS

Committee on Appropriations: Subcommittee on Commerce, Justice, State and Judiciary held a hearing on Drug Enforcement and on International Organizations and Peacekeeping. Testimony was heard from the following officials of the Department of Justice: Thomas A. Constantine, Administrator, DEA; Carol DiBattiste, Director, Executive Office, U.S. Attorney; and Mary Lee Warren, Deputy Assistant Attorney General, Criminal Division, Interagency Crime, Drug Enforcement and Task Forces; and the following officials of the Department of State: Ambassador Bill Richardson, U.S. Permanent Representative to the United Nations; and Princeton N. Lyman, Acting Assistant Secretary, International Organization Affairs.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS

Committee on Appropriations: Subcommittee on Energy and Water Development held a hearing on the Secretary of Energy. Testimony was heard from Federico Peña, Secretary of Energy.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS

Committee on Appropriations: Subcommittee on Foreign Operations, Export Financing, and Related Programs held a hearing on AID Administrator. Testimony was heard from Brian Atwood, Administrator, AID, U.S. International Development Cooperation Agency.

INTERIOR APPROPRIATIONS

Committee on Appropriations: Subcommittee on Interior held a hearing on Smithsonian Institution. Testimony was heard from I. Michael Heyman, Secretary, Smithsonian Institution.

LABOR-HHS-EDUCATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education held a hearing on the Railroad Retirement Board; the U.S. Institute of Peace; the Corporation for Public Broadcasting; and the National Labor Relations Board. Testimony was heard from the following officials of the Railroad Retirement Board: Martin J. Dickman, Inspector General, Glen L. Bower, Chairman, V.M. Speakman, Jr., Labor Member, and Jerome F. Kever, Management Member, Richard H. Solomon, President, U.S. Institute of Peace; Ambassador Richard W. Carlson, President and CEO, The Corporation for Public Broadcasting; and Fred Feinstein, General Counsel, National Labor Relations Board.

NATIONAL SECURITY APPROPRIATIONS

Committee on Appropriations: Subcommittee on National Security held a hearing on Military Quality of Life and on Department of Defense Medical Programs. Testimony was heard from the following officials of the Department of Defense: MCPO John Hagen, USN, Master Chief Petty Officer, Navy; Sgt. Maj. L.G. Lee, USMC; CMS Eric W. Benken, USAF, Chief Master Sgt., Air Force; Stephen Joseph, Assistant Secretary, Health Affairs; Lt. Gen. Ronald Blanck, USA, Surgeon General, Army; Vice Adm. Harold M. Hoenig, USN, Surgeon General, Navy; and Lt. Gen. Charles H. Roadman, Jr., USAF, Surgeon General, Air Force.

TRANSPORTATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Transportation held a hearing on Federal Transit Administration and on Washington Metropolitan Area Transit Authority. Testimony was heard from Gordon Linton, Administrator, Federal Transit Administration, Department of Transportation; and Richard White, General Manager, Washington Metropolitan Area Transit Authority.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS

Committee on Appropriations: Subcommittee on Treasury, Postal Service, and General Government held a hearing on the Office of National Drug Control Policy. Testimony was heard from Barry McCaffrey, Director, Office of National Drug Control Policy.

VA, HUD, AND INDEPENDENT AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on VA, HUD, and Independent Agencies concluded hearings on the Department of Housing and Urban Development. Testimony was heard from Andrew M. Cuomo, Secretary of Housing and Urban Development.

FINANCIAL SERVICES MODERNIZATION

Committee on Banking and Financial Services: Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises continued hearings on Financial Services Modernization. Testimony was heard from Alan Greenspan, Chairman, Board of Governors, Federal Reserve System.

MEDICARE PROVIDER SERVICE NETWORKS

Committee on Commerce: Subcommittee on Health and Environment held a hearing on Medicare Provider Service Networks. Testimony was heard from Representatives Greenwood and Stenholm; and public witnesses.

WTO TELECOM AGREEMENT

Committee on Commerce: Subcommittee on Telecommunications, Trade, and Consumer Protection held a hearing on WTO Telecom Agreement: Results and Next Steps. Testimony was heard from Charlene Barshefsky, U.S. Trade Representative; Reed E. Hundt, Chairman, FCC; and public witnesses.

OVERSIGHT—U.S. POSTAL SERVICE

Committee on Government Reform and Oversight: Subcommittee on the Postal Service held an oversight hearing of the United States Postal Service: Inspector General U.S. Postal Service; Governors of the U.S. Postal Service. Testimony was heard from the following officials of the U.S. Postal Service: Karla W. Corcoran, Inspector General; Tirso del Junco, Chairman; Susan E. Alvarado, Bert H. Mackie, Einar V. Dyhrkopp and S. David Fineman, all Governors.

OVERSIGHT—OFFICE OF COMPLIANCE

Committee on House Oversight: Held an oversight hearing on Office of Compliance. Testimony was heard from the following officials of the Office of Compliance: Glen Nager, Chairman; Ricky Silberman, Executive Director; and Lawrence Lorber, Board member.

AFRICA'S NATURAL RESOURCES

Committee on International Relations: Subcommittee on Africa held a hearing on Economic Development of Africa's Natural Resources. Testimony was heard from Representative Shaw; and public witnesses.

HELMS-BURTON CHALLENGES

Committee on International Relations: Subcommittee on International Economic Policy and Trade, hearing on Interfering with U.S. National Security Interests: The World Trade Organization and the European Union Challenge to the Helms-Burton bill. Testimony was heard from Senator Torricelli; Representatives Diaz-Balart and Menendez; and public witnesses.

U.S. POLICY—WESTERN HEMISPHERE

Committee on International Relations: Subcommittee on the Western Hemisphere held an overview hearing on U.S. Policy in the Western Hemisphere. Testimony was heard from Jeffrey Davidow, Assistant Secretary, Inter-American Affairs, Department of State; and Mark Schneider, Assistant Administrator, Latin American and Caribbean Affairs, AID, U.S. International Development Cooperation Agency.

CHURCH ARSON PREVENTION ACT IMPLEMENTATION

Committee on the Judiciary: Held an oversight hearing on the implementation of the Church Arson Prevention Act of 1996 (Public Law 104–155). Testimony was heard from the following officials of the Department of Justice: Isabelle Katz Pinzler, Acting Assistant Attorney General; and Patricia Glenn, National Coordinator, Church Burning Response Team, Community Relations Service; James E. Johnson, Assistant Secretary, Enforcement, Department of the Treasury; Jacquie M. Lawing, Deputy Assistant Secretary, Economic Development Community Planning and Development, Department of Housing and Urban Development; and public witnesses.

DOD AUTHORIZATION

Committee on National Security: Continued hearings on the Administration's fiscal year 1998 Department of Defense authorization. Testimony was heard from the following officials of the Department of the Army: Gen. J. H. Binford Peay, III, USA, Commander-in-Chief, U.S. Central Command; George A. Joulwan, USA, Commander-in-Chief, U.S. European Command; and Gen. Wesley K. Clark, USA, Commander-in-Chief, U.S. Southern Command.

MARITIME ADMINISTRATION AND PANAMA CANAL COMMISSION AUTHORIZATIONS

Committee on National Security: Merchant Marine Panel held a hearing on fiscal year 1998 Maritime Administration authorization request and related matters, and the fiscal year 1998 Panama Canal Commission authorization request and related matters. Testimony was heard from Albert J. Herberger, Administrator, Maritime Administration, Department of Transportation; and the following officials of the Panama Canal Commission: Joe R. Reeder, Under Secretary of the Army and Chairman of the Board; and Alberto Aleman, Administrator.

DOD AUTHORIZATION—BALLISTIC MISSILE DEFENSE

Committee on National Security: Subcommittee on Military Procurement and Subcommittee on Military Research and Development held a joint hearing on fiscal year 1998 Department of Defense authorization request—Ballistic Missile Defense. Testimony was heard from the following officials of the Department of Defense: Brig. Gen. Curtis H. Emery, USA, Director, Theater Air and Missile Defenses; and J. David Martin, Deputy for Strategic Relations, both with the Ballistic Missile Defense Organization; and public witnesses.

U.S.-PUERTO RICO POLITICAL STATUS ACT

Committee on Resources: Held a hearing on H.R. 856, United States-Puerto Rico Political Status Act. Testimony was heard from Representatives Burton of Indiana, Gutierrez, McCollum, Serrano, Deutsch, and Velazquez; Pedro Rossello, Governor, Puerto Rico; and public witnesses.

MISCELLANEOUS MEASURES; OVERSIGHT—FISH AND WILDLIFE SERVICES BUDGET REQUEST

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans approved for full Committee action the following measures: H.R. 39, to reauthorize the African Elephant Conservation Act, and H. Con. Res. 8, amended, expressing the sense of Congress with respect to the significance of maintaining the health and stability of coral reef ecosystems.

The Subcommittee also held an oversight hearing on the budget request for the U.S. Fish and Wildlife Services for Fiscal Year 1998. Testimony was heard from John Rogers, Acting Director, U.S. Fish and Wildlife Service, Department of the Interior.

PARTIAL BIRTH ABORTION BAN

Committee on Rules: Granted, by voice vote, a closed rule on H.R. 1122, to amend title 18, United States Code, to ban partial-birth abortions. The rule provides two hours of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. Finally the rule provides one motion to recommit. Testimony was heard from Representatives Hyde, Canady, Barr of Georgia, Greenwood, Conyers, Frank of Massachusetts, Scott, Jackson-Lee, Hoyer, and Obey.

COMMITTEE FUNDING

Committee on Rules: Granted, by a vote of 9 to 4, a modified closed rule on H. Res. 91, providing amounts for the expenses of certain committees of the House of Representatives in the One Hundred Fifth Congress, without the intervention of any point of order. The rule provides that the Committee on House Oversight amendment in the nature of a substitute printed in the resolution shall be considered as adopted. The rule provides one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on House Oversight.

The rule provides that the further amendment specified in the report of the Committee on Rules, if offered by a member designated in the report, shall be in order without intervention of any point of order, and shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent. Finally, the rule provides one motion to recommit. Testimony was heard from Representatives Thomas, Gejdenson, and Waxman.

MISCELLANEOUS MEASURES

Committee on Science: Subcommittee on Energy and Environment held a hearing on fiscal year 1998 Budget Authorization Request: Department of Energy, Fossil Energy R & D, Clean Coal Technology Program, and Energy Efficiency and Renewable Energy and H.R. 363, to amend section 2118 of the Energy Policy Act of 1992 to extend the Electric and Magnetic Fields Research and Public Information Dissemination Program. Testimony was heard from the following officials of the Department of Energy: Patricia Fry Godley, Assistant Secretary, Fossil Energy, and Christine A. Ervin, Assistant Secretary, Energy Efficiency and Renewable Energy; Paul Gilman, Executive Director, Commission of Life Sciences, National Research Council, National Academy of Sciences; and a public witness..

NASA AUTHORIZATION

Committee on Science: Subcommittee on Space and Aeronautics held a hearing on fiscal year 1998 NASA Authorization: Mission to Planet Earth. Testimony was heard from the following officials of NASA:

William F. Townsend, Associate Administrator, Office of Mission to Planet Earth; and Sam Venneri, Chief Technologist; Steven C. Wofsy; and public witnesses.

TECHNOLOGY ADMINISTRATION AND NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

Committee on Science: Subcommittee on Technology held a hearing on funding needs for the Technology Administration and the National Institute of Standards and Technology. Testimony was heard from Mary Good, Under Secretary, Technology, Department of Commerce.

BUDGET REQUEST—U.S. COAST GUARD AND FEDERAL MARITIME COMMISSION

Committee on Transportation and Infrastructure: Subcommittee on Coast Guard and Maritime Transportation held a hearing on the Administration's fiscal year 1998 budget request for the U.S. Coast Guard and the Federal Maritime Commission. Testimony was heard from the following officials of the Department of Transportation: Adm. Robert Kramek, Commandant; Master Chief Petty Officer Eric A. Trent, and Everette L. Tucker, Jr., USCG, Commodore, Auxiliary, all with the U.S. Coast Guard; and Harold J. Creel, Jr., Chairman, Maritime Commission; and public witnesses.

CALIFORNIA FLOODING

Committee on Transportation and Infrastructure: Subcommittee on Water Resources and Environment held a hearing on recent flooding in California. Testimony was heard from Representatives Herger, Fazio, Pombo and Miller of California; from the following officials of FEMA: James Lee Witt, Director; and Lacy Suiter, Executive Associate Director, Response and Recovery Program; Maj. Gen. Russell L. Fuhrman, USA, Director, Civil Works, Corps of Engineers, Department of the Army; Warren M. Lee, Director, Watersheds and Wetlands, USDA; Gerry A. Jackson, Deputy Assistant Director, Ecological Services, U.S. Fish and Wildlife Service, Department of the Interior; and public witnesses.

BUDGET VIEWS AND ESTIMATES; BUDGET PROPOSAL SAVING AND INVESTMENT PROVISIONS

Committee on Ways and Means: Approved Committee Budget Views and Estimates for Fiscal Year 1998 for transmission to the Committee on the Budget.

The Committee also held a hearing on savings and investment provisions in the Administration's fiscal year 1998 budget proposal. Testimony was heard from Representatives McCrery, Neal, Dunn, Christensen, Dreier, Cox of California, Peterson of Minnesota, Deutsch, Pomeroy and McCarthy of Missouri; Jane G. Gravelle, Senior Specialist, Economic Policy, Congressional Research Service, Library of Congress; and public witnesses.

BUDGET—OVERHEAD COLLECTION

Permanent Select Committee on Intelligence: Met in an executive session to hold a hearing on the Budget—overhead collection. Testimony was heard from departmental witnesses.

Joint Meetings

AUTO INSURANCE REFORM

Joint Economic Committee: Committee held hearings to examine the problems of the current automobile insurance system and the need for reform, focusing on more insurance options, better service, and reduced premiums and litigation costs, receiving testimony from New Jersey Governor Christine Whitman, Trenton; Michael Horowitz, Hudson Institute, J. Robert Hunter, Consumer Federation of America, and Stephen Carroll, RAND Institute for Civil Justice, all of Washington, D.C.; and Jeffrey O'Connell, University of Virginia School of Law, Charlottesville.

Hearings were recessed subject to call.

DISABLED AMERICAN VETERANS

Joint Hearing: Senate Committee on Veterans' Affairs concluded joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Disabled American Veterans, after receiving testimony from Gregory C. Reed, Disabled American Veterans, Washington, D.C., who was accompanied by several of his associates.

COMMITTEE MEETINGS FOR THURSDAY, MARCH 20, 1997

Senate

(Committee meetings are open unless otherwise indicated)

Committee on Agriculture, Nutrition, and Forestry, to resume hearings on proposed legislation authorizing funds for agricultural research, 9 a.m., SR–332.

Committee on Appropriations, Subcommittee on Energy and Water Development, to hold hearings on proposed budget estimates for fiscal year 1998 for atomic energy defense activities of the Department of Energy, 9:30 a.m., SD–124.

Subcommittee on Transportation, to hold hearings on the implications of the proposed acquisition of Conrail by CSX Corporation, 10 a.m., SD–192.

Subcommittee on Foreign Operations, to hold hearings on proposed budget estimates for fiscal year 1998 for international narcotics, crime and law enforcement, 10:30 a.m., SD–138.

Subcommittee on Commerce, Justice, State, and the Judiciary, to hold hearings on proposed budget estimates

for fiscal year 1998 for the United Nations, 2 p.m., S–146, Capitol.

Committee on Armed Services, to resume hearings on proposed legislation authorizing funds for fiscal year 1998 for the Department of Defense and the future years defense program, focusing on Department of Energy national security programs and to review environmental management activities, 10 a.m., SR–222.

Committee on Banking, Housing, and Urban Affairs, Subcommittee on Financial Institutions and Regulatory Relief, to hold hearings to examine the Federal Reserve System's proposal to modify firewalls that separate commercial banks and securities affiliates, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation, Subcommittee on Surface Transportation and Merchant Marine, to hold hearings on S. 414, to amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States imports and exports, 9:30 a.m., SR–253.

Committee on Energy and Natural Resources, to resume hearings to examine issues with regard to competitive change in the electric power industry, 9:30 a.m., SH–216.

Subcommittee on National Parks, Historic Preservation, and Recreation, to resume hearings to examine the future of the National Park System and to identify and discuss the needs, requirements, and innovative programs that will insure the Park Service will continue to meet its responsibilities well into the next century, 2 p.m., SD–366.

Committee on Environment and Public Works, Business meeting, to consider pending nominations, time to be announced, S–216, Capitol.

Committee on Finance, to continue hearings on improving Medicare choices, 10 a.m., SD–215.

Committee on Governmental Affairs, Subcommittee on Oversight of Government Management and The District of Columbia, to hold hearings to examine the role of the Department of Commerce in United States trade policy, promotion and regulation, and opportunities for reform and consolidation, 9:30 a.m., SD–342.

Committee on the Judiciary, business meeting, to consider pending calendar business, 10:30 a.m., SD–226.

Committee on Labor and Human Resources, to resume hearings on proposed legislation authorizing funds for programs of the Higher Education Act, 10 a.m., SD–430.

Committee on Rules and Administration, to hold oversight hearings to review the operations and budget of the Congressional Research Service and the Library of Congress, 9:30 a.m., SR–301.

Committee on Veterans' Affairs, to hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of AMVETS, the American Ex-Prisoners of War, the Veterans of World War I, and the Vietnam Veterans of America, 9:30 a.m., 345 Cannon Building.

Notice

For a listing of Senate committee meetings scheduled ahead, see pages E525–26 in today's Record.

House

Committee on Appropriations, Subcommittee on Agriculture, Rural Development, Federal Drug Administration, and Related Agencies, on public witnesses, 10:30 a.m., 2362A Rayburn.

Subcommittee on Commerce, Justice, State and Judiciary, on Department of Commerce, Science and Technology Programs, 10 a.m., and on Department of States Administration of Foreign Affairs, 2 p.m., H–309 Capitol.

Subcommittee on Interior, on Secretary of Agriculture, 10 a.m., and on Forest Service Chief, 11 a.m. and 1:30 p.m., B–308 Rayburn.

Subcommittee on Labor, Health and Human Services, and Education, on Office of AIDS Research; Office of the Director; and Building and Facilities, 10 a.m., and on National Commission on Libraries; National Council on Disability; Physician Payment Review Commission; and on Prospective Payment Assessment Commission, 2 p.m., 2358 Rayburn.

Subcommittee on National Security, executive, on readiness, 10 a.m., H–140 Capitol.

Subcommittee on Transportation, on Federal Railroad Administration, National Railroad Passenger Corporation, 10 a.m., 2358 Rayburn.

Subcommittee on Treasury, Postal Service, and General Government, on GSA, 10 a.m., 2360 Rayburn.

Committee on Banking and Financial Services, to mark up H.R. 607, Homeowners Insurance Protection Act; and to consider the Committee Budget Views and Estimates for Fiscal Year 1998 for transmission to the Committee on the Budget, 1:30 p.m., 2128 Rayburn.

Subcommittee on Domestic and International Monetary Policy, hearing on International Monetary Fund, 11 a.m., 2128 Rayburn

Committee on Commerce, to mark up H.R. 1003, Assisted Suicide Funding Restriction Act of 1997, 9:30 a.m., 2123 Rayburn.

Subcommittee on Finance and Hazardous Materials, hearing and mark up of H.R. 688, Leaking Underground Storage Tank Trust Fund Amendments Act of 1997, 1 p.m., 2322 Rayburn.

Committee on Government Reform and Oversight, Subcommittee on Human Resources and Intergovernmental Relations, to continue oversight hearings on the Department of Education: Mission, Management, and Performance, 10 a.m., 2247 Rayburn.

Subcommittee on National Security, International Affairs, and Criminal Justice, hearing on Improving Defense Inventory Management, 9:30 a.m., 2154 Rayburn.

Committee on International Relations, hearing on the Administration's Security Assistance Request for fiscal year 1998, 10:15 a.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Courts and Intellectual Property, hearing on H.R. 695, Security and Freedom Through Encryption (SAFE) Act, 9:30 a.m., 2141 Rayburn.

Subcommittee on Crime, hearing on reforming juvenile justice in America and related legislative proposals, 9:30 a.m., 2237 Rayburn.

Committee on National Security, Morale Welfare and Recreation Panel, hearing on military resale system, 1 p.m., 2212 Rayburn.

Subcommittee on Military Procurement and Subcommittee on Military Research and Development, joint hearing on fiscal year 1998 Department of Defense authorization request—Information Warfare, 10 a.m., 2118 Rayburn.

Committee on Resources, Subcommittee on Energy and Mineral Resources, oversight hearing on Bureau of Land Management final rulemaking on bonding of hardrock mining operations: Why was there no meaningful public comment solicited? 12:30 p.m., 1324 Longworth.

Subcommittee on Forests and Forest Health, hearing on the following bills: H.R. 799, to require the Secretary of Agriculture to make a minor adjustment in the exterior boundary of the Hells Canyon Wilderness in the States of Oregon and Idaho to exclude an established Forest Service road inadvertently included in the wilderness, and H.R. 838, to require adoption of a management plan for Hells Canyon National Recreation Area that allows appropriate use of motorized and nonmotorized river craft in the recreation area, 10 a.m., 1334 Longworth.

Subcommittee on Water and Power, oversight hearing on Central Valley Project Operations and Administration Reform Process, 2 p.m., 1334 Longworth.

Committee on Science, Subcommittee on Energy and Environment, hearing on fiscal year 1998 Budget Authorization Request: Department of Energy, Nuclear Energy; Environment, Safety and Health; and Environmental Restoration and Waste Management (Non-Defense), 10 a.m., 2318 Rayburn.

Subcommittee on Technology and the Subcommittee on Government Management, Information, and Technology of the Committee on Government Reform and Oversight, joint hearing on Year 2000: Implications for the Commercial Sector, 1 p.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, hearing on review of Coopers and Lybrand Independent Financial Assessment of the FAA, 9:30 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, to consider the Committee Budget Views and Estimates for Fiscal Year 1998 for transmission to the Committee on the Budget; and to mark up the following: a measure to allow revision of veterans benefits decisions based on clear and unmistakable error; and a measure to authorize VA's authority to enter into enhanced-use leases, 2:30 p.m., 334 Cannon.

Committee on Ways and Means, Subcommittee on Health, hearing on recommendations regarding Medicare Hospital and Physician Payment Policies, 1 p.m., 1100 Longworth.

Subcommittee on Human Resources, hearing on the Administration's Child support Enforcement Incentive Payment Proposal, 11 a.m., B–318 Rayburn.

Joint Meetings

Joint Economic Committee, to hold hearings to examine the current economic outlook and monetary policy, 10 a.m., 2175 Rayburn Building.

Joint Hearing: Senate Committee on Veterans' Affairs, to hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of AMVETS, the American Ex-Prisoners of War, the Veterans of World War I, and the Vietnam Veterans of America, 9:30 a.m., 345 Cannon Building.

Next Meeting of the SENATE

9:30 a.m., Thursday, March 20

Senate Chamber

Program for Thursday: Senate's program is uncertain.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, March 20

House Chamber

Program for Thursday: Consideration of H.R. 1122, Partial-Birth Abortion Ban Act (closed rule, 2 hours of debate); and

Consideration of H. Res. 91, Providing Amounts for Expenses of Certain Committees (modified closed rule, 1 hour of debate).

Extensions of Remarks, as inserted in this issue

HOUSE

Bateman, Herbert H., Va., E515
Bryant, Ed, Tenn., E512
Castle, Michael N., Del., E512
Coble, Howard, N.C., E514
Crane, Philip M., Ill., E517
DeLay, Tom, Tex., E513
Engel, Eliot L., N.Y., E522
Ewing, Thomas W., Ill., E511
Fazio, Vic, Calif., E519
Frelinghuysen, Rodney P., N.J., E519
Goodling, William F., Pa., E511
Gordon, Bart, Tenn., E518
Green, Gene, Tex., E520
Hamilton, Lee H., Ind., E514
Hastings, Alcee L., Fla., E520
Houghton, Amo, N.Y., E517
Johnson, Nancy L., Conn., E515
Kennedy, Patrick J., R.I., E518
Lipinski, William O., Ill., E520
McCarthy, Karen, Mo., E519
Nadler, Jerrold, N.Y., E513
Neal, Richard E., Mass., E512
Oxley, Michael G., Ohio, E515
Pallone, Frank, Jr., N.J., E518
Porter, John Edward, Ill., E516
Riggs, Frank, Calif., E511
Ros-Lehtinen, Ileana, Fla., E515
Rush, Bobby L., Ill., E520
Shaw, E. Clay, Jr., Fla., E521
Towns, Edolphus, N.Y., E519
Weller, Jerry, Ill., E512

Congressional Record The public proceedings of each House of Congress, as reported by the Official Reporters thereof, are printed pursuant to directions of the Joint Committee on Printing as authorized by appropriate provisions of Title 44, United States Code, and published for each day that one or both Houses are in session, excepting very infrequent instances when two or more unusually small consecutive issues are printed at one time. ¶Public access to the Congressional Record is available online through *GPO Access,* a service of the Government Printing Office, free of charge to the user. The online database is updated each day the Congressional Record is published. The database includes both text and graphics from the beginning of the 103d Congress, 2d session (January 1994) forward. It is available on the Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su_docs, by using local WAIS client software or by telnet to swais.access.gpo.gov, then login as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required). For general information about *GPO Access,* contact the *GPO Access* User Support Team by sending Internet e-mail to gpoaccess@gpo.gov, or a fax to (202) 512–1262; or by calling Toll Free 1–888–293–6498 or (202) 512–1530 between 7 a.m. and 5 p.m. Eastern time, Monday through Friday, except for Federal holidays. ¶The Congressional Record paper and 24x microfiche will be furnished by mail to subscribers, free of postage, at the following prices: paper edition, $150.00 for six months, $295.00 per year, or purchased for $2.50 per issue, payable in advance; microfiche edition, $141.00 per year, or purchased for $1.50 per issue payable in advance. The semimonthly Congressional Record Index may be purchased for the same per issue prices. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington, D.C. 20402. ¶Following each session of Congress, the daily Congressional Record is revised, printed, permanently bound and sold by the Superintendent of Documents in individual parts or by sets. ¶With the exception of copyrighted articles, there are no restrictions on the republication of material from the Congressional Record.