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PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

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House of Representatives

The House met at 11 a.m.

PRAYER

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

We are grateful, O God, for all those people who see in their daily tasks the opportunity to serve people in their needs, and by such service are following Your command. As we seek to be faithful with our own responsibilities by being good stewards of the resources of our land, help us to see that we are doing Your will. May Your purposes be accomplished, O God, as we dedicate our abilities to Your service by being faithful in our daily tasks.

In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. 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.

Mr. BONIOR. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

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

Mr. BONIOR. 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. 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 346, nays 69, answered ''present'' 1, not voting 18, as follows:

[Roll No. 100]

YEAS—346

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coburn
Collins (GA)
Collins (IL)
Combest
Condit
Conyers
Cooley
Cox
Coyne
Cramer
Crapo
Cremeans
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Everett
Ewing
Farr
Fattah
Fawell
Fields (LA)
Fields (TX)
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kelly
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Meek
Metcalf
Meyers
Mica
Miller (FL)
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Porter
Portman
Poshard
Pryce
Quillen
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Studds
Stump
Talent
Tanner
Tate
Tauzin
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Tucker
Upton
Velazquez
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—69

Abercrombie
Ackerman
Becerra
Boehlert
Bonior
Browder
Brown (CA)
Chapman
Clay
Clyburn
Coleman
Costello
Crane
Deutsch
Dicks
Evans
Fazio
Filner
Foglietta
Frank (MA)
Gutierrez

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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Hall (OH)	McKinney	Sabo
Harman	Menendez	Schroeder
Hastings (FL)	Mfume	Skaggs
Hefley	Miller (CA)	Stark
Hefner	Mineta	Taylor (MS)
Hilliard	Neal	Taylor (NC)
Hinchey	Ortiz	Tejeda
Jacobs	Owens	Thompson
Jefferson	Pallone	Towns
Kaptur	Payne (NJ)	Traficant
Kennedy (MA)	Pelosi	Vento
Klink	Pickett	Visclosky
LaFalce	Pombo	Volkmer
Lantos	Pomeroy	Waters
Lewis (GA)	Roemer	Wolf
Lipinski	Rush	Yates

ANSWERED ''PRESENT''—1

Goodling

NOT VOTING—18

Andrews	Furse	Quinn
Collins (MI)	Houghton	Reynolds
Cubin	Kasich	Smith (NJ)
Durbin	Kennedy (RI)	Stockman
Emerson	Minge	Stupak
Frost	Orton	Torricelli

□ 1122

Mr. HILLIARD changed his vote from ''yea'' to ''nay.''

Mr. LOBIONDO, Ms. SLAUGHTER, and Messrs. BARCIA, WISE, and SERRANO changed their vote from ''nay'' to ''yea.''

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. LAZIO of New York). Will the gentleman from Washington [Mr. WHITE] come forward and lead the House in the Pledge of Allegiance.

Mr. WHITE 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 10 1-minutes on each side. Further 1-minutes will be entertained after the end of the legislative business tonight.

REPUBLICAN CONTRACT WITH AMERICA

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

Mr. BOEHNER. Mr. Speaker, our Contract With America states the following: That on the first day of Congress a Republican House will force Congress to live under the laws as everyone else, that we will cut committee staff by one-third and cut the congressional budget. And we have done this, and much, much more.

It goes on to state that in the first 100 days we will vote on the following items: A balanced budget amendment, and we have done this; unfunded mandates legislation, and we have done this; line-item veto legislation, and we have also done this; a new crime package to stop violent criminals that we are in the process of now; welfare reform to encourage work, not dependence; family reinforcement to crack down on deadbeat dads and protect our children; tax cuts for families to lift Government's burden from middle-income Americans; national security restoration to protect our freedoms; Senior Citizens Equity Act to allow our seniors to work without Government penalty; Government regulatory reform; commonsense legal reform to end frivolous lawsuits; and congressional term limits to make Congress a citizen legislature once again.

My colleagues, this is our Contract With America.

BASEBALL IS NOT JUST A GAME

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, baseball is not just a game of Mantle and Ruth and DiMaggio.

Baseball is a game of that working mother who sells peanuts outside Camden Yards.

It is a game of that father who ushers people to their seats at Tiger Stadium.

Baseball is a game of tens of thousands of working men and women like them who clean the seats and drive the buses and work in the restaurants and hotels outside the stadium, often for very little pay.

And today, as we watch millionaires fight with billionaires to come to an agreement, it is those average Joes who are being hurt most by this strike.

Mr. Speaker, baseball is not a small industry.

It is part of the rhythm of America.

It brings balance to a time of chaos and change.

Today, America is not turning its lonely eyes to Joe DiMaggio.

It is turning its eyes to us.

And it is time we join the President, step up to the plate, and help put an end to this baseball strike.

AFTER THE CONTRACT

(Mrs. SMITH of Washington asked and was given permission to address the House for 1 minute.)

Mrs. SMITH of Washington. Mr. Speaker, this has been a dynamic month as a freshman. It is just a little over a month ago that we came with a lot of promises to the American people. We promised a balanced budget amendment, line-item veto, and we are marching on.

I was just interviewed by a newspaper and asked, ''What do you think?''

I said, ''Well, I said I would never run because this Congress will never do anything, and just 6 months ago I was a write-in candidate, and I was recruited, and I said, 'O.K., I'll go for 2 years.'''

I have to stand before my colleagues today and say, ''This Congress has done more than I have seen any Congress do in 2 years.''

After the contract, Mr. Speaker, we are going to do more, and we are going to take up some of the tough issues.

Today we have introduced a bill, a group of freshmen, that will eliminate gifts and trips. This will be a tough one to take on, but both our leadership, the committee chairs, and all of us believe that it is time that we take on this issue. It will be heard right after the contract. It is something very, very important that we do.

This Congress is not only good, but we also have a high integrity, and we are going to make sure that the American people understand that.

MR. ARMEY'S WARDROBE AND THE MINIMUM WAGE

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

Mr. GUTIERREZ. Mr. Speaker, I do not mean to harangue the distinguished major leader. However, I heard Mr. ARMEY say that he would fight an increase in the minimum wage with ''every fiber in his body.''

Well, I want him also to consider the fibers on his body: the fibers that make up his shirt, his suit, his socks, his tie.

If his clothes were made here in USA, then I would bet that some of those fibers were sewn together—by workers earning the minimum wage.

As public servants, we should be willing to give our constituents the shirts off our back.

Instead, in Mr. ARMEY's world, we take the shirts that they make for us, put them on our backs, and then tell them that they are not even worth the $4.25 an hour that they got making that shirt. Mr. ARMEY may be the majority leader in this House, but he does not speak for the majority of Americans, most of whom want us to honor our workers with a decent, liable wage.

We have all heard the story of the ''Emperor who had no clothes.'' Well, if it were not for minimum wage employees, we would hear the story—the true story—of the majority leader who had no clothes.

Let us keep that in mind as we debate the minimum wage.

□ 1130

INTRODUCTION OF TRAVEL AND TOURISM LEGISLATION TO BE FORTHCOMING

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

Mr. ROTH. Mr. Speaker, we in Congress need to give additional attention to the American travel and tourism industry. Do Members know that travel

and tourism creates a $63 billion business, and that it is the Nation's second largest employer?

Last year in Wisconsin, for example, tourism brought in some $6 billion. That is more than $17 million a day, and it creates jobs for some 128,000 workers. In my district, people vacationing or traveling for business spent $700 million and created 18,000 new jobs. And that is true of just about every single congressional district in America.

Restaurants, hotels, service stations, gift shops, rental services, and taverns all rely on the tourism dollar. We in Congress need to recognize this industry for the jobs and prosperity it creates.

Mr. Speaker, I ask the Members to call my office to sign on as original cosponsors on far-reaching travel and tourism legislation that I will be introducing.

U.S. TRADE POLICY SEES NO CHANGE, AMERICAN JOBS STILL THREATENED

(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, everybody was cheering because the Trade Representative finally stood up to those Chinese dictators. Not for long. At this moment they are negotiating a $8 billion energy deal with China. Beam me up. John Wayne is rolling over in his grave.

When will we learn, Congress, that from Nixon to Clinton this policy of engagement is nothing more than a policy of surrender that is killing the American workers. I say enough is enough. No more wimp-outs, no more deals, no more promises. Congress should strip China of its most-favored-nation trade status or Congress has no anatomy at all.

Mr. Speaker, the last I heard, it was still Uncle Sam. Let us not treat him like Uncle Sucker anymore.

THE ONGOING RECORD OF THE 104TH CONGRESS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, I hope the American people listening note the contrast between what the Democrats are talking—trivial, mean-spirited nonsense—and what we are talking about—the important issues facing America. It is a pity that they have nothing worthwhile to say.

If there is one thing the American people appreciate is hard work. After all, we are a nation built on hard work.

Well, Mr. Speaker, I am proud to report that the statistics are in, and this January was the most productive since before 1981. Let's compare some average numbers for the first January in each Congress from 1981 to 1993 with the January just ended.

Number of hours in session—1981–93: 28. This Congress: 115.

Number of votes—1981–93: 9.3. This Congress: 79.

Number of committee/subcommittee sessions—1981–93: 25.4. This Congress: 155.

Number of measures reported out of committee—1981–93: 1.6. This Congress: 14.

Mr. Speaker, the numbers speak for themselves. This has been the most productive Congress in recent history.

SUPPORT URGED FOR RAISING THE MINIMUM HOURLY WAGE

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

Mr. FIELDS of Louisiana. Mr. Speaker, I rise today to commend the President on recommending a minimum wage increase for the hard-working people of this country.

There are people who wake up every single morning in this country, go to work every day, and at the end of the day they are still poor, not because they are lazy but because we need to raise the minimum wage.

It is an absolute shame, Mr. Speaker, that there are people who walk into this Chamber making $550 a day and tell people who are making a mere $680 a month that they are not entitled to a cost-of-living adjustment. I find that to be absolutely outrageous at best.

Mr. Speaker, we have not raised the minimum wage since April 1991; according to the Bureau of Labor Statistics, there are an estimated 11 million workers who earn the minimum wage, two-thirds of which are adults.

Sixty percent are women, many are heads of the households.

Finally, Mr. Speaker, what better way to get people off of the welfare rolls, than by giving them a chance to be on a payroll that pays a decent wage.

Mr. Speaker, I urge my colleagues to stand up for the working people in the country and vote ''yes'' to a minimum wage increase, so that people can get paid for the hard work that they do every single day of their life.

THE HOUSE SETS A NEW RECORD FOR PRODUCTIVITY

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

Mr. MARTINI. Mr. Speaker, correct me if I am wrong, but was it not Casey Stengel who often said, ''You could look it up''?

Well, you could look it up, Mr. Speaker. When we have our 100th vote sometime today, we will have set a new record for productivity. Not only have we had 100 votes earlier than any other Congress in the last 15 years, but we have also had more votes.

Yes, Mr. Speaker, it has been hard work. But look at what we have to show: A balanced budget amendment, a line-item veto, an unfunded mandates bill, and maybe most important, a reformed Congress that is restoring the faith of the American people in their Government. After 40 years of one-party rule, this is no small achievement. It comes from working hard and keeping promises.

Today we will keep another promise when we continue work on the crime package. So far we have provided restitution for victims of crime. By the close of business today, we will have put an end to technical loopholes and established an effective death penalty.

Mr. Speaker, it is all part of the real change America wants.

MANDATORY BINDING ARBITRATION RECOMMENDED TO SETTLE THE BASEBALL STRIKE

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute.)

Mr. WILLIAMS. Mr. Speaker, big league ball players, managers, league owners, play ball.

In the last Congress, last September, I introduced a mandatory binding arbitration bill to try to save this year's season for the national pastime. I reintroduced that bill in this Congress last month.

I have been working with the President and the Secretary of Labor, and the President is writing and will send up this week his preference for binding arbitration, and I will be introducing that. Let us hope that the leadership of this House will play ball with the President. Let us save the 1995 baseball season.

SUPPORT URGED FOR BILL TO LIMIT FEDERAL APPEALS FOR CONVICTED FELONS

(Mr. WHITE asked and was given permission to address the House for 1 minute.)

Mr. WHITE. Mr. Speaker, in 1982, in my district, a man named Charles Campbell slit the throat of an 8-year-old girl, her mother, and a next-door neighbor. He was convicted by a county jury, and under elaborate procedures designed to give him every benefit of the doubt, he was sentenced to the death penalty by a separate jury. Yet last April, 12 years after his sentence, the sentence had still not been carried out.

Why? He had spent his time in five separate appeals, three Federal appeals, trying to evade his sentence. None of the appeals had any merit, and he was finally executed last May.

Mr. Speaker, none of us is happy when a criminal has to be executed, but the present system makes a mockery not only of the death penalty but

of our entire system of criminal justice. We have to be clear that when we impose a sentence, we are going to carry it out, and that is why I hope every Member of this House will give serious consideration to the bill we will consider this afternoon that will limit the number of Federal appeals for convicted criminals.

RAISE THE MINIMUM WAGE

(Mrs. MALONEY asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY. Mr. Speaker, there has been much rhetoric in this House about helping working families. Yet that rhetoric rings hollow when there is vocal opposition to raising the minimum wage.

Where I come from, if you work full time making only $4.25 an hour, you are living in poverty. The current minimum wage offers little incentive to go off welfare and find a job.

Some say that increasing the minimum wage will cost jobs, but study after study shows that is just not true. The minimum wage is at its lowest real level in 40 years. But some in the majority seem out of touch with just how little the minimum wage buys.

If I were to propose that Members of Congress make only $4.25 an hour, people would call that proposal ridiculous. It is ridiculous. Members of Congress cannot live on $4.25 an hour, and neither can anyone else.

Have a heart, raise the minimum wage.

□ 1140

SUPPORT H.R. 729

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

Mr. JONES. Mr. Speaker, last week the State of North Carolina executed Kermit Smith for the brutal kidnaping, rape, and murder of a college cheerleader in 1980. Because of the burdensome appeals process, the case dragged on for 14 years, going before 46 judges and the U.S. Supreme Court 5 times. The victim's family suffered each and every time the case was brought up for review.

Why must we penalize the victims and their families? Haven't they gone through enough. Honest taxpaying citizens question why criminals spend an average of 15 years on death row appealing their cases. They question the enormous cost of the appeals process. They question the amount of time courts spend hearing these cases, while in turn ignoring other pressing matters.

We, as Members of Congress, have the obligation and responsibility to streamline this process for the victims' families and the law-abiding citizen. The Effective Death Penalty Act is a step in the right direction. It sets time limits for the appeals process. We must support H.R. 729.

TRUTH NEEDED ABOUT SURGEON GENERAL NOMINEE

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

Mr. MCINNIS. Mr. Speaker, well, we have another issue boiling out there. It is the issue of the appointment of the Surgeon General, and this issue is about credibility, credibility, credibility, credibility.

This is how the story goes so far. The Surgeon General has the administration supply information to the chairwoman of the Senate committee which will hear the confirmation. That information is that he had only performed one abortion.

Later in the day that is revised by the nominee, who says, ''Well, it was not really one. I think it was less than a dozen.''

Now all of a sudden out there it was not one, it was not a dozen, it is 700.

What is the truth? I am very concerned that we will get a Surgeon General nominee out there who is going to draw away and distract from the real issues of health care in this country and make the focus his credibility. If he is not telling the truth, if the administration is not giving us the truth, he ought to step out and let somebody else in.

APPOINT OUTSIDE COUNSEL TO INVESTIGATE GOPAC

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

Ms. ESHOO. Mr. Speaker, according to the Los Angeles Times a Wisconsin couple gave $700,000 to GOPAC between 1985 and 1993. That is a lot of money.

The cornerstone of Federal election law is disclosure, full disclosure. Within the past 5 years, GOPAC has raised more than $7 million. The American people should know where this money came from, did these donors get anything in return, and are there any conflicts of interest?

Mr. Speaker, these are important questions, but we cannot get answers because GOPAC refuses to provide a list of its past contributors and how much they contributed. What we know is that many of GOPAC's current donors have issues pending before the Congress. In light of these potential conflicts of interest, an outside counsel should be appointed to investigate these matters.

The time has come for the House of Representatives, especially the new majority, to live up to their own rhetoric and call for an outside counsel to investigate where GOPAC's money has come from and how it has been used. The American people deserve to know.

A NEW CONGRESS

(Mr. GANSKE asked and was given permission to address the House for 1 minute.)

Mr. GANSKE. Mr. Speaker, the eyes of the American people are on the House of Representatives, and for a change they like what they are seeking. Recent polls show that the job approval rating for Congress has more than doubled since we began work in January, and the operative word is ''work.''

The 104th Congress is working hard, keeping its promises, and making real changes. Congress matters again. The House of the people is getting on with the business of the people at a pace unprecedented in modern history.

But make no mistake, we are not confusing effort with results. Here are some of the things we have done: We have reformed the rules of Congress; we passed a balanced budget amendment; we passed the line-item veto; we passed the unfunded mandates restriction; and we are well on the way to passage of a vastly improved crime bill.

This is a new Congress, Mr. Speaker, a can-do Congress that is worthy of the people that we were sent here to serve.

MINIMUM WAGE NOT TIED TO MEXICO

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

Mr. FRANK of Massachusetts. Mr. Speaker, I am glad to hear the Republicans talk about how they want us to be able to work, because I take that to mean that they will not try to bottle up the President's thoughtful, compassionate proposal to raise the minimum wage.

Now, I was a little concerned when I read the Speaker's opposition to it. I was especially puzzled when I saw that he said that one reason we could not afford to raise the minimum wage of American workers to a living wage, and it is well below that now, is that wages are so low in Mexico.

I am puzzled because when we were dealing with the question of an American guarantee for Mexican loans, many of us on the Democratic side felt that we should address in that context wages in Mexico, and we made the point that we wanted to insist on mechanisms in Mexico that would no longer arbitrarily depress the wages of Mexican workers, but allow them to rise. We were told that that was really none of our business.

But now the Speaker tells us that precisely because Mexican wages are so low, he cannot support giving American workers $5.15 an hour. This is validation of the point we made with regard to Mexico, and it is further argument for raising the American minimum wage.

MAKE WELFARE A CASHLESS SYSTEM

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

Mr. FRANKS of Connecticut. Mr. Speaker, we must take cash out of our current welfare system and replace it with a debit card. Welfare dollars are taxpayers' dollars, and we need and deserve to have a proper accounting of these funds.

A Columbia University study claimed that 25 percent of welfare recipients are drug abusers. If you have high unemployment, high drug trafficking, and high welfare use in our cities, where is the money coming from? It is obvious that we, as taxpayers, are inadvertently fueling our criminal drug industry by welfare.

A picture debit card system will help solve this problem, since drug dealers do not take American Express or any other form of plastic. The proper dispensing of welfare funds by electronic transfer will improve our housing stock in our cities, lower our utility bills for our elderly, help make the banking industry more efficient, and, most importantly, allow our children to receive their due assistance. This could be the best form of eradicating welfare fraud.

INSTITUTIONAL AND POLITICAL DISCRIMINATION ALIVE AND WELL IN BUTLER, GA

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute.)

Ms. MCKINNEY. Mr. Speaker, while many people in this House feel that institutional and political discrimination are a thing of the past, I would like to draw their attention to the tiny town of Butler, GA. After 10 years of no elections, the town of Butler will finally have free and fair elections which do not exclude its 46 percent black population from being represented.

The Eleventh U.S. Circuit Court of Appeals had to order the town's all-white council to open its polls and put an end to rigging elections that kept African-Americans off the town council.

To my Republican colleagues who are anxious to repeal motor-voter, the Americans With Disabilities Act, and the voting rights acts, I say beware. We spend billions of dollars every year to protect and promote democracy abroad, and you want to spend billions more for a star wars defense of democracy at home.

Mr. Speaker, the bottom line is that we are yet to achieve democracy and equality right here at home, and the last thing we need is a bunch of politicians saying that inequality and injustice at home are all right with them.

□ 1150

REQUEST FOR ESTABLISHMENT OF PROCEDURES FOR CONSIDERATION OF A CERTAIN AMENDMENT TO H.R. 666, EXCLUSIONARY RULE REFORM ACT OF 1995

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent that when the House resolves itself into the Committee of the Whole and takes up H.R. 666, there be a time limitation on my amendment of 50 minutes, divided equally between myself and an opponent to the amendment, and that no amendments be permitted to my amendment.

The SPEAKER pro tempore (Mr. LAZIO of New York). Is there objection to the request of the gentleman from Missouri?

Mr. DELAY. Mr. Speaker, reserving the right to object, and I do intend to object, mainly because I do not mind negotiating on limiting time on an amendment, but I do mind limiting the ability for Members to amend the gentleman's amendment.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I just want to bring up the fact that the gentleman from Missouri has raised two questions: A motion to limit time and a motion to make his own amendment unamendable. I wonder if the gentleman could explain why the second portion of that request is there.

Mr. DELAY. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I had not planned to. When I first negotiated the time limit, I was going to make it in the Committee of the Whole. And it was only going to be basically on 45 minutes. And then I thought 50 minutes was easier to divide than 45.

But from that side of the aisle I heard that some member of the committee from that side of the aisle may even try to preempt me on this amendment or there may be amendments to my amendment or there may be other things to take away my amendment.

Now, I have worked up this amendment, and I would like to have the opportunity to offer it. I am just trying to preclude that and restate my stand on one issue, and that is the BATF. I would just talk about that and limit the time.

I am willing to limit the time as long as we can do that, but if we are going to be getting into a wrangle on this thing, then I am not going to agree to a time limit.

Does the gentleman understand that? We may be here 3 or 4 hours.

Mr. DELAY. Mr. Speaker, continuing my reservation of objection, I understand the gentleman's concern about the time limit. And I might concur and negotiate with the gentleman over a time limit, but if the gentleman would have consulted with the majority on his amendment, I think the majority could have worked with him.

There are many Members on our side that do not want to be limited in being able to amend the gentleman's amendment or even substitute for the gentleman's amendment, or in some cases members of the committee may want to offer the gentleman's amendment, members who are in agreement with the gentleman.

I think it is the privilege of the majority to ask for cooperation and ask for negotiation on unanimous-consent requests.

Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, several things the gentleman said made some sense to me, but then I thought I heard the gentleman say some members of the majority might want to offer the gentleman's amendment. That one seemed a little disturbing. The gentleman from Missouri has been working on this amendment. The gentleman is saying that some members of the majority have plans to sort of show the respect for intellectual property rights of the Chinese Government and steal the gentleman's amendment.

Mr. DELAY. Mr. Speaker, I would not characterize it, in responding to the gentleman, as stealing the gentleman's amendment. There are many on our side of the aisle that feel like they could support the gentleman's amendment if it was changed in certain ways. We want the opportunity to investigate that and to do that. To just arbitrarily say that we cannot amend the gentleman's amendment or substitute for it or do something else with it, we just cannot agree to that.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman will continue to yield, then I misunderstood. There is no effort to try to preempt the gentleman's right to offer that amendment as his amendment since he is the one who came up with it.

Mr. DELAY. Mr. Speaker, I think those Members that are on the Committee on the Judiciary, by the rules and by tradition, have the right to be recognized before the gentleman from Missouri. And whether a Member from that committee offers whatever amendment that may pertain to the substance of the gentleman's amendment, we are not prepared right now to say whether that is going to happen or not.

Mr. FRANK of Massachusetts. So the gentleman would have to satisfy himself with that flattery which imitation is the sincerest form of?

Mr. DELAY. Mr. Speaker, I am not sure I understood the gentleman's question.

Mr. FRANK of Massachusetts. I apologize for being unclear. The gentleman from Missouri, having come up with this, the notion that he has to come up with the amendment, having

put it forward, and then loses it because somebody else decides to put his name on it, seems to me unfortunate. But if the gentleman insists that that is what the rules allow, I suppose that is what happens.

Mr. DELAY. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I recognize that that is what the rules allow. If the gentleman wishes to object, let him object.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. DELAY. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

EXCLUSIONARY RULE REFORM ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 61 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 666.

□ 1156

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 666) to control crime by exclusionary rule reform, with Mr. RIGGS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, February 7, 1995, the amendment offered by the gentleman from North Carolina [Mr. WATT] had been disposed of and the bill was open for amendment at any point.

Are there further amendments to the bill?

Mr. SCHIFF. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not rise at this time to offer an amendment. I rise to comment on apparently a news broadcast that occurred last night with respect to the bill, H.R. 666. I cannot tell my fellow Members where this news report took place. I did not see it. But I received some calls this morning which indicated that there was some rendition of what we were doing on the House floor yesterday and today with respect to this good faith exception to the exclusionary rule.

I think, Mr. Chairman, that it is just important to make a point here, and that is, we are proposing to make and broaden an exception to the exclusionary rule which already exists in law. Apparently, the reports were that we are trying to repeal legislatively the entire exclusionary rule, as it was enunciated by the U.S. Supreme Court, first in Federal cases in 1914 and, second, as applied to the States in 1961.

I certainly acknowledge, Mr. Chairman, that, and anyone could tell it from some of the remarks that were made, that there are Members on our side who feel that the entire exclusionary rule should be repealed. There may even be, though we have not heard from them, I would not be surprised if there are Members on the other side who believe that, too.

There is always the argument that no matter how evidence was seized that, if it points to guilt, it should be used. I do not personally share the view of repealing entirely the exclusionary rule. I think the point that the Supreme Court made in the Mapp versus Ohio opinion of 1961 was also important.

In that case of a total disregard of constitutional protections based upon search and seizure, the Supreme Court said, we have tried everything else, now we will try to suppress evidence as a means of encouraging law enforcement officers to comply with the fourth amendment, which we do place on them through the fourteenth amendment.

PARLIAMENTARY INQUIRY

Mr. COLEMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. Will the gentleman from New Mexico [Mr. SCHIFF] yield for a parliamentary inquiry?

Mr. SCHIFF. I yield to the gentleman from Texas.

Mr. COLEMAN. Mr. Chairman, I thank the gentleman for yielding to me.

My inquiry, Mr. Chairman, is to get an understanding of what place we are in the procedure before the committee. Is it correct that any of us could now rise and seek recognition in order to speak on the overall issue of the exclusionary rule or the fourth amendment or the bill, H.R. 666, without dealing with an amendment? In other words, any of us could now rise and speak on the issue?

The CHAIRMAN. That is correct. The bill is open to amendment at any point under the 5-minute rule.

Mr. COLEMAN. But this is not an amendment.

The CHAIRMAN. The gentleman from New Mexico [Mr. SCHIFF] was recognized and was proceeding for 5 minutes.

Mr. COLEMAN. But not on an amendment, am I correct?

The CHAIRMAN. The gentleman from New Mexico has offered a pro forma amendment.

Mr. COLEMAN. I thank the Chair.

□ 1200

Mr. SCHIFF. Mr. Chairman, as indicated, I am not offering an amendment at this time. I have just sought recognition on the 5-minute rule, and I will conclude in a moment here.

Mr. Chairman, I just want to point out exactly where we are. I understand that there are Members who may still, because they so indicated, oppose this particular bill, H.R. 666. I just wanted to emphasize what this bill does and what this bill does not do.

This bill does not repeal legislatively the entire exclusionary rule, or anything even that comes close to it. Speaking for myself, I would not support a bill that would entirely repeal the exclusionary rule.

I think the Supreme Court had a logic in saying that there was a reason to exclude evidence in certain cases that they enunciated, I thought very well, in the Mapp versus Ohio decision of 1961. Rather, we are taking an exception to the exclusionary rule which already exists. It has already been stated by the Supreme Court in the Leon case.

In that case the Supreme Court said that where police officers make an honest error, a good-faith error, that in that particular case it made no sense under the theory of the exclusionary rule, under the theory of trying to motivate law enforcement logic, to suppress that evidence.

We take that a little bit further. In the area of searches without a search warrant, and there are legal searches without a search warrant, a search warrant is not required under constitutional law for every search, any more than it is required for every arrest. There can be arrests without a warrant.

My point is that we are making an extension of an exception that already exists, and I just want to conclude by saying that we are not repealing the entire exclusionary rule, and further, we are not broadening the exception that much.

I understand that Members, when we get to final passage, will vote yes or no as they see fit, but I just wanted to explain exactly what we were doing.

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would ask the gentleman, is this an amendment that has been printed in the RECORD?

Mr. CONYERS. This amendment has not been printed in the RECORD, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS: Page 3, line 14, strike the close quotation mark and the period which follows:

Page 3, after line 14, insert the following:

''(d) LIMITATION.—This section shall not apply with respect to a search or seizure carried out by, or under the authority of, the Bureau of Alcohol, Tobacco, and Firearms.''.

Mr. CONYERS. Mr. Chairman, this amendment is offered by myself, the gentleman from Missouri [Mr. VOLKMER], and the gentleman from Michigan [Mr. DINGELL].

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I wish to take this time to thank wholeheartedly the gentleman from Michigan [Mr. CONYERS] for offering this amendment on my behalf.

I will not take a lot of time because I will let the gentleman from Michigan go back, and then we will take a couple hours, three hours to debate this. I would just like to have plenty of time.

Mr. Chairman, I would like to point out that the gentleman from Michigan [Mr. CONYERS] has offered this amendment on my behalf because of what I heard on the Republican side earlier today, this morning, that one of their Members on the Committee on the Judiciary may, may supplant my opportunity to offer this amendment by offering it themselves, or offering a similar amendment or something that has changed.

As a result of that, and not knowing what was going on on the Republican side, and whether they were going to do it or not do it, as a result, in order to preempt them, I asked the gentleman from Michigan [Mr. CONYERS] to join with me in this amendment, which he has been willing to do so that we at least have the opportunity on this side to offer our amendment.

Mr. Chairman, I hate to see, I really do, this type of activity, because I do not believe this type of activity is very conducive to comity in this House and the running of this House.

In my 18 years, Mr. Chairman, in my 18 years I have never known of anybody in our party after an amendment has been noticed, an amendment had been notified and people have all been notified, that Members of the other party, this party, when the minority party has done that, no Member, no Member ever in 18 years has ever said We may offer an amendment ourselves to preempt you the right to offer that amendment.

Mr. Chairman, what is going on? I thought just yesterday we started out and we had good comity. The gentleman from Texas [Mr. ARMEY], their leader, had been able to work with our leader and people and work out the time frames on these crime bills. Then they come up with some little dig like this.

Mr. Chairman, I think it is really beneath anybody as a Member of this House to come up with such a strategy. It is childish, immature, and I cannot understand their leadership and whoever came up with that strategy at all. I am really disappointed that some people on that side would even think of doing such an insidious tactic.

Mr. SCHIFF. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to say, although it is certainly true that the gentleman from Missouri [Mr. VOLKMER] has worked on this amendment for quite some time, I want to say that the accusations of some kind of insidious kind of motivations I think go past where the situation calls for.

The fact of the matter is that we are proceeding under an open rule. This, of course, among other things, means that unlimited amendments can be offered. Those of us who are presently monitoring this bill on the majority side, speaking especially of myself at this moment, have a grave reservation about the gentleman's amendment, despite the fact that a great deal of information has come out that is very questionable, I am sorry to say, about the Bureau of Alcohol, Tobacco and Firearms, which I hope will be explored even further through the committees of this House.

I want to say that I have a reservation about excepting an entire police agency in this bill over certain incidents. It is a matter of fact that there are still, even though I have this reservation, there are members of my party who are more strongly agreed with the gentleman's amendment, and they wanted their opportunity to present a similar view.

Therefore, I do not think that is the same as some plot here to keep the gentleman from Missouri from being acknowledged for his role in this amendment.

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the basic legislation before us is bad legislation. It would cause a raid by the BATF or any other agency of Government, to be presumptively valid if there was any property which was seized pursuant to the warrant.

That means any firearms owner, owner of a shotgun, sporting ammunition, sporting weapons of any kind, or target weapons in this country is subject to being raided without the slightest semblance of a defense as to the illegality of the search or seizure, whether the law enforcement authority has a warrant or not.

Mr. Chairman, let me read some words from William Pitt which I think we should keep in mind as we consider the fourth amendment, which is at least as precious as the first and the second.

Here is what William Pitt had to say, a great British parliamentarian:

> The poorest man may in his cottage bid defiance to all the force of the Crown. It may be frail, its roof may shake; the wind may blow through it: the storms may enter, the rain may enter, but the King of England cannot enter; all his forces dare not cross the threshold of the ruined tenement!

What I am saying, Mr. Chairman, is that in this country, until this legislation, under interpretations of the Constitution by conservative courts, not by a congregation of radicals, the ordinary citizen was able to assume that he was protected in his home against improper raids and against improper procedures under warrants, or lacking warrants, by law enforcement persons entering his home. Under this legislation that will no longer be so.

□ 1210

A man had a right to assume that he was secure in his person, in his property, in his home, and he had the right to know that he was protected by the courts.

H.R. 666 would do away with those protections, and particularly so in the case of owners of firearms and sportsmen in this country who use their firearms solely for law-abiding purposes, legitimate sporting and hunting and self-defense purposes.

Now, having said those things, let us look a little bit at what it is that BATF has done over their history. I want my colleagues to go back with me to the raid that was performed on the home of a law-abiding citizen by the name of Kenyon Ballew. BATF first entered an apartment upstairs where they held a shotgun at the head of some 8-year-old children. When they found they had raided the wrong place, they then went downstairs, and they broke through a back door in the man's home which was never used. It was essentially a back door. They seized the man's wife and threw her into the hall in only her underpants. Mr. Ballew was coming out of the shower with a cap and ball revolver seeking to defend his home and his wife against a noisy band of intruders who bore no indicia of their service as law enforcement officers.

Indeed, the event was classed as a training exercise. Mr. Ballew was shot in the head, and he is today, if not dead, still a cripple and still partially paralyzed, incapable of speech.

This whole unfortunate matter was covered up under the aegis of Mr. Connelly, the then-Secretary of the Treasury. My colleagues on the majority side of the aisle will remember Mr. Connelly.

I want to tell you about what they did after the raid was concluded. They went outside, still dressed as hippies with beards and in scruffy clothes, and at which time they first put on their BATF armbands to show that they were law enforcement officers engaged in proper exercise of their legal authority, and that they had given proper warning to the individual of their authority which, in fact, they had not.

I want to tell you a couple of other things about the BATF. BATF ran a citizen of the State of New Jersey off the road while he was driving down the road in New Jersey with his wife and kids. They beat him up. Then they found that they had attacked the wrong citizen, and then they said, ''If you report this to anyone, we will be back and give you some more.''

Now, I want to tell you about an innocent collector, whose home they raided. They seized all of his valuable firearms, all legal, took them, put them in barrels, damaged them, that is the firearms. The citizen then had to sue to recover the firearms which were his lawful property, and whose proper ownership was never contested by the BATF or anybody else. But the law-abiding citizen had to go to court to sue, to recover property improperly taken from him.

The records of BATF are rich with this sort of abuse of the rights of citizens.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 4 additional minutes.)

Mr. DINGELL. The consequences of the behavior of the BATF in these kinds of cases is that they are not trusted. They are detested, and I have described them properly as jackbooted American fascists. They have shown no concern over the rights of ordinary citizens or their property. They intrude without the slightest regard or concern.

Now, if you want a more recent event, take a look at what they did in Waco, TX. Is that a defensible event? Scores of Americans were killed because of ineptitude by BATF acting under legal process, as they said, and that whole matter is going to be suppressed after scores of Americans have been killed because of the ineptitude and crass misbehavior of the BATF.

Now, let us take a look at what this legislation does. H.R. 666 says that there is no defense in the courts against that kind of behavior by BATF or anyone else. The amendment offered by the gentleman from Missouri says that BATF is not included within that rubric. They are not protected in their misbehavior and they must defend their cases on the basis of the propriety of their behavior as now defined under law.

Remember, all that the law now says is that before you raid a man in his home you have to do it incident to a valid arrest or you have to do it with a arrest or search warrant. I do not think that is excessive in a free society, in one where we expect the ordinary citizen to be secure and protected in his home.

Now, what is a citizen to do if he is improperly raided under H.R. 666? There is nothing, literally nothing, that the ordinary citizen can do. The only defense which a citizen has under this kind of improper raid by BATF or by any other agency, State or Federal, was to have the information and the evidence improperly seized suppressed. H.R. 666 sanctifies misbehavior, and it makes such yard, and such seizure of property presumptively valid. It eliminates any question of propriety by the authorities.

Now, it is fair to say that with regard to criminal misbehavior, that law enforcement agencies are able to and have consistently watched wrongdoers over a long period of time. They built their cases with care. Having built their cases with care, they then go to court and get a proper warrant. Then they would proceed to execute the warrant.

H.R. 666, if enacted, will be applied to the ordinary citizen, not to the hardened criminal, but rather to the law-abiding citizen who has a rifle or shotgun in his closet or hanging over his mantlepiece or under his bed, and he is going to be the victim of this kind of legislation. His protection of home, property and personal security will be ended.

This is bad legislation. It has been said today it does not affect the fourth amendment. In point of fact, it blows a huge hole in the fourth amendment. What it says is that a raid conducted improperly without proper warrant, or without warrant at all, is presumptively valid, and the burden then shifts on to the defendant who has been wronged by his Government, by the agencies of his Government, acting under either no process or improper process to defend himself. The wronged citizen is compelled to retain a lawyer. He is compelled to go through a long and costly court procedure, and he cannot, under H.R. 666, get protection afforded him by the requirements for a proper search. He cannot have property seized under an imperfect search warrant, or no search warrant excluded from the trial. That is literally the only defense that a citizen has against improper behavior in terms of search and seizure by law enforcement personnel.

The attack on H.R. 666 is not an attack on law-abiding citizens. It is an attack on wrongdoers. It is a bad piece of legislation.

I urge the legislation be rejected, and I urge the amendment offered by the gentleman be adopted.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

I must say I was pleased to hear the gentleman from Michigan quote William Pitts. We were thinking of Billy Pitts on our side whom we all miss, and I am glad, but I guess it was an earlier William Pitts to whom he referred.

Waco suppressed: Gee, I remember sitting through an exciting 1-day hearing under the aegis of the former chairman of the House Commitee on the Judiciary where we heard all and sundry witnesses on the Waco situation. I do not think it was suppressed, at least insofar as that 1-day hearing was concerned.

But I will just point out that the Bureau of Alcohol, Tobacco and Firearms is an executive agency. It is part of the Treasury. Former Senator Bentsen, who was the Secretary of the Treasury, was its commander in chief. The present Secretary of the Treasury is the commander in chief, for want of a better title, of the Bureau of Alcohol, Tobacco and Firearms.

And so this attack on an executive agency is interesting. I would suggest if it is so horrible, let us get rid of it. I would suggest the gentleman introduce legislation to dissolve the Bureau of Alcohol, Tobacco and Firearms.

Instead, you want to make an exception to a general rule which we are trying to adopt, modifying the exclusionary rule so guilty people who possess evidence, contraband, when they are arrested, that it gets admitted into evidence. To make an exception for a single agency of Government is really foolish.

It would seem to me, if the Bureau of Alcohol, Tobacco and Firearms is so oppressive, we ought to get rid of it. Let us attack it head on. Let us hold hearings. I want to tell the gentlemen on the other side, we are going to hold hearings. We are going to hold hearings on the excessive use of force as alleged in Idaho, as alleged in Waco and other places.

□ 1220

We are going to look at that, absolutely. We are not going to sit passively by or have 1-day hearings but to carve out an exception to the exclusionary rule for one agency of Government which is an executive agency of Government makes no sense.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, I express great affection and respect for my friend.

Mr. HYDE. And it is mutual.

Mr. DINGELL. I am just curious. The gentleman is chairman of the Committee on the Judiciary. I am curious why he is in such a rush to get this bill on the floor before he has looked at the kind of misbehavior that I have described or the kind of misbehavior that the gentleman is now describing.

Mr. HYDE. Well, all I can say is I do not recall the gentleman introducing legislation to dissolve, to dissolve the Bureau of Alcohol, Tobacco and Firearms. I would think that would be the way to go if what the gentleman is half true.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New Mexico.

Mr. SCHIFF. I thank the chairman for yielding to me.

Mr. Chairman, I oppose this amendment also, and I do so because, as I understand the arguments that are being made, they come down to this: The argument is that the Bureau of Alcohol, Tobacco and Firearms is riding roughshod over the rights of innocent law-abiding people, and I want to point out that this was the testimony at our hearing on the exclusionary rule that the exclusionary rule does not protect honest citizens from a law enforcement agency or law enforcement officers who are bent on ignoring constitutional rights. And the reason for that is law-abiding citizens are not going to have any evidence of crime in their possession which can be suppressed under any version of the exclusionary rule.

That is why this amendment is misdirected to this bill. But the chairman's suggestion to look more closely at the Bureau of Alcohol, Tobacco and Firearms for other action is quite appropriate.

Mr. LIGHTFOOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment that is being offered here this afternoon, for a number of reasons. I think that the amendment is probably motivated by legitimate questions and concerns about ATF's involvement in a couple of incidents.

But as Treasury, Postal Service's chairman and former ranking member, we have had an opportunity to review these incidents and work with ATF and a number of other people. Not being the boot-jacked Gestapo, as they were described earlier, they are good, hard-working Federal employees who have families, men and women with children, who are trying to make a living and do what they think is right.

Earlier reference was made to the situation at Waco, TX, and I would suggest to my colleague from Missouri and others who are so incensed about the Waco issue that rather than respond to all the editorial vitriol that we have read, which much of it is based in untruths and innuendoes and hearsay, that they take an actual look at the case.

If you look at the Waco situation, the warrant that was used initially was a valid warrant. Eleven people were charged. Eight of those people have been convicted and are now in jail.

There were fully automatic weapons in the Davidians' compound, fully in violation of the 1938—1934—law, which prohibits use of ownership of fully automatic weapons in this country. It was a valid warrant.

I also suggest to the gentleman there were other law enforcement agencies involved in the Waco situation, as was there was in Idaho. In fact, the fire was not the result of the ATF, it was a result of the FBI. Attorney General Reno, if you will remember, stood up and said, ''I take the heat for this. It was my decision.''

ATF is not a part of the Justice Department; they are under the Treasury Department. It was two separate law enforcement agencies.

In the situation in Idaho, the ATF had made a clean arrest. But when it got into the fire fight, it was the U.S. Marshall Service involved in that incident.

So I would just suggest, as the chairman of our subcommittee, we have hearings that are coming up and if the gentleman would like to withdraw the amendment, we certainly would make available for him the opportunity, or anyone else who would like to be there, to talk to ATF to bring this thing down.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

Mr. Chairman, I am not about to come and testify and talk to the gentleman's subcommittee because it appears to me, from just listening to the gentleman's statement, that the gentleman is completely in agreement with whatever Bureau of Alcohol, Tobacco and Firearms has done in the past, including keeping law-abiding citizens' guns from them after they have executed a search warrant, no charges ever filed. They have kept those guns and still, even after filing suit, spent all kinds of money to get them back. The gentleman is saying that is good stuff.

Mr. LIGHTFOOT. Reclaiming my time, I say to the gentleman from Missouri I have stood shoulder to shoulder with him fighting for second amendment rights. I own guns. I used to be a gun dealer. I am a hunter. I will go to the wall protecting the second amendment rights to own a firearm. I think it is important. It is part of the Constitution. I think we should do that.

ATF has been charged with the responsibility of enforcing our Federal gun laws. It is not a popular thing to do. I would suggest, from comments the gentleman from Michigan, [Mr. DINGELL] made, there is probably not a law enforcement agency in this country that you cannot go into and find one of these anecdotal stories where someone was mistreated. Unfortunately, that is the nature of the business because a lot of decisions have to be made under pressure, and sometimes those decisions are not correct, and we will admit they are not correct.

I only say, to single one agency out, as we are doing here, is poorly misdirected. If the gentleman persists with his amendment, I am considering offering an amendment to the amendment which would include in this exclusion the FBI and U.S. Marshals Office. Let's include them all. The gentleman is totally off base. The whole purpose of the exclusionary bill that we are offering anyway does not allow anyone to go in on a raid without just cause. You still have to have a warrant, you still have to do it right. It only addresses the fact that if, during the process of executing that maneuver, you can obtain evidence which later is valuable, it was obtained in good faith, then it would be allowed to be admissible in courts. It does not exempt anyone's rights or cause anyone to be under undue pressure from law enforcement people. If you talk with law enforcement people, every day those people work very hard. A lot of times they do things that are very much done in good faith, but it gets kicked out in the courtroom, some criminal goes free, and we really do not solve the problem.

I really think we have a bit of a witchhunt here.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to share my sense of happiness that my Republican colleagues have succeeded so soon in improving American Government. We have just heard virtually every one on the Republican side rise to speak in praise of the Bureau of Alcohol, Tobacco and Firearms, to defend the actions in Waco, to defend the actions in Idaho.

Now, it had not previously been my experience that Republicans were as supportive of the law enforcement efforts of the Clinton administration. And I guess Republicans said that once they got into the majority, things would get better. Well, they have apparently gotten better more quickly than I had thought, because we have been hearing from our Republican colleagues today words of praise and support for the law enforcement Federal agencies that I had not previously heard. I appreciate this.

The simple act of the Republicans switching from minority status when they got to offer amendments and be critical, to majority status where they are now really responsible has apparently had the wondrous byproduct of improving the quality of the executive branch.

Republicans, who on the whole when they were in the minority were quite critical of virtually all the actions of the administration, now they are in the majority, with the responsibility for running this operation, find virtues heretofore unchronicled in various of the Clinton administration entities.

I want to say that I am pleased to welcome this spirit of constructiveness. There is a higher degree of support coming forward than I have heard before. I am glad they have found on a second look that there is a lot more to be supported.

I have myself not been critical of the Bureau of Alcohol, Tobacco and Firearms. I had not previously recollected such Republican support. I hope it will be noted the extent to which the Republican leadership finds that the Federal law enforcement people at Waco and Idaho should be praised.

I thank the gentleman.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman from Massachusetts for yielding to me.

Mr. Chairman, in the interest of comity, I ask unanimous consent to withdraw the amendment and that the gentleman from Missouri [Mr. VOLKMER] be recognized immediately to offer the amendment.

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

Mr. SCHIFF. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. FRANK of Massachusetts. Mr. Chairman, I will reclaim my time to say that I am sorry that the people on the other side continue to want to deny Mr. VOLKMER the credit to which he is entitled for bringing this amendment forward.

But I do think that it is clear enough to say that this was the idea of the gentleman from Missouri. Apparently,

respect for law and order does not extend far enough to not try to steal credit from the gentleman from Missouri.

□ 1230

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, could I ask the gentleman from New Mexico [Mr. SCHIFF], my friend, what the basis of his objection is? We have already worked in comity during this bill and during the committee. I am puzzled about this. This is a very small technicality, and would the gentleman just tell us what is on his mind?

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I am not sure how parliamentary it is to ask for a reason for objection to unanimous consents. I do not recall their side ever having to explain, but I will be happy to.

The gentleman from Michigan stood up to offer the amendment. I guess their side thought we did not know what amendment it was they were going to offer. The gentleman from Missouri [Mr. VOLKMER] did not offer the amendment; the gentleman from Michigan offered the amendment.

I say to the gentleman, ''It is your amendment, and it should stay your amendment. We did not determine the order in which your side stood up to offer this amendment.''

Mr. FRANK of Massachusetts. Reclaiming my time, Mr. Chairman, I would just ask my friend, ''This unwillingness to let the gentleman from Missouri take credit for his amendment; was it something he said?''

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. CONYERS. May I point out to my friend, still my friend, that the gentleman from Missouri [Mr. VOLKMER] is one of the cosponsors of the amendment with the gentleman from Michigan [Mr. DINGELL]. We are not adding anything, and it may not come as news to my colleague that he had worked on this amendment, not only now, but for quite a while.

Mr. FRANK of Massachusetts. Mr. Chairman, I will yield to the gentleman from Missouri [Mr. VOLKMER] in the first place, but I suggest, to economize, maybe the gentleman from Michigan can ask unanimous consent to change his name to VOLKMER.

Mr. Chairman, I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would just like to point out to the gentleman from New Mexico [Mr. SCHIFF] that we have 2 years in which to operate in less than a little over a month, is what we have to operate under. If the gentleman persists in making such what I call minuscule objections, objections for minuscule reasons, I would say to him, ''You can rest assured, gentleman, that this gentleman knows how to make objections to unanimous-consent requests also.''

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I ask unanimous consent once more to withdraw the amendment, and that the gentleman from Missouri [Mr. VOLKMER] be recognized immediately to offer the same amendment.

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

Mr. SCHIFF. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. BARR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have some remarks that go to the substance of the amendment which every person on the other side is the author of it.

I have listened very carefully to the learned remarks, to the gentleman from Illinois, the distinguished chairman of this committee, and I think they are very well spoken and very appropriate.

As the distinguished chairman noted, all of us who care about effective law enforcement, who care about the abuses that all of us have seen in law enforcement over the years, including in recent years, are very concerned and are committed to addressing those problems. Mr. Chairman, there are, however, effective and appropriate ways to address them, and then there are ineffective and inappropriate ways, such as this amendment, Mr. Chairman, which do not really get to the heart of the matter and, in fact, may provide window dressing and refuge for those who really do not want to address the problems.

In addition, Mr. Chairman, with regard to the amendment itself, as a former U.S. attorney and somebody very familiar, I think, with the sorts of joint law enforcement efforts that are extremely important, particularly, but not exclusively, in the area of attacking organized crime and drug trafficking in our country, it is frequent that we in law enforcement, or those who are still in law enforcement, find ourselves involved in trying to orchestrate very complex types of law enforcement activities, and sometimes infrequently those involve the Bureau of Alcohol, Tobacco and Firearms, the FBI, DEA, IRS, State and local agencies; and if in fact, as it is, the intent of those of us who support H.R. 666 to strengthen the role of law enforcement in legitimately carrying out those specific and important types of criminal/anticriminal activities and to ensure that evidence that should be admitted into court is in fact admitted into court under appropriate safeguards which are included in our system of justice, even under H.R. 666, when in fact there may have been a technical violation, but again everything has to satisfy the standard of reasonableness; then I can foresee very clearly and reasonably situations in which the rights of victims and the rights of society in general are going to be harmed if this amendment passes.

For example, Mr. Chairman, if we do have a joint operation involving BATF as well as other agencies, State and/or local and/or Federal, and there is a question that arises as to whether or not evidence should be admitted under the terms of H.R. 666, the fact that ATF may have had some role, whether it is minor or major in that operation, could provide an exception through which a Mack truck could be driven, and we would have in effect defeated the intent of H.R. 666.

So, while I share the gentleman from Missouri's very eloquent statements on this issue, as well as the gentleman from Michigan's very eloquent statements on this issue, I think it does not address the underlying issue that the gentleman from Missouri raised both today and yesterday with regard to the second amendment which I, despite his intimation yesterday, cherish, and know about, and cherish as well as any amendment to the Constitution, but this is not the appropriate vehicle with which to address those very fundamental concerns, and I agree they ought to be addressed, and I do think that this amendment, if it were to go forward, would have the effect of defeating in some instances, but perhaps in very important instances involving major drug trafficking cases, that our Government may choose to bring on behalf of the citizens. This amendment could have the effect of having evidence that really ought to be admitted not admitted, and it could have, therefore, Mr. Chairman, an adverse impact and one that I do not think the gentlemen on the other side of the aisle who are proposing really intend for it to have.

Mr. HOYER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in the strongest possible opposition to this amendment. Its premise is slanderous to 2,700 of our fine law enforcement officers. It is a bigoted statement I say to my friends who have been the subject of bigotry. An NRA letter says that soemhow ATF agents, unlike all the other agents, cannot be trusted. There is no evidence of that. Two hundred sixty-six of those agents since 1920 have lost their lives. Do my friends on this side of the aisle want those agents to believe that somehow they are less trustworthy than other law enforcement agents in this country? I think not. The chairman of the Committee on the Judiciary is correct. If that is our premise, then let us abolish ATF.

My friends in this House, we are talking about crime bills. We are talking about safe streets, and safe schools, and safe communities, and safe neighborhoods. They are threatened today by some of the most violent, vicious

people in America who traffic in guns that will kill people very fast, and a lot of them, not to hunt, not to shot at targets, and they traffic in explosives. We just had a plea by somebody in New York who wanted to blow up the United Nations, undermine the security of the international community. Who investigated and found that conviction? An ATF agent.

Now I think this bill can be argued one way or the other on its merits as to whether you want to extend the exclusionary rule good-faith to warrantless searches or not. I think that is a legitimate debate, but I say to my friend on this side of the aisle: Let us not slander some very good people who daily we ask to go up against some of the most dangerous, deranged criminals in this land who threaten the stability of this Nation.

There is no evidence to support the contentions of the NRA that, unlike all others, and I presume that they would like to see this exclusionary rule applied to the Los Angeles Police Department, or the New York Police Department, or the Dallas or Miami Police Department; they would like that.

□ 1240

Their premise presumably is that they are perhaps not as well-trained or as carefully or as closely supervised as the agents of ATF, and they are wrong—dead wrong. I say to my friend, the chairman of the committee, for whom I have great respect and with whom I am probably going to vote at the conclusion of the consideration of this bill, do not besmirch these officers, do not single them out. There is no evidence on which to say that they are less competent or less concerned with constitutional protections.

They protect our country. We have asked them to do so. We have asked them to do one of the most difficult jobs of law enforcement in this country—dealing with those who traffic in illegal guns and explosives that can kill a lot of people very quickly.

Do not pretend that the debate on this floor is simply in a vacuum to make political points against our friends on that side of the aisle, that we will embarrass them for voting against the NRA this time, and that those 2,700 agents and all their predecessors and that organization will somehow be oblivious to the debate on this floor that intimates that they are less worthy of being extended this authority than some other law enforcement agents charged by the Government of the United States to protect the welfare of this Nation.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I am glad to yield to my very good friend, the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I am just curious. Did the gentleman vote against the amendment offered by the gentleman from Michigan yesterday?

Mr. HOYER. No, I voted for it.

Mr. VOLKMER. What did that do? It did the same thing for all law enforcement as what this does for BATF.

Mr. HOYER. I understand that. That was on the merits.

Mr. VOLKMER. Yesterday the gentleman said it was OK, and today he said it is not.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. HOYER] has expired.

(By unanimous consent, Mr. HOYER was allowed to proceed for 2 additional minutes.)

Mr. HOYER. Mr. Chairman, to respond to my friend, the gentleman from Missouri [Mr. VOLKMER], as I said at the beginning, that is on the merits of this issue. I think this is a serious issue. There are a lot of Members on this floor who are very concerned about the fourth amendment, which is an amendment that sets us apart from much of the world. It was an amendment that the forefathers thought was critically important so that the King Georges to come in future generations could not simply say, ''I'm going to come into your house; I'm going to come into your private spaces to investigate'' absent probable cause and a magistrate supposedly and in most instances objectively making a determination that there is probable cause.

That is, I say to my friend, the gentleman from Missouri, the objective issue. This amendment does not deal with a substantive issue. It deals with politics, and in the process of politics and posturing it deals with trying to embarrass the other side. I understand that. But my concern with it is that in the process of doing that it slanders a group of people that we ask to do one of the most dangerous jobs in America.

Mr. Chairman, I ask my colleagues on both sides of the aisle to reject this amendment and then vote on the policies raised by the substantive bill itself.

Mr. BRYANT of Tennessee. Mr. Chairman, I move to strike the requisite number of words.

At this point, Mr. Chairman, I would join in the remarks and ask to be associated with the remarks of the gentleman from Missouri [Mr. VOLKMER] as pertains to his regard for the BATF, the Bureau of Alcohol, Tobacco and Firearms.

As a former U.S. attorney, like the gentleman from Georgia [Mr. BARR], I had experience dealing with the ATF on a daily basis and found that they feel very strongly about their mission, and, No. 2, they support by and large as individuals, as I do, the second amendment right to bear arms. I do not think there is anyone any stronger than I am in that regard, as are the Members standing up and talking at this point. And that is not the issue here. The real issue is, what do we do with fighting those criminals who carry guns and use those weapons in the commission of crime?

During my tenure as U.S. attorney there was a project called Project Trigger Lock that focused on aggressive prosecution of those criminals who used guns in the commission of those crimes. It was the prosecution of existing Federal laws, not new laws but laws already on the books, prosecuting felons in possession of weapons. And that program was primarily the result of the work of the ATF.

In our area we had one of the most outstanding Trigger Lock programs throughout the country, one which formed a coalition between ATF and local authorities, including sheriffs, deputies, and police chiefs, in ferreting out again those violent people, those criminals who use guns in the commission of crime. This is what everyone says we ought to do, and that is lock up the people who commit the crimes using the guns, but protect the rights of those innocent law abiding citizens who own and possess these weapons.

My experience with the ATF was that they worked hand in hand with other agencies very well. And as the gentleman from Georgia [Mr. BARR] said earlier, to amend this proposal, this bill, would weak havoc on the law enforcement activities of the ATF as well as all the other agencies they work with.

We had task forces, as I described earlier, that involved local law enforcement authorities in joint operations. Just as a practical matter, to hamstring the ATF with this type of amendment, it would be an impossible task for them to be functional. But I think, more importantly, as the gentleman from Maryland [Mr. HOYER] pointed out, to label one agency with perhaps mistakes made by some and those yet to be decided—and I am sure they will be fully aired as we progress into our Judiciary Committee—but to label one group and to focus on them and exempt them from this bill, I think, is unfair to the many outstanding agents of the ATF.

My experience has been that they were a well-trained, professional organization, trained on a par with other Federal agencies, the FBI, the DEA, Postal, Customs, INS, the whole works. Without exception, I found they were excellent officers. I think such an exemption from this bill is unwarranted and ill-conceived.

I think if we are going to do anything, if there is a problem with ATF, then let us look at it and see if the agency should even exist. But again to hamstring them with this type of amendment is not a good idea, and I would strongly oppose it.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. BRYANT of Tennessee. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I just want to say briefly that we have heard some impassioned opinions about the Bureau of Alcohol, Tobacco and Firearms, both in their favor and in their opposition. I want to point out, however that I do not think this is going to be an amendment that will be decided

on whether we approve of how the Bureau of Alcohol, Tobacco and Firearms by itself operates.

The issue is, will this amendment, if it passes, affect those issues that the sponsors and proponents have offered? And the fact of the matter is, if in fact any officer or group of officers—and I say, ''if''—have made a conscious decision to deliberately violate the constitutional rights of any of our citizens, the fact of the matter is that the exclusionary rule of evidence does not protect honest citizens anyway in that circumstances because honest citizens will not have the evidence of crimes which can be suppressed and not used against them at the time of trial. There will never be any kind of criminal conduct, and that is why in my judgment this amendment is misapplied, and if there are problems with the Bureau of Alcohol, Tobacco and Firearms, as suggested, I think other remedies could be brought to bear by this Congress.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I am happy to yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I ask unanimous consent to withdraw the amendment, and that the gentleman from Missouri [Mr. VOLKMER] be recognized immediately to offer the same amendment.

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

There was no objection.

The amendment has been withdrawn, and the gentleman from Missouri [Mr. VOLKMER] is recognized.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: Page 3, line 14, strike the close quotation mark and the period which follows.

Page 3, after line 14, insert the following:

''(d) LIMITATION.—This section shall not apply with respect to a search or seizure carried out by, or under the authority of, the Bureau of Alcohol, Tobacco and Firearms.''.

Mr. VOLKMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. Since this is a new amendment, the Chair is inclined to recognize the gentleman from Missouri [Mr. VOLKMER] for the purposes of explaining his amendment.

□ 1250

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent that the gentleman from North Carolina [Mr. WATT] be allowed to continue and address the committee for 5 minutes.

The CHAIRMAN pro tempore (Mr. BURTON of Indiana). Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. WATT of North Carolina. Mr. Chairman, I hope my colleagues and the American people have been listening to this debate on the underlying bill. I do not want to deal with the amendment itself. I want to talk about the bill that has been offered, because what this bill forces us to do is exactly what we have seen happen on the Floor of this House for the last 2 days. It forces us to try to decide who is good and who is bad.

If I hear one more time during the course of this debate that this is not about innocent people, that this is about guilty people, I think I will throw up. This is about the American people and the Constitution of the United States. It is about innocent people who own guns, who might have them in a closet somewhere and have their door kicked in, which is why this amendment was offered. It is about innocent people like the gentleman from Illinois [Mr. RUSH], who might have bird seed in their closet, and have their doors kicked in because some police officer thought he had some cause to do it and could not go down to the courthouse and get a warrant.

It is about innocent people like the gentlewoman from Colorado [Mrs. SCHROEDER], who had a button, a campaign button in her house, and had her whole being violated by the FBI, who came in, in violation of her rights.

It is about innocent people who own homes, who have the right to be secure in those homes. And we cannot afford as America to turn the questions about who is good and who is bad in our society over to a police officer on the street, whether that police officer is from the ATF, the FBI, the CIA, the Atlanta police, the Raleigh police, the New York police. We cannot make those choices, and the Constitution of the United States put us in a position where we did not have to make those choices.

This debate points up exactly what point I am making, because here we are now talking about whether the ATF is good or whether the FBI is good, or whether this police department is good or that police department is good. But that misses the whole point. It misses the point that every citizen in this country is presumed to be good, presumed to be innocent, until they have had their day in court, and that we ought not allow a police officer in the heat of the moment to kick somebody's door in and make that decision on the spot.

The first amendment, as I indicated yesterday, is not about people who engage in mainstream speech. It is about protecting the rights of the people to say what they want when we do not like what they are saying.

The fourth amendment is not about protecting the guilty or the innocent. This is not about whether we like criminals or not. Nobody in this House likes criminals. I do not want the police officers out there on the street to decide on the spot whose door they are going to kick in and whose rights they are going to violate, even if they are 99 percent right and there is just that 1 percentage point of people out there whose rights they violated. Because that 1 percent, that 1.3 percent we have heard talked about here on this floor, is what the fourth amendment was designed to protect.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. WATT] has expired.

(By unanimous consent, Mr. WATT of North Carolina was allowed to proceed for 1 additional minute.)

Mr. WATT of North Carolina. Mr. Chairman, this bill puts us in a position of sitting here on this floor and getting into these kinds of irrelevant debates. I agree with my friend, the gentleman from Maryland [Mr. HOYER]. We ought not exempt this one agency without exempting other agencies. We ought to exempt the entire American people from the effects of this bill. That is what the amendment ought to say. If we believe in the Constitution this demon bill, 666, ought to be withdrawn and go back where it came from and never see the light of day again.

Give me the Constitution, drawn by the Founding Fathers, not some version of rights thought up by the Republican Contract for America. I will take the Constitution any day.

Mr. VOLKMER. Mr. Chairman, I rise in support of my amendment.

The CHAIRMAN pro tempore. The gentleman from Missouri is recognized for 5 minutes.

(Mr. VOLKMER asked and was given permission to revise and extend is remarks.)

Mr. VOLKMER. Mr. Chairman, I have been listening to the debate here, and what I hear concerns me greatly. Because what I hear is that we have nothing but praise almost by the speakers, especially the gentleman from Illinois, the gentleman from Iowa, the gentleman from New Mexico, the gentleman from Georgia, about one of the most Rambo-rogue-law enforcement agencies in the United States.

I say that this amendment is not political, Mr. Chairman. This is something that HAROLD VOLKMER has been working on because I believe strongly not only in the fourth amendment, but every amendment to the Constitution, including the second amendment. And if there has ever been a violation by any agency of this government of the second amendment right of the people and gun owners and hunters and sportsmen of this country, it is by the Bureau of Alcohol, Tobacco and Firearms.

I as a member of the board of the Firearms Civil Rights Legal Defense Fund can tell you that this is not something that just happened at Waco, folks. It is not something that just happened in Idaho, folks. Those are the

big ones that got the news. The little ones that we are working on right now, this day, and been working on continuously since I came to this Congress off and on, it depends on who is running the BATF, we have got them going on right now, violations of individuals' rights to own guns.

Well, how would you like it if you had a gun collection and you were a part-time law enforcement officer and you did something that the BATF agent just didn't like, and he did not like you, and he went and got a search warrant and he went in and took all of your guns, every one of them out of your house, about 55 of them, and to the gentleman from Ohio, I say, it happened in Ohio, and they took them away. Never an indictment, never a complaint. Three years ago. And guess what, folks? He still has not got his guns back. He has a lawsuit over it, and we are helping him on it.

Mr. Chairman, I can tell you more. How about places getting broken in by BATF, and, ''I am sorry, folks, after we have torn up the place, we did not find anything.'' ''I am sorry, folks, wrong address.''

What is going on with this Rambo outfit? This is not something that just started this year. When I first came to this Congress I was a member of the Committee on the Judiciary. I heard about instances of BATF and how they were trying to put gun dealers out of business. And that is going on right now, and I can tell you another instance about that right now.

□ 1300

They are trying to put dealers out of business so they cannot sell the guns that our people should have. That was going on because they said there were too many dealers that we have got to get rid of them, and we have got to get rid of the little ones because we cannot investigate them all. That was their excuse for their attitudes.

As a result of that, starting in 1978, in my freshman year, I started working on what became known in Missouri as the Volkmer-McClure bill. In Idaho, it is known as the McClure-Volkmer bill. That bill corrected at that time many of those abuses that were taking place. And for a while it was awful quiet and they behaved themselves. But right now they are right at it again.

It is not much different when I first came here; in fact, it is sometimes worse.

This bill, without this amendment, the gentleman from New Mexico, when we were discussing it yesterday, said, well, all it means is, if the difference is that if they do not find anything, it does not make any difference; if they do not find anything illegal, it does not make any difference if you have a warrant or you do not have a warrant.

Gentlemen, we all know that. That is silly. What this bill does to the BATF is give them a green light. They do not have to go to the magistrate and get a warrant for anything. They just go right in there and bust those doors down.

The CHAIRMAN pro tempore (Mr. BURTON of Indiana). The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 5 additional minutes.)

Mr. VOLKMER. Just bust the doors down and go in and take the guns and if they find something illegal, they say ''Hey, we gotcha.'' And if they do not find anything illegal, they say sorry. Sometimes they do not even say that, folks.

Right now they have guns in their possession and some of them, by the way, when they have been forced to return them, forced by court orders to return them, they are not worth a darn anymore. They are damaged. They are rusted. They make sure that our gun owners do not have any guns. There is not any other Federal agency or local agency anywhere in this country that is about this business, but this agency is.

Now, they may do some good things down the road, but they also do some terrible things. I do not believe that the civil rights, and I call them civil rights, under the Constitution of my gun owners, my hunters and my sportsmen, should be put in jeopardy by this bill giving those very same agents the right to go in and take them away. And what I am amazed at, there has not been one Member from that side of the aisle to stand up in favor of sportsmen, hunters, and gun owners.

Who has stood up? I will tell my colleagues who has stood up. Not just Members on this side, the National Rifle Association of America. What does it say?

Just yesterday, ''The National Rifle Association of America would like to express our strong support for your amendment exempting the Bureau of Alcohol, Tobacco, and Firearms from a relaxation of the new exclusionary rule standard as embodied by H.R. 666. The slipshod regard and generally low esteem that ATF has traditionally shown for the constitutional rights of law-abiding Americans indicates that the term 'good faith' has little meaning for them in the context in which they conduct their investigations. We would be remiss in our responsibility to our members and to the rights of all law-abiding Americans were we to allow a further relaxation of the fourth amendment standards to which ATF already gives short shrift to go unremarked and unopposed. We urge all Members of the House to vote in support of your amendment.''

Also I would like to read from the Gun Owners of America. They, too, today delivered a letter to me.

''I urge you to support the Volkmer amendment to H.R. 666. This amendment simply states that the bill will not apply to any searches and seizures carried out by the Bureau of Alcohol, Tobacco, and Firearms. BATF has developed a torrid history when it comes to violating people's gun rights. And thus, Gun Owners of America will score the Volkmer amendment as a gun vote. That is, a vote for the Volkmer amendment will be scored as a pro-gun vote.''

I just want to let all of my colleagues know that what I have heard today on this amendment really bothers me, because I know what BATF is doing out there to our people. And yet I am not going to have any avenue in this Congress to do anything about it except through this amendment. Because it is very apparent to me that the chairman of the Committee on the Judiciary, the majority members of that Committee on the Judiciary think that BATF is a wonderful agency. And they are going to go out and protect that agency. So when I ask for hearings to look into these abuses by BATF, they are going to tell me, forget it, because we are going to protect them. We are not going to do anything to hurt that agency. That is a wonderful agency. That is what I hear from that side.

I was prepared, we are watching some right now, I was waiting just for the opportune time to come to them and say, we need to have some hearings. We need to look into what this agency is doing. Now I am not going to have that avenue.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from New Mexico.

Mr. SCHIFF. I thank the gentleman from Missouri for yielding.

I do not know if the gentleman recalls, but to the best of my recollection, on each of the firearms-related bills that have been introduced on the House floor, I believe the gentleman and I have been on the same side of the argument each and every time. That is my best recollection.

Second of all, I will join the gentleman in seeking hearings on the issues that have been raised concerning the Bureau of Alcohol, Tobacco and Firearms on this floor.

My opposition to the gentleman's amendment very simply is his amendment and this bill have nothing to do with what the gentleman is talking about. I would like to explain it two ways.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has again expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 3 additional minutes.)

Mr. SCHIFF. Mr. Chairman, if the gentleman will continue to yield, we have the exclusionary rule intact now, and it has not prevented any of the incidents that the gentleman has described. And it will not protect anyone in a situation where, if as alleged by the gentleman from Missouri, an agency or even an officer, one officer, have become, to use the gentleman's words, a rouge officer, a rogue institution. Those individuals who choose to abuse their law enforcement power and do so

for the purpose of harassing law-abiding citizens are not going to be deterred by the exclusionary rule because they are not looking for evidence to use in a criminal case in the first place.

To turn it further the other way, this offers a good faith exception. If ATF or any other agency breaks down a door without a search warrant to someone's house, in a situation where they needed a search warrant, it is not good faith, even if they happen to find something that is illegal. It would not be allowed under this bill. So with the utmost respect, again, I suggest that the gentleman's amendment, which he obviously feels so very passionate about because of his view of this agency, is not applied correctly toward this bill.

I thank the gentleman from Missouri for yielding to me.

Mr. VOLKMER. I quite disagree with the gentleman from New Mexico that what I said before, it does not change maybe what BATF is doing at the present. But I still say, because they can go on reasonable belief that what they are doing is right without a warrant, which they cannot do today. They have to get the warrant today. If they are going to go in and take somebody's guns away from that house, they better get a warrant.

Mr. SCHIFF. Mr. Chairman, if the gentleman will continue to yield, again, there must be an objectively reasonable belief that a search without a warrant was in fact constitutional at that time. If it is not supported when that matter is reviewed by a magistrate, the evidence would still be suppressed and it does not protect innocent citizens no matter what kind of exclusionary rule standard we have.

Mr. VOLKMER. Let us talk about that just for a minute. We have a little case not far from right out here in Virginia. We talk about all these things that these magistrates are going to do and everything. How about when a magistrate does not even know what the law is and the agent does not know what the law is. And he goes in and asks for a search warrant to go into somebody's business and take away the guns because he says that these guns are illegal, the magistrate does not know that they are not illegal, that they are legal, and he issues the search warrant and they go get it.

Now, what happens is that he gets sued, and he is going to get sued, that agent is. Now, the thing is that under this, he would not have to go to that magistrate.

□ 1310

That agent based that on erroneous information that an informant had supposedly told him, and the magistrate issued a warrant on that basis.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

(At the request of Mr. SCHIFF and by unanimous consent, Mr. VOLKMER was allowed to proceed for 3 additional minutes.)

Mr. VOLKMER. Under this bill, Mr. Chairman, after that informant had told that agent that information, he could have gone down there and took guns without a search warrant. For that reason, I say if you want to protect your gun owners from these rogue people, I would say Members had better vote for this. This will be the last chance, the only chance Members as gun owners, people protecting gun owners, will have the right to do that.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I thank the gentleman one more time for his courtesy.

Mr. Chairman, I want to point our that the gentleman's premise is what I believe is incorrect in this debate. There is nothing in this bill that changes the law as to when a search warrant is needed or is not needed. It deals only with those situations where, when a search is made without a warrant, if there was a good-faith error, then the evidence can be considered. It expands an exception that already exists in the law for search warrants.

In all of the examples the gentleman from Missouri [Mr. VOLKMER] has given, he has described anything but good faith. Therefore, there is not protection to honest citizens by the gentleman's amendment. Honest citizens, in fact, are not even protected by the exclusionary rule. If a law enforcement officer wants to go through that door, with the power of his immediate armament, and seize something, he or she is going to do it. If so, the exclusionary rule is not going to stop them, because that is an after-the-fact determination when someone is believed to be guilty.

Mr. VOLKMER. Mr. Chairman, I disagree with the gentleman.

Mr. MCCOLLUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think there are a couple of points that need to be made to put all of this in perspective.

First of all, as chairman of the Subcommittee on Crime of the Committee on the Judiciary, I want to make sure everyone is aware that it is our intention to hold hearings in the next couple of months on the Bureau of Alcohol, Tobacco and Firearms, and on firearms issues generally, and on some of these alleged rights violations, which may be very real or maybe are not, but we are going to explore that.

There will be opportunities, I would present, not only there but probably through legislation that will come out here on firearms in May or June that will give the Members the opportunity to debate all kinds of issues related to this.

Second, what we are doing today, it needs to be stated what it is not, rather than what it is, sometimes. What it is not, it is not a relaxation of the fourth amendment protections against unlawful search and seizures.

We are doing absolutely nothing in the underlying bill today that would in any way affect a person's right to be protected from unlawful search and seizure by police, BATF, or anybody else.

Second, Mr. Chairman, what we are not doing is destroying the exclusionary rule. I heard one of the major networks this morning on one of its morning shows state that this bill would abolish the exclusionary rule of evidence which the Supreme Court established in 1914.

The legislation that we are presenting here today does nothing of the sort. It does not abolish that rule. What we do today, what we are about to do if we pass this bill is to make it very clear that where the Supreme Court itself has carved out what it calls the good faith exception to its own rule of evidence that was designed to deter police from doing things that might violate the Constitution by saying ''If you do it, naughty boys, we are not going to let your evidence in that you get there,'' where it has modified itself and says, ''Look, the police really would have done this anyway.''

There would not be any deterrent there because they had a reasonably objective belief that what they were doing was right in the cases of the warrants which have been presented to them; where there was a search warrant, the court said ''We are not going to let this rule apply. We are going to have a good faith exception, let the evidence in, let the conviction, if the court can get a conviction, stand against the bad guys.''

The court has never faced the situation of a warrantless search, though there are many of them that are perfectly constitutional, with the question of the exception we are proposing today.

However, there have been two Federal circuit courts that have, in the fifth and eleventh. They have embraced what is in this bill. That is what we are doing today. We are saying ''Let us make this nationwide, so we do not have any loopholes involving this question and letting more criminals off the hooks than already have gotten off the hooks in the past.''

If we look at the Arizona case I cited out here in debate yesterday, I think it is illustrative to put to rest the concerns that the gentleman from Missouri [Mr. VOLKMER] has with respect to BATF or any other law enforcement agency.

The type of example we have a concrete example of is an Arizona case in which there was an arrest warrant, not a search warrant, which had been issued on somebody who was stopped by the police out there.

It turns out that 17 days before they stopped this fellow that warrant, that arrest warrant, had been quashed. It had been done away with. It was not any good anymore, but their computers did not show it.

The police, because the computers had not had this input put in this,

stopped this fellow. They searched him and they found evidence of additional crime, marijuana, and I don't know what else.

The courts, because of the rule that the Supreme Court has no exception for cases that do not involve search warrants, threw out this evidence and said this was an unconstitutional search because there was no arrest warrant, and they had no right to make this search, but the police legitimately thought they were.

There was absolutely no deterrent effect on their behavior or would not be any by throwing out the evidence and losing a potential conviction of a bad guy.

The same thing would be true in a case involving weapons, whether it is the Bureau of Alcohol, Tobacco and Firearms, or the FBI or local law enforcement. There is no change in it at all. The illustrations the gentleman from Missouri has given out here today would not be appropriate, in my judgment, to what this legislation we have today affects.

We are affecting a very small situation, but sometimes a critical one, where the police honestly believe that they are doing the right thing when they do it, whatever police agency it is, and I do not think that the amendment is appropriate to give an exception to any police agency and say what we are doing does not apply.

It should apply to all of them. We should address the abuse that any agency has outside of the context of this in some other forum, and we will do that in the future, but not in this bill, because there is no way that excepting BATF from this particular bill, we are going to correct any problems that they may have had in the past or may have in the future.

The BATF, if they are abusing the law and the constitutional rights and doing something illegal or improper, are going to do it just as much in the future after this bill because law as they have done in the past, because what we are passing out here would have no impact whatsoever with respect to what they do or do not do, since it requires what we are requiring for any exception for evidence to come in, a judge finding a reasonably objective basis on the part of whatever police officer it is, including BATF, that what they are doing, they did in the believe that they were acting——

The CHAIRMAN. The time of the gentleman from Florida, [Mr. MCCOLLUM] has expired.

(By unanimous consent, Mr. MCCOLLUM was allowed to proceed for 1 additional minute.)

Mr. MCCOLLUM. Mr. Chairman, that is because the police, the BATF, or whoever it is, is going to be acting in order for evidence to be allowed, whatever it is, in this bill, in order to get convictions, they are going to have to be acting in the reasonably objective belief that they were correct, that there was no problem, as in the arrest warrant case I just gave as a real illustration in a real case in Arizona that has gone before the Supreme Court.

So I do not see any harm, Mr. Chairman, in what we are doing at all. We have two Federal circuits that already have permitted this for all Federal agencies, be that BATF, FBI, or anybody else, and no ill will has come from this, no bad results, and I do not think there should be any exceptions to this, as I say, including the gentleman's effort.

Many of us who may agree with him on other matters relating to firearms simply cannot support this amendment today, even though we understand he is trying to make a protest vote out here on BATF. Unfortunately, it undermines the very basic law we have.

There may be many cases where BATF, FBI, et cetera, work in concert, and you can just mess up the whole evidentiary train if you affect one agency.

Mr. HAYWORTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in reluctant opposition to the Volkmer amendment to H.R. 666, the Exclusionary Rule Reform Act.

I am a strong supporter of second amendment rights. Like the gentleman from Missouri [Mr. VOLKMER], I have serious concerns about the Bureau of Alcohol, Tobacco, and Firearms. On numerous occasions it is my belief, and certainly the headlines have reflected, that the BATF has overstepped its jurisdictional boundaries and trampled on the rights of law-abiding citizens.

Clearly, we must seriously examine the reckless actions of this agency and work to eliminate the BATF by consolidating its legitimate functions with other agencies. Congress needs to thoroughly review every aspect of the agency's operation and its inefficiencies.

In the interim, strong congressional oversight and congressional control over BATF's budget is the best way to influence BATF management and decisionmaking and safeguard the rights of America's gun owners.

Passage of this amendment, Mr. Chairman, is not a solution to the problems with the BATF.

□ 1320

Congress has a responsibility to maintain strict oversight of this agency. Creating an exemption for the BATF from the reform of this exclusionary rule will not stop the BATF from committing unreasonable searches. It will make it easier for hardened criminals to walk on a technicality.

I urge my colleagues to defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. VOLKMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 228, noes 198, answered ''present'' 3, not voting 5, as follows:

[Roll No. 101]

AYES—228

Ackerman	Geren	Peterson (FL)
Allard	Gilman	Peterson (MN)
Baldacci	Gonzalez	Petri
Barcia	Gordon	Pickett
Barrett (WI)	Graham	Pombo
Bartlett	Green	Pomeroy
Bass	Gutierrez	Poshard
Becerra	Gutknecht	Quillen
Bevill	Hall (OH)	Rahall
Bilirakis	Hall (TX)	Rangel
Bishop	Hamilton	Reed
Bliley	Hancock	Richardson
Bonior	Harman	Riggs
Borski	Hastings (FL)	Roberts
Boucher	Hayes	Roemer
Brewster	Hefner	Rogers
Browder	Herger	Rose
Brown (CA)	Hilliard	Roth
Brown (OH)	Hinchey	Roybal-Allard
Bryant (TX)	Holden	Sabo
Bunn	Hunter	Salmon
Burton	Istook	Sanders
Callahan	Jackson-Lee	Scarborough
Camp	Jacobs	Schaefer
Chapman	Jefferson	Schroeder
Chenoweth	Johnson, E.B.	Scott
Chrysler	Johnson, Sam	Seastrand
Clay	Kanjorski	Serrano
Clayton	Kelly	Shuster
Clement	Kennedy (MA)	Sisisky
Clyburn	Kennedy (RI)	Skaggs
Coburn	Kildee	Skelton
Coleman	Klink	Slaughter
Collins (MI)	Klug	Smith (WA)
Combest	LaHood	Souder
Condit	Laughlin	Spence
Conyers	Levin	Spratt
Cooley	Lewis (GA)	Stark
Costello	Lincoln	Stearns
Cramer	Lipinski	Stenholm
Crane	Lofgren	Stockman
Crapo	Martinez	Stokes
Cremeans	Mascara	Studds
Cubin	Matsui	Stump
Danner	McCarthy	Stupak
de la Garza	McDermott	Tanner
DeFazio	McHugh	Tate
Dellums	McInnis	Tauzin
Dicks	McIntosh	Taylor (MS)
Dingell	McKinney	Tejeda
Dooley	Meehan	Thompson
Doolittle	Meek	Thornberry
Doyle	Menendez	Thornton
Duncan	Metcalf	Thurman
Dunn	Miller (CA)	Tiahrt
Durbin	Mineta	Torres
Edwards	Minge	Towns
Emerson	Mink	Traficant
Engel	Moakley	Tucker
Ensign	Mollohan	Velazquez
Evans	Montgomery	Vento
Farr	Moorhead	Visclosky
Fattah	Murtha	Volkmer
Fazio	Myers	Vucanovich
Fields (LA)	Nadler	Walsh
Fields (TX)	Ney	Waters
Filner	Oberstar	Watt (NC)
Foglietta	Obey	Waxman
Foley	Olver	Whitfield
Forbes	Ortiz	Wicker
Franks (CT)	Orton	Williams
Frisa	Parker	Wilson
Funderburk	Pastor	Wise
Furse	Payne (NJ)	Woolsey
Gejdenson	Payne (VA)	Wynn
Gephardt	Pelosi	Young (AK)

NOES—198

Abercrombie	Ballenger	Berman
Andrews	Barr	Bilbray
Archer	Barrett (NE)	Blute
Armey	Barton	Boehlert
Bachus	Bateman	Boehner
Baesler	Beilenson	Bonilla
Baker (CA)	Bentsen	Bono
Baker (LA)	Bereuter	Brownback

Bryant (TN)	Hilleary	Morella
Bunning	Hobson	Myrick
Burr	Hoekstra	Neal
Buyer	Hoke	Nethercutt
Calvert	Horn	Neumann
Canady	Hostettler	Norwood
Cardin	Houghton	Nussle
Castle	Hoyer	Owens
Chabot	Hutchinson	Oxley
Chambliss	Hyde	Packard
Christensen	Inglis	Pallone
Clinger	Johnson (CT)	Paxon
Coble	Johnson (SD)	Porter
Collins (GA)	Johnston	Portman
Cox	Jones	Pryce
Coyne	Kaptur	Quinn
Cunningham	Kasich	Radanovich
Davis	Kennelly	Ramstad
Deal	Kim	Regula
DeLauro	King	Rivers
DeLay	Kingston	Rohrabacher
Deutsch	Kleczka	Ros-Lehtinen
Diaz-Balart	Knollenberg	Roukema
Dickey	Kolbe	Royce
Dixon	LaFalce	Sanford
Doggett	Lantos	Sawyer
Dornan	Largent	Saxton
Dreier	Latham	Schiff
Ehlers	LaTourette	Schumer
Ehrlich	Lazio	Sensenbrenner
English	Leach	Shadegg
Eshoo	Lewis (CA)	Shaw
Everett	Lewis (KY)	Shays
Ewing	Lightfoot	Skeen
Fawell	Linder	Smith (MI)
Flanagan	Livingston	Smith (NJ)
Ford	LoBiondo	Smith (TX)
Fowler	Longley	Talent
Fox	Lowey	Taylor (NC)
Frank (MA)	Lucas	Thomas
Franks (NJ)	Luther	Torkildsen
Frelinghuysen	Maloney	Torricelli
Gallegly	Manton	Upton
Ganske	Manzullo	Waldholtz
Gekas	Markey	Walker
Gibbons	Martini	Wamp
Gilchrest	McCollum	Ward
Gillmor	McCrery	Watts (OK)
Goodlatte	McDade	Weldon (FL)
Goodling	McHale	Weldon (PA)
Goss	McKeon	Weller
Greenwood	McNulty	White
Gunderson	Meyers	Wolf
Hansen	Mfume	Wyden
Hastert	Mica	Yates
Hayworth	Miller (FL)	Young (FL)
Hefley	Molinari	Zeliff
Heineman	Moran	Zimmer

ANSWERED ''PRESENT''—3

Collins (IL)	Reynolds	Rush

NOT VOTING—5

Brown (FL)	Frost	Solomon
Flake	Hastings (WA)	

□ 1340

Mr. MARKEY, Ms. RIVERS, and Messrs. PALLONE, MANZULLO, and FRANK of Massachusetts changed their vote from ''aye'' to ''no.''

Ms. McKINNEY, Mr. FRANKS of Connecticut, Mr. DURBIN, Ms. HARMAN, Mr. GONZALEZ, Ms. McCARTHY, Ms. DUNN of Washington, and Mr. OLVER changed their vote from ''no'' to ''aye.''

Mr. REYNOLDS changed his vote from ''aye'' to ''present.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FLAKE. Mr. Speaker, because of an unavoidable detainment on the way from the White House, I missed rollcall vote no. 101. Had I been present, I would have voted ''yes.''

□ 1340

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 3, line 14, strike the close quotation mark and the period which follows.

Page 3, after line 14, insert the following:

''(d) LIMITATION.—This section shall not apply with respect to a search or seizure carried out by, or under the authority of, the Internal Revenue Service.''

Mr. TRAFICANT. Mr. Chairman, I want this amendment to be understood. I want it to be debated.

The House has evidently reviewed behavior. I want all the Members in the back to hear this amendment, and I want your vote. The American people want your vote.

Evidently, we have discussed conditions under which some of us may, in fact, in some areas support the bill and in other areas where Congress has some significant reservations.

My amendment is not reactive. My amendment is strictly prevention. Now, I would like to urge the Members of Congress to consider that an ounce of prevention is worth a whole pound of cure.

My amendment states that this section shall not apply with respect to a search or seizure carried out by the Internal Revenue Service.

Ladies and gentlemen, we have an Internal Revenue Service that has taken license and has, in fact, intruded the kitchens and the family rooms of the American people on many cases. Those cases are now legendary.

In the matter of Alex and Kay Council of North Carolina, their accountant advised them under a windfall profit they made on the sale of a business that there was a legitimate tax shelter for a specific investment; they took it. The IRS found difficulty and ruled that the tax shelter was not allowed.

And the case was finally adjudicated, the notice of deficiency was sent to the wrong address. The IRS said they have no bounds by the Congress of the United States to prove they made a proper notice.

In the case of Alex and Kay Council, Alex Council, completely frustrated, finding no other ways to fight this large agency that he reported to that was out of control, took his life and left instructions how his life insurance policy will allow for, in fact, that death benefit on his suicide, and how she could apply that insurance policy, that life insurance policy, to fight the Internal Revenue Service, and she did.

It has come to the point where the Internal Revenue Service is certainly charged with an important task by our Government, Mr. Chairman, but Congress, through a lack of oversight, has allowed this agency to become a little intrusive, even to the point where they enjoy the only exemption under the burden-of-proof statutes of the Bill of Rights which I want to commend the majority party for giving an opportunity for a hearing for that in the future.

My amendment basically says, ''Look, the IRS has so much intrusive power now that to give any more further license would be not in good conscience of the Congress of the United States of America,'' understanding the legendary behavior of this agency.

□ 1350

Now I am not talking about FBI, DEA, ATF, that I recommend to the Congress that all those agencies be put up under one. There is no coordination, as a former sheriff, there is no, or very little, coordination of them anyway. I would not be surprised to have the CIA and DEA thrown up under the FBI, too, with an international section.

But I am not talking about that now. I am talking about a taxpayer who is at the mercy, some of them have taken their own lives, and Congress has been silent for too long.

Now, yes, we have taken these technicalities and these pursuits of criminals, and we have weighed them heavily on the side of the criminals, and there is a debate in this House that perhaps was long overdue regardless of how you will vote on this issue.

But what the Traficant amendment says is this is not normal business, even under this particular law that is being debated.

If we continue to open up and give more license to an agency that has already turned their back on the Congress, I believe we will fail each and every one of our constituents here today. I do not know how many of your constituents are going to have their door kicked in or are going to be blown up in Waco, TX, and I certainly do not like that, and I agree there should be a hearing on what happened to the Weaver family in Idaho and what happened out there in Waco.

The CHAIRMAN pro tempore (Mr. BURTON). The time of the gentleman from Ohio [Mr. TRAFICANT] has expired.

(By unanimous consent, Mr. TRAFICANT was allowed to proceed for 4 additional minutes.)

Mr. TRAFICANT. But what I am talking to you about today is your mother, your father, your grandparents, your children, your neighbor, your mailman, the truck drivers, the clearly, and every business, big or small, in your district. Every American that is afraid, and even afraid to say they are afraid, for every American who has been intimidated in some back room, it is legendary.

So I am not here today citing abuses, and I am not taking off on the IRS. What I am saying to you, though, is there is a reasonable level of prevention that is necessary when you establish law. And there is a prevention element that necessitates this amendment.

I am asking for your vote. The American people are looking for some support from the Congress of the United States, and the American people in poll

after poll say they cannot recognize and understand or fathom the thought of Members of Congress wanting to be anonymous, having made the statement that, ''It does not pay to go after the IRS.'' If you are a Federal judge, why should you? That is a lifetime job. Why get the IRS mad?

''If you are a Member of the Congress, why get the IRS mad?'' Well, damn it, let me tell you the way it is: I am mad as hell. I am prepared not to stand for it any longer, and I think every one of your constituents feels that way. And I think there are some justifiable reasons to vote for this amendment.

So I am asking the gentleman from West Virginia, the gentlemen from Connecticut and Vermont, the gentlewoman from Colorado, the general, the gentleman from California [Mr. CONDIT], the gentleman from Florida [Mr. MCCOLLUM], the gentleman from Illinois [Mr. HYDE]—because you can stand up and probably muster up enough partisan votes to defeat this—I am asking you not to do that and to make a sincere effort to keep this amendment in conference. I believe the American people deserve this.

The IRS has taken too much license with regulations that they have turned their back on already.

So with that, I am going to ask this House to give a vote of affirmation. I want to place on the record through the legislative history that I do not want it to be just an exercise on the floor of Congress, that I do want a commitment on the vote of this Congress, if it is an affirmation that, as a tenacious bulldog, we will save that amendment and keep it in that final law if in fact this becomes final law. No reason to obstruct; that is not my purpose. I believe it makes good sense. I urge the Members of the Congress of the United States to do what is right today and to vote for this amendment.

Mr. MCCOLLUM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I must reluctantly oppose today this amendment offered by the gentleman from Ohio.

The reason why is not because I do not think there are problems with IRS abuses. The Internal Revenue Service is well known to have had its share of those abuses. I am not here to debate the merits or not of that question.

But I oppose this amendment because I think, just as on the previous amendment offered here on the floor, there is a great deal of misconception about what the effects of the proposed bill and the law changes that we are offering in this bill that underlies the debate today does and does not do.

I do not believe that there is any sense whatsoever in making exceptions for one Federal law enforcement agency or another in respect to what we are doing today that would make any difference at all in the conduct of how they carry out the their business.

In fact, the very point and essence of a lot of debate over this exclusionary rule exception is to make clear that there is absolutely no change in the constitutional requirements that say that we shall not engage in any unlawful search and seizures if we are police of any type; there is nothing in this legislation today that is a bit of a retreat from that, no relaxation of the general principle of excluding from evidence anything where a police officer, knowingly or by anybody's objectively reasonable test of that, as a judge in a court decides that they violated the Constitution in their proceedings and in their actions.

The whole point of this today is to say, ''Look, if you have done a search, whether it is with a warrant or without a warrant, and you with a reasonable belief really believe, Mr. Police Officer of any type, that what you were doing was legitimate and not a violation of someone's constitutional rights, if you believe you followed all the steps in the rules and you got a warrant and you thought the warrant was good and the warrant was necessitated or you thought that you were making a search because on its plain face that that search was authorized by the clear precedents of the law in cases where warrants are not required under the fourth amendment of the Constitution, if you really, according to the judge's view in a case when he is deciding whether to admit evidence or exclude it, if he says you exercised a reasonably objective belief that what you were doing was right,'' then why exclude the evidence? Why exclude the evidence, whether that evidence is gathered by the Federal Bureau of Investigation or the IRS or the Drug Enforcement Administration or anybody else?

Everybody should be treated the same. The evidence of somebody's crime, if they committed a crime or the evidence that would go before a court or a jury to decide whether a crime has been committed, should be allowed in in every single case if that is valid evidence on the merits of the case itself, and let the court decide the guilt or innocence of somebody unless—unless the exclusion of that evidence would in some way, in some way deter a police officer, IRS officer, a Drug Enforcement Administration officer, FBI officer from doing something he should do. And there is absolutely nothing whatsoever suggested here by what we are doing today that would modify that in any way, that principle.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I would be glad to yield to the chairman, the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank the gentleman from Florida for yielding to me.

Mr. Chairman, I just want to say, implicit in this amendment as well as in the last one, is a denigration of the Federal bench; an assertion that they are incapable of judging whether an acquisition of evidence was in good faith, by an objectively reasonable standard; or whether the public, the long-suffering, victimized public, is better served by the admission of this evidence of guilt or not.

But to carve out exceptions for various Federal agencies not only is insulting to those agencies—and that may or may not be true, but this is not the place to direct those insults—but it also demeans the bench, the Federal bench. I do not think we should overlook that.

Mr. MCCOLLUM. Reclaiming my time, Mr. Chairman, I believe the gentleman is right. I would concur wholeheartedly.

The whole point of the exercise today in passing this legislation is to give relief to the American public in situations where technicalities have been throwing out evidence where people otherwise should have been given the chance and court should have been given the chance to convict the bad guys.

It is not to try to open the door in any way to reduce or relax the standards of the fourth amendment protections against unlawful search and seizures. It does not do that. What is good for the goose is good for the gander, what is good in one Federal district circuit court should be good in another one in this country. There should be uniformity. There is not presently.

□ 1400

Mr. Chairman, for us to come out and make exceptions for one Federal agency or another is just plain nonsense, so I urge a ''no'' vote on this amendment. I know it is offered in good faith, but I urge ''no'' vote.

Mr. CONYERS. Mr. Chairman, I move to strike the last word.

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

Mr. CONYERS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

Mr. Chairman, I say to the Members, this amendment, the closer you scrutinize it, the more you can get to like it, and I would like to ask my colleagues to look very carefully at this amendment.

Mr. Chairman, the gentleman from Ohio is known for his very strong comments and commentary on the floor, but, if my colleagues examine this amendment, they will begin to see what I see in here, that he is attempting a carve-out on the McCollum bill, H.R. 666.

My first amendment to the bill was an attempt at a codification of a U.S. Supreme Court decision, a very modest one, when we had begun, and they are both working toward the same objective.

Now the chairman of the Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE], said that this vote, a vote for this amendment, would denigrate the Federal bench. The Federal bench never gets to hear about these

cases of doors being kicked down or IRS harassing people who are trying to settle their accounts.

Now in my office I have constituents who have been trying to settle their accounts, admittedly delinquent, and if there is somebody here that has never heard of this, I say to them, you can share some of my case load with me. They have been trying to settle their accounts, and they will get a call from the agent at IRS telling them that, if they do not pay in full, immediately, in 30 days, they are going to padlock their dentistry office or they are going to padlock their business, which of course is the only way that they can possibly ever pay back on installments. I have had that repeatedly brought to my attention, so much so that the senior Senator from Michigan has worked with me on hearings in previous Congresses and meetings with IRS officials in our region.

So, on behalf of all African-Americans and working class people who cannot retain a CPA or an attorney, Mr. Chairman, this carve-out to limit this untrammeled authority for an agent to objectively use reasonable good faith when he decides whether he is going to padlock someone or kick their door down is a very late-coming one, and I am sorry that I had not risen to this occasion earlier. The IRS cannot be allowed this kind of activity.

Mr. Chairman, I hope this will spur an investigation in the appropriate committee, and I hope it is the Committee on the Judiciary, but at the same time let us recognize that if BATF can evade this amendment by joining with the FBI or the DEA, would it not be logical that we should extend the carve-outs to those other agencies as well, because if we do not, Alcohol, Tobacco and Firearms will be getting around it by merely cooperating with someone else, including, perhaps, the IRS, perhaps not.

But this amendment on its face, Mr. Chairman, is one that merits our colleagues' support. It speaks to a history of misconduct and wrongdoing, and I think that it is a commendable amendment, and as the ranking member of the Committee on the Judiciary, I am very proud to attach my support to it.

Mr. FIELDS of Louisiana. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment and yield to the distinguished gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I thank the gentleman from Louisiana [Mr. FIELDS], and I listened to the debate of the distinguished chairman and subcommittee chairman of the Committee on the Judiciary, and I saw that we just passed a pretty much politically charged vote, and I must say the American taxpayers do not have too many powerful lobbyists down here. Most people are afraid of the IRS, and most average Americans are more or less at their mercy.

But there is an incident, just occurred here this past month out in the district of the gentlewoman from California [Ms. ESHOO], and the IRS basically came to the office of one of the dentists in her community and said they were with the IRS, and they wanted to see the doctor. They were asked if the doctor was expecting them, and they said, ''No, not at all.''

Mr. Chairman, in the midst of the day's business, the dentist office's business, the IRS completely disrupted it, had taken that dentist away from where he is doing significant work on the dental needs of one of his patients. The IRS has almost limitless powers.

There are very few opportunities for the Congress of the United States to lend a helping hand to these taxpayers. So, Mr. Chairman, yes, I could see where a lot of people crossed over and voted on that issue that surrounds guns, but there is just not enough advocates for the American taxpayer, there is no powerful support for the American taxpayer, and that is why I say to my colleagues, to the Congress, that the last center of possible support, the last board of grievance and appeal, is the Congress of the United States of America, and if the Congress of the United States of America can make exception for guns, and the popularity of that issue, and the politics of that issue, then Congress could do the right thing and support this amendment that in fact safeguards the interests of all of our taxpayers, each and every one of them.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to give the same speech I gave the last time, although it would be equally applicable in the context of this amendment. But we are making a mockery of the Constitution, and we just did it again when we passed the last amendment. It is not that the amendment was bad, but now we have got a different standard applying to one law enforcement agency, constitutional standard presumably, than we have applying to all other law enforcement agencies, and I have got nothing against the Internal Revenue Service, but it seems to me that the Internal Revenue Service makes more sense to be exempted than the ATF, or whatever it was called, because there are less circumstances under which they need to go and kick somebody's door in than the other agency.

The point is it is the underlying bill that is the problem here. It is not exempting ATF, or the Internal Revenue Service, or the Immigration and Naturalization Service, or the city of Atlanta, or New York, or the FBI. The standard ought to be the same, and that standard was articulated in 1791 when we passed the first 10 amendments to the Constitution. That is the standard that ought to apply, and that is the problem that we are into here, and that is the reason that we are getting all these inconsistencies, because what we did in 1791 was to make one consistent standard, and what my colleagues on the other side are trying to do is to get at the bad guys.

□ 1410

Well, who are the bad guys?

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Ohio.

Mr. TRAFICANT. With that, let me say the gentleman makes a point about bad guys, and this bill is targeted toward bad guys. Keep in mind that much of the activity covered by this amendment covers civil procedures. They are not coming for bad guys. They are using an awful lot of law and a lot of leniency under that law in civil proceedings, and many times the burden of proof is even on the taxpayer to prove they are innocent.

This is an unbelievable tenet of opposition. Clearly if there is an exception, it should deal with the preponderance of the facts that the civil proceedings involved here are clearly outside of the view of what the main thrust of this bill deals with. You are concerned about criminals. We are talking about license in civil process. I think that goes too far, which lends to a rational for support for the amendment.

Mr. WATT of North Carolina. Mr. Chairman, reclaiming my time, the gentleman makes the very point that I am trying to make. This is not about bad guys and good guys. What we do when we subvert the Constitution of the United States to try to get some bad guys is that we subvert the Constitution of the United States for the good guys also. We cannot afford to do that. The rules cannot be different for one group and another group, because then we have to decide which one falls into each of those groups.

Mr. Chairman, I want to call upon my colleagues to withdraw this bad bill. Bet us out of this pointing of fingers and talking about who is bad and who is good. All of the American citizens are good, until the law says they are bad. We cannot let the police officers on the street make that determination, whether they are with the Internal revenue Service, the ATF, the Atlanta police office, the D.C. police office, whatever. This is about the Constitution. This is not about bad guys and good guys.

Mr. WISE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Traficant amendment. I do want to say and to note that while various agencies such as the BATF are being asked to abide by higher standards, this is not a commentary on the thousands of good, hard-working employees of many of those agencies, the DEA, the FBI, the BATF and the Internal Revenue Service, because indeed there are thousands of well-meaning, hard-working personnel, many of them in the enforcement divisions.

But unfortunately, occasionally you have a bad apple, and that bad apple can spoil the whole barrel and can be the one that brings that agency, despite all the hard work that goes in, can bring that agency and its employees into disrepute.

So what this tries to do and what the fourth amendment tries to do is say we do not want to make it harder for those genuinely doing their work. We also want to make sure there cannot be the occasional abuse, or at least we try to limit it as much as possible.

The distinguished chairman of the full committee, the gentleman from Illinois [Mr. HYDE], pointed to Federal judges as being the safeguard and said why would you denigrate Federal judges? No one is denigrating the Federal judiciary. As the gentleman from Ohio [Mr. TRAFICANT] pointed out, many of these cases do not even get there.

You are trying to devoid those cases getting to the Federal judiciary. You are trying to have the occasional Federal judicial officer have in the back of their mind this is something you don't do, there are sanctions, and it is something prohibited from the beginning in the mental process. So that is one reason.

The second thing is you want to set a standard so you do not get these problems to the judiciary, and that standard is what is trying to be set here. In the case of the IRS there have been occasional abuses. There are a lot of people working hard and doing the processes of raising the revenues of our country the way they should, but there have been occasional abuses. I have one in my district as well that we have worked on for 2 years now.

But you are saying because there can be the chance for the abuse and because it does not handicap the ongoing work of that agency 99 percent of the time, then indeed they should abide by that higher standard. This body has already said there should be a higher standard in the case of BATF. The IRS, which reaches every one of our constituents in some way, needs to have that higher standard, not to denigrate the work of the IRS or the men and women of the IRS, but to say where there are occasionally a few bringing down the reputation of an agency, that will be reined in and this Congress will demand that they abide by that higher standard. That is what this amendment is about, and I would urge its adoption.

Mr. TORRICELLI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to share in the sentiments of the gentleman from North Carolina that it is not a question of this amendment or any exceptions. The problem is the undermining legislation.

Any nation, Mr. Chairman, can fight crime, can secure its streets and its cities, if it is prepared to compromise the rights of its citizens. No totalitarian or authoritarian government has ever feared the problems of crime on its streets.

But the goal has never been simply to secure the streets. It is also to have its people secure in their homes, and from their government, not just from criminals.

So the United States has always been different. We have sought to protect the innocent while we were prosecuting the guilty. That balance has made the United States unique. It is also now at question.

The underlying legislation, if it means anything, would violate the sanctity of the home, the privacy of the family, the right to have a wall of protection in the front door of your own house between you and the government, to ensure that the only judgment is not the police officer as to whether or not your home should be violated, but a judge issuing a warrant on probable cause. The very Constitution of the United States. And the irony of it is, is that this was one of the motivating factors that led to our own revolution, the insistence on the part of the British Government of breaking down the doors and violating the property rights of our citizens 200 years ago.

But to add insult to injury, now we are creating two different levels of privacy and property rights. If your violation is for tobacco, alcohol, or on guns, your rights will be secured. The BATF will not get in your home, because the gun lobby would have it be so. But if you are a citizen of no particular offense, your wall of privacy is being lowered. What a statement to the American people, and what a violation of the historic trust and commitment of this institution to our constitutional principles.

Mr. Chairman, our Republican colleagues in the last election have had every reason to be proud. They won a tremendous victory. But they did not receive a mandate to change the Constitution of the United States, to rearrange its powers, or to make our people less secure from a government that would abuse their rights.

Mr. Chairman, I cannot claim to ever have been a conservative Member of this House, but I have always respected tenets of Republican philosophy, limited government, power in the hands of people, controlling the excesses of government authority. Allowing a government to enter a home or seize property without warrant, expanding the police powers of the government, is an invitation to abuse.

□ 1420

It is not simply a violation of some of our historic commitments. Ironically, it is a departure from the conservative philosophy of the very Members who have now won electoral control of this institution.

Mr. Chairman, our leaders may have failed us in protecting us in recent years from crime and the problems of our country, but it is our leaders who have failed, not our Constitution. If the country is in need, it is our leaders who should change, not our Constitution.

Because if, my colleagues, we succeed in defeating crime on the streets at the cost of criminal activity by our government, then we have achieved nothing.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. CONYERS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. CONYERS. Mr. Chairman, I withdraw my point of order and my demand for a recorded vote.

So the amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. FIELDS OF LOUISIANA

Mr. FIELDS of Louisiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FIELDS of Louisiana: Page 2, line 10, after ''United States'' insert ''if the evidence was obtained in accordance with the fourth amendment to the Constitution of the United States''.

Mr. FIELDS of Louisiana. Mr. Chairman, yesterday we debated for some time the Watt-Fields amendment as it relates to the fourth amendment of the Constitution. This amendment is similar to that amendment, but, Mr. Chairman, I want to make a couple of comments about the amendment before I proceed.

First of all, under the fourth amendment of the Constitution, it says in no uncertain terms that ''the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated.''

It does not say ''should not be violated'' or ''ought not be violated.'' It says in no uncertain terms that it ''shall not be violated.''

The fourth amendment to the Constitution further states, Mr. Chairman, that no warrant, not some warrants, not two or three warrants, but it says ''no warrant shall,'' again, the Constitution deals with not the permissive language but the mandatory language, ''shall issue but upon probable cause supported by an oath of affirmation and particularly describing the place to be searched and the persons or things to be seized.''

Now, I did a little further research, Mr. Chairman, and Members, to get a good understanding of what shall actually means. According to the Webster dictionary, shall is very simple. Shall means will have to. Shall means must. Shall means used in laws to express what is mandatory.

So I rise today, Mr. Chairman, to suggest to the House that this amendment is a very basic amendment. It

simply says that any evidence obtained ''in accordance with the fourth amendment of the Constitution.''

If we are going to pass this legislation and allow law enforcement officers to go out into the world and break down people's homes without a warrant and say, I am operating with reasonable expectations or reasonable belief that there is something wrong taking place in the household, then we shoot a big bullet in the center of the fourth amendment to the Constitution. Not only that, Mr. Chairman, we basically silence the fourth amendment of the Constitution.

So if Members support the fourth amendment of the Constitution, and I think we all do, because we all by law, when we took the oath of office, said we would, we would support this amendment. It is a very simple amendment. If we want someone, a law enforcement officer, to be able to walk into our constituent's home by breaking down the doors, showing, flashing his or her badge or badges and saying, I am the law enforcement officer of this particular city, move over, I am going to search all of your personal effects, then vote against this amendment. It is very simple. Nothing complicated about it, nothing difficult about it.

But if Members want that law enforcement officer to go to a judge which is clothed with the responsibility of looking at the probable cause to see if there is enough evidence to support a warrant to be issued to search a person's home, then vote for this amendment. It is a very simple amendment, nothing complicated about it.

If we want to go back to the western days, where people break down doors and take people's assets and nothing is done about it, then I would suggest that Members not vote for this amendment.

Let me make another point, Mr. Chairman. Someone made the statement that, well, if someone breaks in a person's home and they find no evidence and they have not violated any law, then no harm is done. I beg to differ with my colleagues on that.

There is a lot of harm that is being done when you break down a person's home and go through all their personal effects, finding evidence or not finding evidence. You have violated somebody's right to privacy. That is one of the most sacred amendments to this Constitution. And to allow law enforcement officers to do that and then exempt one or two agencies to me is asinine, unconscionable, unbelievable, to say the least.

So I would certainly urge my colleagues, in the interest of justice and fair play, please, the worst thing we want to do this session of Congress is to violate our own contract, our own Constitution, the one we held our hands up before the American people and said we will uphold. This bill destroys the fourth amendment of the Constitution. There is no question about that.

I want to be able to leave this institution, leave this Congress and go home tonight and have a sense of security in my own home and not worry about some Rambo cop busting down the door and saying this Congress gave them the right to do it. That is wrong. There is not a Member on this side or the other side that can argue the fact that this amendment does not do that.

Now, they may argue, well, if it is unconstitutional, the courts will hold it to be unconstitutional. Why would we pass a law that we know good and well is unconstitutional. Why would we even opine the thought that the American people ought not have the rights that are afforded them under the Constitution of the United States of America.

I beg of my colleagues on the other side of the aisle, if they really want to do something to secure people in their homes, yes, we have a crime problem in America. There is no question about it. There is a crime problem in my own district, in my own State, but it is not to the extent that we ought to take away people's individual constitutional rights.

Mr. MCCOLLUM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think the gentleman is onto something we all would agree with in principle, but I think how he has crafted this amendment makes it fatally defective or at least it makes it ambiguous enough that this side cannot accept it.

What I have stated in the past and did yesterday to the gentleman from Louisiana as well as to others is that I would have no problem accepting and our side would have no problem accepting what was printed in the RECORD as amendment No. 1 by the gentleman from Michigan [Mr. CONYERS] that would read at the end of the bill ''nothing in this section shall be construed so as to violate the fourth article of the amendments to the Constitution of the United States.''

That would be perfectly acceptable. This particular amendment being placed where it is in the context of the lines that read, evidence which was obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States, and then with these words ''if the evidence was obtained in accordance with the fourth amendment of the Constitution of the United States,'' and then goes on and on and on and leaves the clear implication that there can be no exclusionary rule because the very nature of the rule is to apply in situations where there has been a violation of the fourth amendment.

That is why we need it. That is why we need a good faith exception to this whole process.

It would in essence nullify the good faith exception in warrant cases, in my judgment.

□ 1430

We would have an exclusionary rule that excluded it clearly from day one, and there would be no exceptions to it. One could go on and read the rest of it, since it is placed in the middle of it and nothing is stricken, as saying that it is then further modified. But I would suggest that the fact that there was such ambiguity here, courts could interpret this any number of ways, that it makes no sense to posture this in the location the gentleman from Louisiana [Mr. FIELDS] that I presume in good conscience is attempting to do.

I do not understand why we do not offer the original language of the gentleman from Michigan [Mr. CONYERS] if the gentleman wants to do that, at the end of the legislation where he places it that does what I think the gentleman wants us to do.

Mr. Chairman, I would suggest that this amendment be withdrawn and that the other one be substituted in its place, but I am not going to offer anything out here today to do it. I am going to oppose this amendment in its present form, but I would accept, as I say, the words ''Nothing in this section shall be construed so as to violate the fourth article of amendment of the Constitution of the United States'' if it were offered at the end of the bill, as the gentleman from Michigan [Mr. CONYERS] does in what he printed in the RECORD a few days ago.

Without that, Mr. Chairman, I just think the gentleman created an ambiguity that could defeat the whole good faith language that the courts already adopted for warrant searches, searches with warrants, as well as searches without them. For that reason, Mr. Chairman, I am opposed to the amendment.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, almost 24 hours ago I stood in the well of this House and I talked about an amendment that would take us back to the fourth amendment to the Constitution. Colleagues on the other side said ''No, we cannot support you, because you strike the rest of our bill out. If you would just craft this in such a way that you did not strike the rest of the bill, this would be acceptable to us.''

They voted against the wording of the fourth amendment to the U.S. Constitution.

Mr. Chairman, almost 24 hours later, we are back here having essentially the same debate, different language. This language does not strike one word out of the underlying bill. All it says is it is going to be subject to the fourth amendment to the U.S. Constitution.

However, again, my colleagues are back saying ''Oh, no, picky, picky, picky. I can't agree with that either, it has to be drafted some other way.''

Mr. Chairman, this is an open rule we are operating under, they say. Anybody who wants to come in and offer an amendment can offer an amendment to

say whatever they wanted to say. Yet, my colleagues on the other side say ''Oh, no, you have not been able to draft it in such a way that is satisfactory to us yet. There is some language out there somewhere that will satisfy us,'' but 24 hours almost has passed and they have not drafted it. All they want to do is come back in and say ''Oh, no, your language is not good enough.''

Mr. Chairman, Madison and Webster drafted the language of the fourth amendment, or whoever the Founding Fathers were who were working on that particular portion of it. I wish that these new masters of the Constitution, these master draftspersons who drafted this artistic Contract With America, would draft some language that would be satisfactory to them, that would not trample on the Founding Fathers' language.

It is not doing my constituents or the American people any good to say ''Oh, no, this is not good enough, we need a comma here or a period there, or a T crossed here or an I dotted there.'' If they believe in the Constitution, draft the language, give it to us. I invited them to do it yesterday. I have not seen it yet.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, the language I do not have to draft. I read it to the gentleman, and it is printed in the CONGRESSIONAL RECORD.

Mr. WATT of North Carolina. Mr. Chairman, I would say to the gentleman, offer it. I reclaim my time, Mr. Chairman.

Mr. MCCOLLUM. Mr. Chairman, if the gentleman will yield, I will do it.

Mr. WATT of North Carolina. If the gentleman offers it, if he votes this one down, let him offer some amendment that will make this constitutional, and then maybe we can talk about supporting it, Mr. Chairman.

However, do not come in here and say ''Oh, no, yesterday you struck the rest of my bill.'' This does not strike one iota of his bill, yet it is still not satisfactory to him. If he wants something, draft it and put it in and let us talk about it. That is what this House is all about. That is what we came here for. But do not be picayune with me.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I also rise in vehement opposition to H.R. 666, the exclusionary rule, and urge my colleagues to reject such a blatant attempt to eradicate one of the most fundamental constitutional protections afforded all Americans, the prohibition against unreasonable searches and seizures by the Government that is so precisely spelled out in our fourth amendment.

This misguided bill highlights the GOP's disconnect with the American people, and it is just one more example that the leadership's so-called contract is, to borrow a phrase from well-known cereal advertisers, chock full of nuts.

Under this bill, as astonishing and unbelievable as it may seem, evidence that is illegally obtained by law enforcement officials without the aid of a search warrant would be admissible in Federal trial proceedings.

If this not a complete and total affront to both the spirit and intent of the founding document of our great democracy, I do not know what is.

Let me give the Members an example of what I am talking about. About a year or so ago in my district the BATF and some local law enforcement officials entered into some HUD-owned Chicago Housing Authority property in my district in the city of Chicago and knocked down the doors. They said they were looking for guns.

What happened as a result of that? They found a number of assault weapons that they were looking for, but in addition to that, they went into the homes of a number of people, and they did not find any weapons there. What they found instead was terrified children.

Imagine, here you are in your home, little kids running around in there, somebody comes in and knocks on your door, bursts their way in with ''ATF'' on the back, with ''Chicago Police'' on their shoulders, et cetera, guns all ready to be drawn, little kids sitting there screaming, and law enforcement officers are running through people's houses, ransacking through their dresser drawers, through their closets, up under their beds and anyplace else they thought there might be a weapon to be found.

Mr. Chairman, this is a tremendous amount of terror that you can give anybody, but particularly to young children. To have this kind of thing happen without a search warrant, without cause, was beyond all realism whatsoever. I just could not believe it was happening, but it did happen. It happened in my district of Chicago.

Mr. Chairman, we are talking about a crime bill here, yes, but we are also talking about crimes that the Federal Government and others can perpetrate on people. It is not right for the police to do that. It is not right for the IRS to do that. It is not right for agencies to do that.

If it is a crime, it is a crime for them to commit a crime as well, without probable cause.

Mr. Chairman, the U.S. Supreme Court has continually and consistently refused to adopt such sweeping exceptions to the exclusionary rule as those that are embodied in this legislation before us today.

H.R. 666 would not only render the exclusionary rule, and therefore, the most basic rights of all of our citizens, moot, but also provide a disincentive for police officers to follow the dictates of the law.

By allowing courts to admit evidence gathered in the case of warrantless searches, this body would be giving law enforcement officials the mere option of following legal search and seizure requirements or not.

In fact, there would be much less incentive on the part of officers to even obtain warrants, knowing that the courts would be lenient, as far as they are concerned.

As the high court has so eloquently stated, and as so many of my colleagues have so eloquently stated on this floor yesterday and today, a strong exclusionary rule is required to enforce the right of all Americans ''to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures.''

□ 1440

Sweeping exceptions to this rule would, quoting again the Supreme Court, ''permit that right to remain an empty promise,'' an empty promise.

Mr. Chairman, the absolute last thing I would want to see is our Constitution reduced to an empty promise.

It strikes me as peculiar that the GOP, the Republican majority, will shroud itself in the second amendment as a defense to the weak, tired, worn-out line that all Americans have an unrestricted right to own a deadly arsenal of assault weapons, but then will turn right around and support legislation such as H.R. 666 which so obviously guts the fourth amendment's civil liberties protections upon which all our citizens have come to rely.

Mr. Chairman, it is becoming increasingly clear that my Republican colleagues are quick to invoke the constitutional principles and the wisdom of the Founding Fathers whenever it suits their political whims but completely disregard it when the rights of average Americans like my constituents and like yours, Mr. Chairman, and all the rest of our constituents are at stake, as in this case. This is no way to legislate and the citizens of the country I believe clearly see through this charade.

I would again urge my colleagues to vote no on this turkey, thereby preventing unfounded invasions of privacy and constitutional rights violations against all our constituents. We cannot and simply must not allow this 100-day agenda to undo 200 years of democracy.

AMENDMENT OFFERED BY MR. MCCOLLUM AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FIELDS OF LOUISIANA

Mr. MCCOLLUM. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. MCCOLLUM as a substitute for the amendment offered by Mr. FIELDS of Louisiana: Page 3, line 12, strike ''Rule'' and insert ''Rules''.

Page 3, line 14, after ''proceeding.'' insert ''Nothing in this section shall be construed

so as to violate the fourth article of amendments to the Constitution of the United States.''.

Mr. MCCOLLUM. Mr. Chairman, this does what we said we would do all along if the gentleman from Michigan [Mr. CONYERS] had offered it. It is what he had printed in the RECORD a couple of days ago.

It provides what seems to me to be on its face the clear language that any of us would know is true and, that is, that nothing in this legislation that we are proposing in any way violates the fourth amendment to the Constitution. We have no problem with that. That is all that this amendment says. It does not say anything more, it does not say anything less. It should not be construed as saying anything more or anything less, but it is placed in simple language, it is placed at the end of the bill. It does not mess up the rest of it. It keep the good faith exception expansion that we want in this bill intact.

Mr. Chairman, I would encourage my colleagues to accept this, I hope the gentleman from Louisiana [Mr. FIELDS] could accept it and we could move on.

Mr. FIELDS of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Louisiana.

Mr. FIELDS of Louisiana. Can the gentleman explain what is the difference between the two amendments, because it appears, based on his dissertation, there is no difference between the amendment that I have and the substitute amendment that he just introduced.

Would the gentleman please explain?

Mr. MCCOLLUM. If I can reclaim my time, I would be glad to. There is no real difference in intent. I am sure you intend to do exactly as I have suggested. It is just that where you had placed what you had written could be construed in my judgment and by others over on this side of the aisle in a way that you did not intend, in a way that would actually end, by some court interpretation in the future, those kinds of good-faith exceptions we already have in search warrant cases. I do not think you intended that. If you do it this way, then there is no ambiguity, there is no question for the courts to interpret. It is just a lot cleaner.

That is what I think the gentleman wants and I do not have a problem with what you want to do if that is what you want, as I believe it is.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Michigan.

Mr. CONYERS. I am very appreciative of the accord here. Could this be known as the McCollum-Fields substitute amendment?

Mr. MCCOLLUM. I would be delighted if it were known as the McCollum-Fields-Conyers substitute amendment.

Mr. CONYERS. I did not suggest that.

Mr. MCCOLLUM. Mr. Chairman, the gentleman from Michigan wrote it, so I would be glad to give him credit.

Does anyone else want time? Otherwise, I hope the gentleman would accept this.

Mr. FIELDS of Louisiana. Mr. Chairman, will the gentleman yield further?

Mr. MCCOLLUM. I yield to the gentleman from Louisiana.

Mr. FIELDS of Louisiana. I have not had an opportunity to see the amendment, but it is the exact amendment that we had on this side of the aisle?

Mr. MCCOLLUM. Reclaiming my time, it is the exact amendment that was published by your side of the aisle under the name of the gentleman from Michigan [Mr. CONYERS] as amendment No. 1 in the CONGRESSIONAL RECORD of February 6, 1995.

Mr. FIELDS of Louisiana. I thank the gentleman.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, I was just looking at the language, and it refers to section rather than bill. There are several sections in this bill, and what I am trying to be clear on is that your language applies to the entire bill, not just to one particular section of the bill.

Mr. MCCOLLUM. Well, this entire bill refers to an entirely new section of the code, section 3510, and I think that that is the key to this and that is what this applies to. That is virtually the entire bill. What we talking about is amendment chapter 223 of title 18 and this is an entirely new section, section 3510, we are creating by this piece of legislation. That is what this applies to, the entire new section.

Mr. WATT of North Carolina. I thank the gentleman for yielding.

Mr. SCHUMER. Mr. Chairman, I ask unanimous consent that on all subsequent amendments to this one, for the remainder of the bill, there be a time limit of 5 minutes of debate on each side.

The CHAIRMAN. On this amendment and any subsequent amendments thereto?

Mr. SCHUMER. Not on this amendment but on any subsequent amendment.

The CHAIRMAN. And on all amendments thereto?

Mr. SCHUMER. Correct.

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

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM] as a substitute for the amendment offered by the gentleman from Louisiana [Mr. FIELDS].

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. FIELDS], as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. SERRANO

Mr. SERRANO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SERRANO: Page 3, line 14, strike the close quotation mark and the period which follows.

Page 3, after line 14, insert the following:

''(e) LIMITATION.—This section shall not apply with respect to a search or seizure carried out by, or under the authority of, the Immigration and Naturalization Service.''.

The CHAIRMAN. The gentleman from New York [Mr. SERRANO] will be recognized for 5 minutes on his amendment, and a Member in opposition will be recognized for 5 minutes.

Mr. MCCOLLUM. I claim the time in opposition, Mr. Chairman.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for that purpose.

The Chair recognizes the gentleman from New York [Mr. SERRANO].

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

Mr. Chairman, as we can notice by the amendments that have been submitted here today, there are two issues that are being discussed. One is the belief by many of us that in fact the bill presented by the majority strikes down most if not all of the protections of the fourth amendment. But in addition, some agencies have been singled out by these amendments because they are, unfortunately, agencies with either a reputation of misusing their power or, and in most cases, a reputation of striking fear into the hearts of hard-working, law-abiding American citizens and in many cases, or in most cases, both.

There is no reason that one can imagine why an American citizen or a resident of this country should be afraid of any of its Federal agencies. Yet that is the case in so many instances. That is why today you have seen people discussing so many different agencies.

The INS is, in many neighborhoods in this country, at the top of the list of the kind of an agency that can strike fear into the hearts of people. Because when the INS decides that it has cause to believe that there is illegal immigration taking place or has taken place in a certain neighborhood, the INS does not stop to ask questions and to determine who they should go after and who should be protected under our Constitution. What the INS usually does is walk into a neighborhood where the color of the people's skin or the language they speak appears to indicate that illegal immigrants could be in fact living in that community, and they will tear down a business door, they will tear down a home, they will tear down the privacy of a family or an

individual searching, if you will, searching for illegal immigrants.

We have seen this throughout our communities, most recently in the northern Manhattan section of Washington Heights where reports took place, where bodego owners, grocery store owners were illegally confronted by the Immigration Department in a desire to determine whether or not there were illegal immigrants, undocumented immigrants, in that community.

So for anyone in my community, whether they were born American citizens or not, this Federal agency is one that strikes fear into our hearts. And incidentally, someone may say, ''Well, if you've got nothing to hide, you should not be afraid.''

□ 1450

That is not the case. If you look like a certain person, if you have the first name of Jose, you can be sure that you will run into the INS at one time in your life and they will not give you any way to explain yourself. They will just ask you some very hard questions.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. SERRANO. I yield to the gentleman from Michigan.

Mr. CONYERS. If the gentleman will yield, Mr. Chairman, the Government Operations Committee had hearings on the INS in the last Congress with harassed African-American and other minorities and women officers, and the gentleman's amendment and the discussion that surrounds it flows exactly with what we heard. I would refer every Member here to the Government Operations hearings on INS in the 103d Congress. It is a very dangerous instrumentality.

There are a lot of good people. I love the commissioner, the director, but it still is not under control and the gentleman's amendment is very good and I accept it on this side.

Mr. SERRANO. I thank the gentleman very much.

The gentleman's comments obviously fall right to the point that there has been ample proof that this Federal agency has not carried out its duties in a proper way, and when they do not carry them out in a proper way, I think it becomes the role of this body to protect our citizens. I think that is a point that should be made.

In many instances the violation of rights and privileges are committed upon citizens of the United States, the illegal searches, the fear, the attacks, the midnight raids, the middle of the night raids, the lack of respect for individual rights.

If the folks on the other side really believe that their bill is a good bill, and if they believe that they have not in fact trampled, as I believe, on the fourth amendment, there should be no problem in accepting this amendment. This amendment simply will strengthen their belief that the fourth amendment is still intact, and I would urge a ''yes'' vote on this amendment.

The CHAIRMAN pro tempore (Mr. HOBSON). The gentleman from Florida [Mr. MCCOLLUM] is recognized for 5 minutes in opposition to the amendment.

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

Mr. Chairman, I cannot accept this amendment. I did not accept the other two amendments that were passed that exempted a whole host of Federal law enforcement officials from the opportunity to have the Federal court exclude evidence that they obtain which may be in violation of the fourth amendment but was obtained without any intent on their part to violate, without any knowledge they were doing it, and with no good reason that I can think of for us to be excluding it from court proceedings where convictions could otherwise be obtained for bad guys and people who have committed major crimes in this country. There is no reason to want to exempt these folks.

We are not doing anything with this bill that would in any way reduce protections individuals have from illegal searches and seizures. We may all be angry at some of these agencies for one reason or another, because they have overstepped their bounds. I do not think there is a single police agency in this country that has not had somebody at some point overstep their bounds in the history of these agencies. It probably has happened more than once for most of them, and in some too frequently, and nobody condones that, not good police, not you, not the President, not the Governors of the States, nobody condones them overstepping the bounds and violating the protection of our citizenry under the fourth amendment.

The question is what is the best way to proceed to correct those problems, and it certainly is not in keeping out evidence of criminals that will prohibit their being convicted when they should be, when the evidence is perfectly good itself.

Why do we want to prohibit somebody from going to jail who has committed a bad crime in the name of stopping something that is not going to be stopped? If a police officer, INS or anybody else does not know they are doing anything wrong and a judge decides that they do not know, and they could not know, and there is no reason for a reasonable person to ever know they did anything wrong, then there is no deterrent whatsoever to the behavior they have done. They are going to do it every time. We need to find other ways to stop it, but the only way we want to stop is where it is antagonizing being done in violation of the Constitution and trampling, and as the Founding Fathers wanted us to do to protect it. It makes no sense to penalize the general public of the United States by allowing more criminals out on the streets as are now being allowed on technicalities by the situation that exists today.

We need to carve out an exception to the exclusionary rule that is even broader than the courts have accepted today. That is what this bill does. Where a police officer of any type, be he INS or otherwise, acts in good faith and believes, and reasonably and objectively by a judge's decision believes, and is determined to believe that what he is doing is right and correct and not violative of the fourth amendment, and why in the world would anybody want to exclude any evidence? The gentleman has every right to protest INS like others protested other agencies of the Federal Government.

I submit this bill is not the place for that. It does not do us any good and it does damage to the fundamental underlying principle of this bill, this effort to create a better protection of our American citizenry.

I urge a ''no'' vote.

Mr. SERRANO. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from New York, the author of the amendment.

Mr. SERRANO. With all due respect to the gentleman, the reason for the protection that I try to put forth, a reason that the gentleman may probably never experience or has ever experienced in his life, is the fact that there are some Federal authorities that upon looking at some American citizens determine, assume that that person does not belong in this country, simply by the way they look, simply by their first name or their last name or the fact that they may not have fully mastered the English language. This simply says give me the protection that I deserve as an American citizen.

Mr. MCCOLLUM. If I can reclaim my time, I would simply say to the gentleman no, fortunately I have not had that personal experience. I do not doubt for a moment that goes on but that is not a remedy for that.

What the gentleman is doing makes an exception to this bill of a whole entire agency and their efforts at law enforcement. That makes no sense whatsoever. It undermines the purposes of this bill and it is not in the interests, as far as I am concerned, of the general public where we are trying to get more convictions where somebody commits a crime. And I do not care, if they have committed a crime, we ought to get them convicted and we have the evidence to do it. We have no business excepting an agency, particularly INS, from that, particularly where we have alien smuggling and all kinds of stuff the Immigration Service is having to investigate. I would suggest it is not in the best interest of aliens, legal aliens coming here to have this provision, and those who would be citizens and would make great contributions to this country, it is not in their best interests to allow the criminals in the world to

prey on those who are unfortunately in their midst.

So I urge a rejection of this amendment, and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York [Mr. SERRANO].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 103, noes 330, not voting 1, as follows:

[Roll No. 102]

AYES—103

Barrett (WI)
Becerra
Berman
Bishop
Bonior
Boucher
Brown (CA)
Brown (FL)
Bryant (TX)
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
DeFazio
Dellums
Dingell
Durbin
Engel
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hastings (FL)
Hefner
Hilliard
Hinchey
Jackson-Lee
Jefferson
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kildee
Levin
Lewis (GA)
Lofgren
Martinez
Matsui
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Nadler
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Rangel
Reynolds
Richardson
Rose
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Scott
Serrano
Skaggs
Stark
Stokes
Studds
Thompson
Thornton
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOES—330

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—1

Dooley

□ 1516

Messrs. MONTGOMERY, ACKERMAN, and DE LA GARZA, Mrs. LOWEY, and Mr. GONZALEZ changed their vote from ''aye'' to ''no.''

Ms. FURSE and Mr. FIELDS of Louisiana changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Ms. PELOSI. Mr. Chairman, I rise in strong opposition to H.R. 666, the Exclusionary Rule Reform Act. While its supporters would have us believe that this bill will simply broaden a previously existing exception to the fourth amendment, it will, in reality, seriously damage a constitutional amendment that has protected Americans from unreasonable searches and seizures for over 200 years.

Simply put, Mr. Chairman, the fourth amendment places a check on the ability of the Government to arbitrarily search a person's home or person by requiring that a search warrant be issued by a neutral and detached magistrate. Since 1914, the Supreme Court has held that evidence obtained as the result of an illegal search must be excluded at trial.

Mr. Chairman, H.R. 666 removes this important constitutional safeguard by virtually eliminating the warrant requirement that the American Colonists demanded of the Constitution's Framers following their occupation by British soldiers. In spite of these origins, the fourth amendment has, in no way, lost its historical or legal relevancy. We need only look at the documented abuses from law enforcement jurisdictions all over the country to reaffirm the inherent protective value of the fourth amendment.

If by congressional mandate, the courts begin to admit evidence gathered in good faith but without a search warrant, there would be much less incentive for the police to obtain search warrants at all—thereby undermining the fundamental protection of the fourth amendment to the Constitution.

Mr. Chairman, the exclusionary rule is what protects all Americans against unreasonable searches and seizures and the invasion of privacy by law enforcement officers. It does not undermine the ability of the police to enforce the law; indeed, it has been part of the training given to all Federal law enforcement agents since 1914. The Directors of the FBI have endorsed the exclusionary rule and have stated that the rule does not hinder the FBI's work.

Mr. Chairman, the exclusionary rule works because it creates an incentive for law enforcement officers to know legal search and seizure standards. By passing this bill, law enforcement will actually have an incentive not to know the law.

In the rush to pass their legislative agenda in the first 100 days, the authors of this bill are asking us to sacrifice the constitutional safeguards that have protected all Americans for 207 years.

I urge all of my colleagues to oppose this attack on the fourth amendment and vote ''no'' on H.R. 666.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 666, the Exclusionary Rule Reform Act of 1995. Let me state from the beginning that I recognize the challenge we face in curbing crime in our Nation. In fact, I have been a longstanding advocate for substantial congressional action to reduce and prevent violence and crime. Nonetheless, Mr. Speaker, I cannot support this measure before us today because the very belief upon which our judicial system was created—protection of individual constitutional rights balanced with society's right to be free from harm—has yet to be achieved for many Americans.

Over the years, I have been a staunch supporter of crime control measures. I have patrolled our streets as part of Neighborhood Watch efforts. I have seen firsthand the effects that drugs and violence have had on our neighborhoods. Before I came to Congress I

was blessed with the opportunity to practice law in this great Nation. I have litigated civil rights issues before many courts. One of my most memorable experience is having argued *Terry* v. *Ohio,* 392 U.S. 1 before the U.S. Supreme Court in 1968. Because of these experiences, I feel that I cannot support the unbalanced approach that H.R. 666 represents.

While I agree that strong measures must be taken to curb the crime epidemic, I do not believe that such measures should undermine any individual's basic rights and constitutional liberties. My duty as a Member of Congress requires that I act in the best interest of the people I represent and in the best interest of the U.S. Constitution I have sworn to uphold. We cannot, and should not, in an attempt to facilitate the prosecution of alleged criminals, be unfaithful to our responsibility to act in the best interest of the American people by disrespecting the founding document of this Nation—the fourth amendment of the U.S. Constitution. This shortsighted legislation will not only compromise Americans' constitutional rights, but will actually do very little to reduce crime or enhance the prosecution of crimes.

Mr. Chairman, the exclusionary rule was created in *Weeks* v. *United States,* 232 U.S. 383 (1994), where Justice William Day's opinion for a unanimous court concluded that the use of illegally obtained evidence by the Government was a clear ''denial of the constitutional rights of the accused'' (p. 398). The exclusionary rule was fashioned by the Supreme Court as the enforcement mechanism of the fourth amendment, which protects citizens against unreasonable searches and seizures. The exclusionary rule embodies our national principle of respect for the fundamental inalienable rights of all our citizens under the U.S. Constitution.

Since 1914, the exclusionary rule as we know it today is a mere shadow of the rule envisioned in the Weeks opinion. Over the years, the U.S. Supreme Court has established exceptions to the rule that have permitted more and more illegally obtained evidence to be used against accused criminals. One of the most prominent exceptions to the exclusionary rule is the good faith exception created by the court in *United States* v. *Leon,* 468 U.S. 897 (1984).

We must all remember that the fourth amendment, working in conjunction with the exclusionary rule, represents significant constitutional protection for anyone accused of a crime. As you know, being accused does not mean that you are guilty. Yet, the drafters of this current legislation, in their haste to sweep up criminals, have presented a law that treats the accused as if they were guilty. No American deserves to be treated as a criminal without the benefit of a trial.

Contrary to the assertions of the proponents of this legislation, the application of the exclusionary rule almost never prevents the prosecution of a case against an accused. A 1983 study by Thomas Y. Davies, entitled, ''A Hard Look at What We Know (and Still Need To Learn) About the 'Costs' of the Exclusionary Rule'' (1983), estimates that only 0.6 to 2.35 percent of all felony arrests are lost as a result of this rule. Thus the challenge to the exclusionary rule based on the risk of lost arrests is fueled by an ideological agenda that is hostile to our freedoms ensured by the fourth amendment.

Mr. Chairman, the bill before us today, the Exclusionary Rule Reform Act of 1995, codifies the good faith exception to the exclusionary rule, but will also make it more broad. Such an abdication of congressional responsibility will certainly undermine many of our most important efforts to protect the Constitutional rights of all Americans.

The stated purpose of the Exclusionary Rule Reform Act if to provide a statutory basis for the good faith exception in cases of searches with and without warrants. Under the good faith exception, evidence obtained in a search or seizure that violates constitutional protections would not be excluded if ''the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment'' to the Constitution.

The legislation to limit citizens' fourth amendment rights warps the Constitution to such an extent that the constitutionality of this provision is seriously in question. While I agree that Congress should continue to make significant strides to reduce crime, this proposed measure goes well beyond the legitimate objective of crime prevention and prosecution enhancement. In fact, this bill is specifically designed to inhibit the constitutional rights of the people of America by violating their fourth amendment rights. Justice Douglas eloquently warned us of the dangers involved in compromising the fourth amendment in his dissenting opinion in Terry versus Ohio:

> To give the police greater power than a magistrate is to take a long step down the totalitarian path. Perhaps such a step is desirable to cope with modern forms of lawlessness. But if it is taken, it should be the deliberate choice of the people through a constitutional amendment.

Millions of arrests and searches are carried out by police each year in the United States. The fourth amendment, with its ban on unreasonable searches and seizures, is the constitutional provision that, more directly than any other, governs police conduct. This amendment is designed to preserve the most cherished values of a free society by striking a fair balance between society's demand for order, and individual rights.

It is my belief that our judicial system's major focus should be to protect its citizens from crime and violence. However, as a nation, we cannot afford to compromise our Constitutional rights in exchange for unconstitutional, excessive police state tactics. We all have an obligation to uphold the Constitution and protect the rights of all Americans to be free from unreasonable searches and seizures. I urge my colleagues to uphold our Constitution, protect the American people, and vote down this unconscionable invasion upon one of their most priceless constitutional guarantees.

The CHAIRMAN. If there are no further amendments, under the rule the Committee now rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HOBSON) having assumed the chair, Mr. RIGGS, 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. 666) to control crime by exclusionary rule reform, pursuant to House Resolution 61, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate voice demanded on any amendment?

If not, the Chair will put them en gros.

The amendments were 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 ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

Mr. CONYERS. Mr. Speaker, I withdraw the request for a recorded vote.

□ 1520

The SPEAKER pro tempore (Mr. HOBSON). The Chair advises the gentleman from Michigan [Mr. CONYERS] that a recorded vote has already been ordered.

The vote was taken by electronic device, and there were—ayes 289, noes 142, not voting 3, as follows:

[Roll No. 103]

AYES—289

Allard	Clinger	Frisa
Andrews	Coble	Funderburk
Archer	Coburn	Gallegly
Armey	Collins (GA)	Ganske
Bachus	Combest	Geren
Baesler	Condit	Gilchrest
Baker (CA)	Cooley	Gillmor
Baker (LA)	Costello	Gilman
Ballenger	Cox	Goodlatte
Barcia	Cramer	Goodling
Barr	Crane	Gordon
Barrett (NE)	Cremeans	Goss
Bartlett	Cubin	Graham
Barton	Danner	Green
Bass	Davis	Greenwood
Bateman	de la Garza	Gunderson
Bentsen	Deal	Gutknecht
Bereuter	DeLay	Hall (TX)
Bevill	Deutsch	Hancock
Bilbray	Diaz-Balart	Hansen
Bilirakis	Dickey	Harman
Bliley	Dicks	Hastert
Blute	Dooley	Hastings (WA)
Boehlert	Doolittle	Hayes
Boehner	Dornan	Hayworth
Bonilla	Doyle	Hefley
Bono	Dreier	Heineman
Borski	Duncan	Herger
Brewster	Dunn	Hilleary
Browder	Edwards	Hobson
Brownback	Ehlers	Hoekstra
Bryant (TN)	Ehrlich	Hoke
Bunn	Emerson	Holden
Bunning	English	Horn
Burr	Ensign	Hostettler
Burton	Everett	Houghton
Buyer	Ewing	Hunter
Callahan	Fawell	Hutchinson
Calvert	Fields (TX)	Hyde
Camp	Flanagan	Inglis
Canady	Foley	Istook
Castle	Forbes	Jacobs
Chabot	Fowler	Johnson (CT)
Chambliss	Fox	Johnson (SD)
Chapman	Frank (MA)	Johnson, Sam
Christensen	Franks (CT)	Jones
Chrysler	Franks (NJ)	Kanjorski
Clement	Frelinghuysen	Kasich

Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Martini
Mascara
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—142

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chenoweth
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Crapo
DeFazio
DeLauro
Dellums
Dingell
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson, E.B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Kolbe
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Maloney
Markey
Martinez
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Metcalf
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Pickett
Poshard
Rangel
Reed
Reynolds
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Stark
Stockman
Stokes
Studds
Taylor (NC)
Thompson
Thornton
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Williams
Woolsey
Wynn
Yates

NOT VOTING—3

Cunningham Dixon Gekas

□ 1537

Mr. NEAL of Massachusetts changed his vote from ''aye'' to ''no.''

Mr. SAM JOHNSON of Texas and Mr. COSTELLO changed their vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

EFFECTIVE DEATH PENALTY ACT OF 1995

The SPEAKER pro tempore (Mr. HOBSON). Pursuant to the order of the House of Tuesday, February 7, 1995, 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. 729.

□ 1539

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R, 729) to control crime by a more effective death penalty, with Mr. DREIER in the chair.

The Clerk read the title of the bill.

□ 1540

The CHAIRMAN. Pursuant to the order of the House of Tuesday, February 7, 1995, the bill is considered as having been read the first time.

The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes and the gentleman from New York [Mr. SCHUMER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM]

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

Mr. Chairman, H.R. 729, the Effective Death Penalty Act of 1995, is one of the most important pieces of crime legislation that the 104th Congress will consider. It offers relief to State law enforcement officials, comfort and a chance for healing to crime victims, and enhanced credibility for the criminal justice system. And this bill even offers something for criminals, if we want to look at it that way.

By curtailing the seemingly endless appeals of death-row inmates, particularly those who have been there for a long period of time, H.R. 729 sends the clear message to criminals that the criminal justice system is not a game. It sends the message that if you do the crime, you do the time. It sends the message of swiftness and certainty of punishment that has been missing from our criminal justice system for some time, and it goes a long way to restoring deterrence to the criminal justice system, which is a corner, a pillar of our entire criminal justice system, deterrence. Nothing is more important for public safety than to reaffirm that message, because far too many of today's criminals think that they can beat the system if they are ever caught.

Congress has been considering this reform for several years. Despite victories in the House and Senate going back as far as 1984, supporters of habeas corpus reform have not been able to overcome the well-positioned minority of Members who oppose reform. Mr. Chairman, it is my strong hope that those days are now finally over.

It is often said that the public does not understand what is meant by the term ''habeas corpus.'' And that may be true to some extent. But the public does understand this: that convicted murderers on death row regularly make a mockery of the criminal justice system by using every trick in the book to delay imposition of their sentences. In many cases where the people's elected representatives have passed capital punishment laws, executions never occur because of endless appeals and lawsuits. People are sick and tired of the legal maneuvers of violent criminals. They want accountability.

H.R. 729 stands for the clear and simple proposition that there must be finality and accountability. The voices of victims have been heard. When this bill becomes law, no longer will the victims of horrible violent crimes wait for a decade or more for justice to be served. Victims will no longer experience the revictimization caused by endless litigation which continuously stirs up memories of the pain and agony caused by the original crime.

The bill before us today balances the need for finality and accountability with a firm regard for due process of law and full constitutional protections. Federal and State prisoners will have ample opportunity to challenge their conviction and sentence in both direct appeals and in collateral attacks.

The difference, however, would be this. Convicted criminals, particularly murderers on death row, will generally get only one opportunity to raise their claims in Federal court using habeas corpus petitions. Once the first petition is disposed of, further legal challenges must be based on newly discovered evidence pertaining to the prisoner's actual innocence of the crime.

The essence of H.R. 729 comes from the recommendations of the Habeas Corpus Study Committee, chaired a few years ago by retired Supreme Court Justice Lewis Powell. The Powell Committee established the basic quid pro quo approach to this bill with regard to death row inmates. If States provide legal counsel in State habeas review to indigent convicted murderers, even though such provision of counsel is not

required by the Constitution according to the Supreme Court, then the States will receive the benefits of limited and expedited habeas corpus procedures when such prisoners bring their claims to the Federal courts.

These procedures could help insure that defendants are given competent counsel in postconviction proceedings. If States enact these provisions, the time in which a habeas corpus petition must be filed following the conclusion of direct appeal of the conviction is reduced to 180 days. This portion of the bill would also require that Federal courts could not entertain any claims not raised in the prior State court proceedings unless certain exemptions apply.

These optional provisions also certify that executions will be stayed while a habeas corpus petition is pending, but limits the granting of further stays if the petition is denied by the district court and the court of appeals.

Additionally, this portion of the bill would require Federal district courts to decide habeas corpus petitions within 60 days from the date of any hearing on the petition, and also requires the courts of appeal to decide an appeal from the decision of the district court within 90 days of the last brief in the case being filed.

Aside from capital cases, State prisoners will have a 1-year period of limitation for filing habeas corpus petitions after they have been convicted of a State crime. Federal prisoners would have a similar 2-year period of limitation for initiating a habeas proceeding when they have been convicted of a Federal crime.

Federal judges would be prevented from granting relief on a habeas petition filed by a person convicted in State court unless the person exhausts his State remedies first.

Finally, H.R. 729 modifies existing law to insure that a Federal death sentence is imposed in certain cases where the death penalty is an appropriate punishment.

Under current law, the jury in a capital case is given the complete discretion to impose the death penalty, life imprisonment, or some lesser penalty regardless of the severity of the facts found to exist. Under this title of this bill, juries would be required to impose a sentence of death in cases where they determine that aggravating factors outweigh mitigating factors or where at least one aggravating factor exists but no mitigating factor exists. If the jury does not find that these conditions exist, they are prohibited from imposing the death penalty.

H.R. 729's habeas corpus reform provisions are supported by nearly every major law enforcement organization in the country. These protectors of public safety, victims of crime, and the general public have waited a long, long time for these reforms.

I urge in the strongest of terms that my colleagues support this bill, that we get it passed and put it into law this year, 1995.

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

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. BONIOR].

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

I would address my comments not on the subject necessarily but to the Chair and to the distinguished gentleman from Florida both. I would hope that they would relay these comments in the good faith that they are given to the appropriate Members within their party structure. We have had today a series of problems with the Committee on Science. I raise this just to alert my friends that we feel on our side of the aisle that our committee members have not been treated fairly. Let me be very specific.

The committee is marking up the risk assessment bill. It is a very important bill affecting the health and the safety of all Americans. And that bill, the draft of that bill was made available last night but was not available to our Members until 11:20 today, when they went in to meet to do the bill in committee.

In addition to that, just a few minutes ago, prior to coming here for this last vote, they were taking a rollcall vote in the committee on this important bill on an important amendment that I think passed only by two or three votes, while a vote was going on on the floor here in the Committee of the Whole, excuse me, I think we were in the full House at that time moving to final passage.

What occurred was two or three of our Members missed that vote because they were here. The bells had gone off.

I am requesting in a civil way this afternoon that that type of behavior cease and that our Members be given the courtesy to participate and to vote and to express themselves in a legitimate, fair, and open manner in that committee and that we be given notice on the bills that are pending before that committee while the committee is considering it, not after the bills have been brought up.

I thank the Chairman for his indulgence, and I would hope those messages would get relayed to the proper people, the gentleman from Pennsylvania [Mr. WALKER] and the gentleman's leadership.

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

□ 1550

Mr. MCCOLLUM. Mr. Chairman, while we may have not have a lot of speakers on this our side, we are going to spend a lot of hours debating habeas corpus reform. I have no knowledge whatever about the leadership comments on the other side of the aisle, about the Committee on Science today, but I would like to bring us back, so we do not close on the topic of something that happened in another committee, to the fact that what we are going to consider is a provision that should have been offered in the last Congress, but we were not permitted to do so by the other side when they were in the majority.

That is a provision that will ultimately end the seemingly endless appeals of death row inmates and get on with the carrying out of their sentences. It is something the public has wanted for a long, long time.

We should be excited about the fact that it is here today, that we have a chance to finally vote on this and get it reformed, and we are going to have a series of important amendments to consider.

I urge my colleagues to listen attentively to these amendments, but during the course of the several hours of debate on them, in the end we need to vote for this bill, get it on to the Senate, the other body, and let us get in this calendar year finally, after all these years, relief for the States, relief for the public, relief for the victims, and end the seemingly endless appeals of death row inmates. That is what this bill is all about.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to the Effective Death Penalty Act of 1995. Let me state from the beginning that I have consistently, throughout my career, believed in and fought for the protection all Americans rights under habeas corpus. As Chief Justice Salmon P. Chase described it in ex parte Yerger U.S. (1868), habeas corpus is "The most important human right in the Constitution" and "The best and only sufficient defense of personal freedom". Therefore, I cannot support this measure before us today because the very belief upon which our judicial system was created—the protection of an individual's fundamental constitutional rights balanced with society's right to be free from harm—is at risk if H.R. 729 becomes law. I cannot and will not support the anti-human rights and anti-Constitution provisions of H.R. 729.

It is my belief that our judicial system's major focus should be to protect its citizen's fundamental constitutional rights. As a nation, we cannot afford to compromise the cherished habeas corpus protections guaranteed each of us in the U.S. Constitution. Rooted in the Magna Carta (1215), the writ of habeas corpus is as Justice Brennan pointed out in Fay versus NOIA (1963).

> * * * Inextricably intertwined with the growth of fundamental rights of personal liberty * * * its root principle is that in a civilized society, government must always be accountable to the judiciary for a man's imprisonment: if the imprisonment cannot be shown to conform with the fundamental requirements of law, the individual is entitled to his immediate release."

Mr. Chairman, the arbitrary 1-year limitation on the filing of general Federal habeas corpus appeals after all State remedies have been exhausted entirely fails to address the true cause of any delay in the capital system. The lack of competent counsel at the trial level and on direct appeal constitutes the primary basis for the delay of many appeals. Provision of competent counsel at the trial and appellate

stages of capital litigation would eliminate the need for many of the habeas appeals currently in our court system. Despite the fact that this is the case, H.R. 729 merely offers counsel for State postconviction proceedings, and only to capitally sentenced petitioners in States that happen to select the counsel plan of this law. Even if counsel is provided at this late date, no time savings advantage will be achieved. This counsel plan is too little too late.

It is no secret that I am opposed to the death penalty. H.R. 729, among other things, would greatly expand the reach of the Federal death penalty, and fails to include any provisions to end the repugnant practice of the disproportionate application of the death penalty on minorities. In fact, the bill specifically makes it easier to impose the Federal death penalty by reducing the discretion of a Federal jury in deciding whether to recommend the death penalty. While I agree that strong measures must be taken to curb the crime epidemic, I do not believe that any actions should be taken to the detriment of an individual's basic rights and constitutional liberties.

When closely examined, the sentencing history of the death penalty has generally been arbitrary, inconsistent, and racially biased. It is my belief that the Federal death penalty is overly harsh, particularly because it fails to address the economic and social basis of crime in our most troubled communities. The fact is that there has always been a racial double standard in the imposition of capital punishment in the Untied States. Even after the black codes of the 1860's were abolished, blacks were more severely punished than whites for the same offenses in our penal system. By the time the U.S. Supreme Court deemed the existing process for imposing the ultimate penalty unconstitutional in 1972, more than half of the persons condemned or executed were African-American—even though they were never more than 15 percent of the population. The advances in statistical analysis of the last 20 years have allowed numerous experts to test the raw data with disturbingly consistent results.

Mr. Chairman, in 1990, after 29 studies from various jurisdictions were reviewed, the General Accounting Office confirmed that there is a consistent pattern of disparity in the imposition of the death penalty in the United States and that race is often a crucial factor that determines the outcome. Since the resumption of executions in 1977, of the 236 persons who have been executed, 200 persons, or an alarming 85 percent, were executed for the murder of white victims. In fact, statistics show that blacks convicted of killing whites are 63 times more likely to be executed than whites who kill blacks.

In 1991, the U.S. Justice Department's Bureau of Justice Statistics reported that African-Americans accounted for 40 percent of prisoners serving death penalty sentences. In my home State of Ohio, of the 127 people on death row, 62—nearly 50 percent—are African-Americans. These statistics reflect how the African-American community is disproportionately affected by the death penalty. Furthermore, in a nation where the No. 1 leading cause of death for young African-American males is homicide, further disproportionate application of the death penalty will not resolve the epidemic of violence in our Nation.

Regardless of whether this double standard is intentional or not, the result clearly establishes that there continues to be an impermissible use of race as a key factor in determining imposition of the death penalty. Because of the disproportionate number of minorities serving death sentences, it is of great concern to me that H.R. 729's death penalty provisions force juries to render death sentences where they might not have without H.R. 729.

Mr. Chairman, it is my belief that we cannot afford to compromise our fundamental rights in exchange for excessive discriminatory tactics. We all have an obligation to uphold the Constitution and protect the rights of all Americans to be free from unjustified imprisonment. I urge my colleagues to uphold our fundamental rights, protect the American people, and vote down this unconscionable invasion upon one of our most important guarantees.

Mr. YOUNG of Florida. Mr. Chairman, I rise today in support of H.R. 729, the Effective Death Penalty Act. This legislation represents title I of the Taking Back Our Streets Act, 1 of the 10 points of the Republican Contract With America, and is the third of the six bills we will consider which compose this important crime legislation.

Today's legislation changes the laws affecting the death penalty in an effort to create consistent and fair procedures for its application, and to streamline the current appeals process. The habeas corpus writ, originally designed as a remedy for imprisonment without trial, has become a tool of Federal and State defendants who have been convicted and have exhausted all direct appeals. Most of the petitions are totally lacking in merit, clog the Federal district court dockets, and allow prisoners on death row to almost indefinitely delay their punishment. The bill before us today will help put an end to this travesty of justice.

Specifically, H.R. 729 establishes a 1-year limitation period for filing a Federal habeas corpus petition contesting a State court conviction and a 2-year limitation period for a Federal conviction. This measure limits the granting of stays when prisoners have failed to file a timely appeal, and imposes a 60- and 90-day deadline for district courts and appeals courts respectively to decide an appeal. Finally, the bill authorizes funds to help States defend their convictions against these appeals and allows juries far greater latitude in deciding whether to apply the death penalty.

Under current law, there are virtually no limits or restrictions on when prisoners can file habeas corpus appeals. Thanks to last year's so-called crime bill at least two lawyers must be appointed to represent the defendant at every stage of the process, and a defendant can appeal anytime there is a change in the law or a new Supreme Court ruling. In this environment it is not surprising that delays of up to 14 years are not uncommon. This abuse of the system is the most significant factor in States' inability to implement credible death penalties.

Mr. Chairman, the death penalty is now unworkable and must be reformed. It is encumbered with nearly endless—and often frivolous—appeals that delay punishment. The Effective Death Penalty Act upholds a simple rule of law—those who kill must be prepared to pay with their own life, and I urge its support.

Mr. MFUME. Mr. Chairman, today we are deliberating whether or not we will make it easier for the Government to kill. The bill we have before us will limit the ability of State prisoners to challenge the constitutionality of their conviction or sentence. It also reduces the discretion of a Federal court jury in deciding whether or not to recommend the death penalty.

It has been said that this bill is necessary in order to stop ''the pattern of litigation abuse and endless delay that has thwarted the use of the state death penalty.'' This, however, is untrue. The number of State executions have increased in the past few years. Since the death penalty was reinstated in 1976, Texas has executed 90 defendants; Florida has executed 33; and Virginia has executed 25. There have been over 100 State executions in the past 3 years. There have been seven executions so far in 1995. The pace of State executions is not stalled. To the contrary, it has dramatically increased.

History shows that minorities have received a disproportionate share of society's harshest punishments, from slavery to lynchings. Since 1930 nearly 90 percent of those executed for rape were African-Americans. Currently, about 50 percent of those on the Nation's death rows are from minority populations representing 20 percent of the total population.

Three-quarters of those convicted of participating in a drug enterprise under the general provisions of Anti-Drug Abuse Act—the Drug Kingpin Act—have been white and only about 24 percent of the defendants have been black. Of those chosen for death penalty prosecutions under this act, 78 percent of the defendants have been black and only 11 percent of the defendants have been white.

Federal prosecutions under the death penalty provisions of the Anti-Drug Abuse Act of 1988 reveal that 89 percent of the defendants selected for capital prosecution have been either African-American or Mexican-American. Judging by the death row populations, no other jurisdiction comes close to the Federal 90 percent minority prosecution rate.

The proportion of African-Americans admitted to Federal prison for all crimes has remained fairly constant between 21 percent and 27 percent during the 1980's, while whites accounted for approximately 75 percent of new Federal prisoners.

The General Accounting Office stated in its report ''Death Penalty Sentencing''

> [The] race of the victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty, i.e., those who murdered whites were found more likely to be sentenced to death than those who murdered blacks. Last year, 89% of the death sentences carried out involved white victims, even though 50% of the homicides in this country have black victims. Of the 229 executions that have occurred since the death penalty was reinstated, only one has involved a white defendant for the murder of a black person.

A large body of evidence shows that innocent people are often convicted of crimes, including capital crimes, and that some of them have been executed. Since 1970, 48 people have been released from death row because they were found to be innocent.

In February 1994, Justice Harry A. Blackmun stated:

> Twenty years have passed since this court declared that the death penalty must be imposed fairly, and with reasonable consistency or not at all, and, despite the effort of the states and courts to devise legal formulas and procedural rules to meet this daunting

challenge, the death penalty remains fraught with arbitrariness, discrimination, caprice and mistake.

Now, in spite of the studies, in spite of the evidence, and in spite of the dramatic increase in executions in recent years, some still want to make it easier to impose the death penalty and execute the defendant. Is it really justice we are after? Or is it revenge?

Mr. STENHOLM. Mr. Chairman, I rise in strong support of H.R. 729, the Effective Death Penalty Act.

H.R. 729 establishes new and greatly needed restrictions on the use of habeas corpus petitions. This bill would limit the endless appeals process and set fair time limits for the filing of habeas appeals. Not only does this bill place time limits on filing habeas petitions, but also on complete consideration of habeas petitions in death penalty cases by the Federal courts.

Furthermore, this bill would generally limit State prisoners under a sentence of death to a single Federal habeas petition. In order to file another petition, the prisoner would need to show through clear and convincing evidence that, without the constitutional error, the defendant would not be found guilty by a reasonable jury. This provision will help close the loopholes that have allowed prisoners to have their cases reviewed time and time again. The abuse of habeas appeals has had a significant effect on the enforcement of the death penalty in States, and this bill appropriately addresses these abuses.

This bill also simplifies the process of imposing the Federal death penalty by reducing the discretion of the jury in deciding whether to recommend the death penalty. This bill not only eliminates life imprisonment without parole as a possible sentence for the specified Federal crimes subject to the death penalty, but it requires that juries in Federal courts be instructed to recommend a death sentence if the aggravating factors outweigh the mitigating factors.

For far too long now the American taxpayer has footed the bill while death row prisoners have filed appeal after meaningless appeal. It is time for Congress to provide sound guidelines to the appeals process. Those who have been victimized by violent criminals have a right to expect timely justice, and this bill will help to ensure that they receive nothing less. I strongly urge my colleagues to support H.R. 729.

Mr. CONYERS. Mr. Chairman, H.R. 729 is the latest in a series of legislative proposals dating back a decade that have attempted to speed up the execution of the more than 2,300 people on death row in this country. The common thread in these proposals is imposing a time limit on filing the habeas petition, typically set at 6 months to 1 year, and restricting the number of appeals a prisoner can make, that is, one bite at the apple.

The McCollum bill follows this approach, with a few variations, one of which is worth supporting. That is the section providing for automatic stays of execution while a habeas petition is pending. This is a much needed improvement on the current system where the fate of a condemned man hangs in the balance while lawyers scramble at the last minute to find a judge who will issue a stay of execution.

In all other respects, H.R. 729 combines the worst of the habeas bills, for instance, by setting a 6-month deadline for habeas petitions instead of 1 year, or it fails to make meaningful changes.

Thoughtful reformers like my former colleague, Representative Kastenmeier, the American Bar Association, and the Judicial Conference, have suggested that the goals of streamlining the process and eliminating uncertainty could be achieved if the States agreed to adopt measures that would ensure fairness. That is a good tradeoff, in my view.

The McCollum bill, however, imposes all the deadlines and restrictions without any of the fairness. In that sense, it is more of a political statement than a serious attempt to reform the process. The bill may achieve the goal of speedier executions but the cause of justice will not be served. It is an admission of failure to pursue one without the other.

What is missing is any attempt to remedy the most pressing problem at the source: poorly represented defendants at trials where almost all the constitutional errors that are later reversed on appeal occur. The reason for incompetent representation is simple: Many States pay less than $1,500 for trials—not enough to defend a drunk driver, let alone a capital defendant.

When you consider that retrials have been ordered by the Federal courts in 40 percent of the habeas cases since 1976, the McCollum bill's failure to require competent counsel at State trial proceedings is a fatal flaw that makes me unable to support this legislation.

There is another omission in the bill that is even more glaring. It goes to the heart of due process and fundamental fairness: An innocent man should never be executed.

The McCollum bill permits habeas claims only in the difficult-to-imagine situation where there is ''clear and convincing'' evidence of innocence and ''no reasonable juror'' would find the petitioner guilty. I will be supporting an amendment that will substitute ''preponderance of the evidence'' instead of the more restrictive standard.

This amendment simply states that the Federal courts should always be available to hear claims of innocence when based on newly discovered evidence. Representative MCCOLLUM's standard is far better suited to dispose of the claim rather than a standard of whether to hear the claims in the first place.

Mr. PORTMAN. Mr. Chairman, every year nearly 5 million people are victims of violent crime. Despite this, only 65 percent of all reported murders, 52 percent of reported rape, and 56 percent of reported aggravated assault result in the arrest of a suspect. Every year, 60,000 criminals convicted in a violent crime never go to prison. Given these facts, it is easy to understand why crime, especially among young offenders, is increasing. Without an effective criminal justice system, there is no meaningful deterrent to crime.

This is especially the case when you look at death penalty procedures. The death penalty should be the most extreme deterrent against crime. In many countries around the world it has this effect. In the United States, however, it has become so mired in convoluted proceedings, that it has lost its significance as a credible punishment and deterrent to crime. Death row prisoners routinely take advantage of an endless appeals process to delay punishment indefinitely. Since 1991, Federal habeas corpus cases have more than doubled. Thousands of frivolous petitions clog the Federal court system, making it virtually impossible to complete the process and deliver punishment. It is not uncommon for proceedings to take up to 14 years, or more; 14 years from the time a person is sentenced for committing a violent crime until the time he receives his punishment—hardly a credible deterrent. In 1994, district courts fully dismissed only 2 capital habeas corpus petitions, out of the hundreds that were filed to delay the process further. This undermines our whole system of justice.

Today we have the opportunity to remedy this serious problem within our criminal justice system. The Effective Death Penalty Act will streamline the habeas corpus process and reform death penalty procedures, reaffirming the commitment of Congress to ensure swift and effective punishments for perpetrators of the most egregious crimes. I urge my colleagues to support meaningful reform to the habeas corpus process and give the American people a reason to put their faith back into our criminal justice system.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the order of the House of Tuesday, February 7, 1995, the committee amendment in the nature of a substitute is considered as an original bill for the purpose of amendment and is considered as having been read.

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

H.R. 729

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Effective Death Penalty Act of 1995''.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HABEAS CORPUS REFORM

SUBTITLE A—POST CONVICTION PETITIONS: GENERAL HABEAS CORPUS REFORM

Sec. 101. Period of limitation for filing writ of habeas corpus following final judgment of a State court.

Sec. 102. Authority of appellate judges to issue certificates of probable cause for appeal in habeas corpus and Federal collateral relief proceedings.

Sec. 103. Conforming amendment to the rules of appellate procedure.

Sec. 104. Effect of failure to exhaust State remedies.

Sec. 105. Period of limitation for Federal prisoners filing for collateral remedy.

SUBTITLE B—SPECIAL PROCEDURES FOR COLLATERAL PROCEEDINGS IN CAPITAL CASES

Sec. 111. Death penalty litigation procedures.

SUBTITLE C—FUNDING FOR LITIGATION OF FEDERAL HABEAS CORPUS PETITIONS IN CAPITAL CASES

Sec. 121. Funding for death penalty prosecutions.

TITLE II—FEDERAL DEATH PENALTY PROCEDURES REFORM

Sec. 201. Federal death penalty procedures reform.

TITLE I—EFFECTIVE DEATH PENALTY

Subtitle A—Post Conviction Petitions: General Habeas Corpus Reform

SEC. 101. PERIOD OF LIMITATION FOR FILING WRIT OF HABEAS CORPUS FOLLOWING FINAL JUDGMENT OF A STATE COURT.

Section 2244 of title 28, United States Code, is amended by adding at the end the following:

''(d)(1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

''(A) The time at which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review.

''(B) The time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action.

''(C) The time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable.

''(D) The time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

''(2) Time that passes during the pendency of a properly filed application for State review with respect to the pertinent judgment or claim shall not be counted toward any period of limitation under this subsection.''.

SEC. 102. AUTHORITY OF APPELLATE JUDGES TO ISSUE CERTIFICATES OF PROBABLE CAUSE FOR APPEAL IN HABEAS CORPUS AND FEDERAL COLLATERAL RELIEF PROCEEDINGS.

Section 2253 of title 28, United States Code, is amended to read as follows:

''§ 2253. Appeal

''(a) In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

''(b) There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

''(c) An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause. A certificate of probable cause may only issue if the petitioner has made a substantial showing of the denial of a Federal right. The certificate of probable cause must indicate which specific issue or issues satisfy this standard.''.

SEC. 103. CONFORMING AMENDMENT TO THE RULES OF APPELLATE PROCEDURE.

Federal Rule of Appellate Procedure 22 is amended to read as follows:

''RULE 22

''HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

''(a) APPLICATION FOR AN ORIGINAL WRIT OF HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

''(b) NECESSITY OF CERTIFICATE OF PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate of probable cause is not required.''.

SEC. 104. EFFECT OF FAILURE TO EXHAUST STATE REMEDIES.

Section 2254(b) of title 28, United States Code, is amended to read as follows:

''(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State. A State shall not be deemed to have waived the exhaustion requirement, or be estopped from reliance upon the requirement unless through its counsel it waives the requirement expressly.''.

SEC. 105. PERIOD OF LIMITATION FOR FEDERAL PRISONERS FILING FOR COLLATERAL REMEDY.

Section 2255 of title 28, United States Code, is amended by striking the second paragraph and the penultimate paragraph thereof, and by adding at the end the following new paragraphs:

''A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

''(1) The time at which the judgment of conviction becomes final.

''(2) The time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action.

''(3) The time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable.

''(4) The time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.''.

Subtitle B—Special Procedures for Collateral Proceedings in Capital Cases

SEC. 111. DEATH PENALTY LITIGATION PROCEDURES.

(a) IN GENERAL.—Title 28, United States Code, is amended by inserting the following new chapter after chapter 153:

''CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

''Sec.
''2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
''2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
''2258. Filing of habeas corpus petition; time requirements; tolling rules.
''2259. Scope of Federal review; district court adjudications.
''2260. Certificate of probable cause inapplicable.
''2261. Application to State unitary review procedures.
''2262. Limitation periods for determining petitions.
''2263. Rule of construction.

''§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

''(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

''(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

''(c) Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record: (1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer; (2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

''(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

''(e) The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254 of this chapter. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

''§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

''(a) Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

''(b) A stay of execution granted pursuant to subsection (a) shall expire if—

''(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court;

''(2) upon completion of district court and court of appeals review under section 2254 the

petition for relief is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

''(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

''(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

''(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

''(2) the failure to raise the claim is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

''(3) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable fact finder would have found the petitioner guilty of the underlying offense.

''(d) Notwithstanding any other provision of law, no Federal district court or appellate judge shall have the authority to enter a stay of execution, issue injunctive relief, or grant any equitable or other relief in a capital case on any successive habeas petition unless the court first determines the petition or other action does not constitute an abuse of the writ. This determination shall be made only by the district judge or appellate panel who adjudicated the merits of the original habeas petition (or to the district judge or appellate panel to which the case may have been subsequently assigned as a result of the unavailability of the original court or judges). In the Federal courts of appeal, a stay may issue pursuant to the terms of this provision only when a majority of the original panel or majority of the active judges determines the petition does not constitute an abuse of the writ.

''§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

''Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within one hundred and eighty days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

''(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

''(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

''(3) during an additional period not to exceed sixty days, if (A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and (B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

''§ 2259. Scope of Federal review; district court adjudications

''(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

''(1) the result of State action in violation of the Constitution or laws of the United States;

''(2) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

''(3) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review.

''(b) Following review subject to the constraints set forth in subsection (a) and section 2254(d) of this title, the court shall rule on the claims properly before it.

''§ 2260. Certificate of probable cause inapplicable

''The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to the provisions of this chapter except when a second or successive petition is filed.

''§ 2261. Application to State unitary review procedure

''(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. The provisions of this chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

''(b) A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

''(c) Sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the one hundred and eighty day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or his counsel.

''§ 2262. Limitation periods for determining petitions

''(a)(1) A Federal district court shall determine such a petition or motion within 60 days of any argument heard on an evidentiary hearing, or where no evidentiary hearing is held, within 60 days of any final argument heard in the case.

''(2)(A) The court of appeals shall determine any appeal relating to such a petition or motion within 90 days after the filing of any reply brief or within 90 days after such reply brief would be due. For purposes of this provision, any reply brief shall be due within 14 days of the opposition brief.

''(B) The court of appeals shall decide any petition for rehearing and or request by an appropriate judge for rehearing en banc within 20 days of the filing of such a petition or request unless a responsive pleading is required in which case the court of appeals shall decide the application within 20 days of the filing of the responsive pleading. If en banc consideration is granted, the en banc court shall determine the appeal within 90 days of the decision to grant such consideration.

''(3) The time limitations contained in paragraphs (1) and (2) may be extended only once for 20 days, upon an express good cause finding by the court that the interests of justice warrant such a one-time extension. The specific grounds for the good cause finding shall be set forth in writing in any extension order of the court.

''(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the redetermination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

''(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

''(d) The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

''(e) The Administrative Office of United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.

''(f) The adjudication of any petition under section 2254 of this title that is subject to this chapter, and the adjudication of any motion under section 2255 of this title by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

''§ 2263. Rule of construction

''This chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part VI of title 28, United States Code, is amended by inserting after the item relating to chapter 153 the following new item:

''154. Special habeas corpus procedures in capital cases ..... 2256''.

Subtitle C—Funding for Litigation of Federal Habeas Corpus Petitions in Capital Cases

SEC. 121. FUNDING FOR DEATH PENALTY PROSECUTIONS.

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new section:

''FUNDING FOR LITIGATION OF FEDERAL HABEAS CORPUS PETITIONS IN CAPITAL CASES

''SEC. 523. Notwithstanding any other provision of this subpart, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to Federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to Federal appropriation, in the same fiscal year.''.

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after the item relating to section 522 the following new item:

''Sec. 523. Funding for litigation of Federal habeas corpus petitions in capital cases.''.

TITLE II—FEDERAL DEATH PENALTY PROCEDURES REFORM

SEC. 201. FEDERAL DEATH PENALTY PROCEDURES REFORM.

(a) IN GENERAL.—Subsection (e) of section 3593 of title 18, United States Code, is amended by striking ''shall consider'' and all that follows through the end of such subsection and inserting the following: ''shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants. The jury shall be instructed that its recommendation concerning a sentence of death is to be based on the aggravating factor or factors and any mitigating factors which have been found, but that the final decision concerning the balance of aggravating and mitigating factors is a matter for the jury's judgment.''.

(b) CONFORMING AMENDMENT.—Section 3594 of title 18, United States Code, is amended by striking ''or life imprisonment without possibility of release''.

The CHAIRMAN. Pursuant to a previous order of the House, the bill shall be considered for amendment under the 5-minute rule for a period not to exceed 6 hours.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. MCCOLLUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCCOLLUM: Page 20, line 6, strike ''shall'' and insert ''is authorized to.''

Mr. MCCOLLUM. Mr. Chairman, this is purely a technical amendment. We had unintentionally done an appropriations and authorization bill, and we simply needed to change the language to make sure that, in the section of the bill dealing with the funding portions of this with respect to the director providing grants to the States for prosecution and litigation pertaining to habeas corpus, we do not actually direct the funding, but rather, we authorize it. It is a technical amendment.

Mr. Chairman, I do not have anything else I can say except we need to do this. I urge the adoption of the amendment.

Mr. SCHUMER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I have seen the gentleman's amendment. It is truly a technical amendment. I have no objection to that. I believe our side has no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to the bill?

AMENDMENT OFFERED BY MR. SCHUMER

Mr. SCHUMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SCHUMER: After subtitle B of title I insert the following:

Subtitle C—Competent Counsel in Death Penalty Cases in State Court

SEC. 121. COMPETENT COUNSEL IN STATE COURT.

(a) IN GENERAL.—Title 28, United States Code, is amended by inserting after the chapter added by section 111 the following:

''CHAPTER 154A—COMPETENT COUNSEL IN STATE COURT

''Sec.
''2263. Competent counsel in State court.

''§ 2263. Competent counsel in State court

''(a) If an action under section 2254 of this title, brought by an applicant under sentence of death, the court determines that—

''(1) the relevant State has established or identified a counsel authority which meets the requirements of subsections (b) through (e) of this section, to ensure that indigents in capital cases receive competent counsel and support services at trial in State court and on direct review in the appropriate State appellate courts;

''(2) if the applicant in the instant case was eligible for the appointment of counsel and did not waive such an appointment, the counsel authority actually appointed an attorney or attorneys to represent the applicant; and

''(3) the counsel so appointed met the qualifications and performance standards established by the counsel authority;

then the court shall not apply subsection (f) of this section to the claims presented in the application.

''(b) The counsel authority may be—

''(1) the highest State court having jurisdiction over criminal matters;

''(2) a committee appointed by the highest State court having jurisdiction over criminal matters; or

''(3) a defender organization.

''(c) The counsel authority shall publish a roster of attorneys qualified to be appointed in capital cases, procedures by which attorneys are appointed, and standards governing the qualifications, performance, compensation, and support of counsel; and, upon the request of a State court before which a death penalty is pending, shall appoint counsel to represent the client.

''(d) An attorney who is not listed on the roster shall be appointed only on the request of the client concerned and in circumstances in which the attorney requested is able to provide the client with competent legal representation.

''(e) Upon receipt of notice from the counsel authorized that an individual entitled to the appointment of counsel under this section has declined to accept such an appointment, the court requesting the appointment shall conduct, or cause to be conducted, a hearing, at which the individual and counsel proposed to be appointed under this section shall be present, to determine the individual's competency to decline the appointment, and whether the individual has knowingly and intelligently declined it.

''(f) Except as provided by subsection (a) of this section, in an action under section 2254 of this title, brought by an applicant under sentence of death, the court shall not decline to consider a claim on the ground that it was not previously raised in State court at the time and in the manner prescribed by State law and, for that reason, the State courts refused or would refuse to entertain it.''.

(b) CLERICAL AMEMDMENT.—The table of chapters at the beginning of part VI of title 28, United States Code, is amended by inserting after the item relating to the chapter added by section 111 the following new item:

''154A, Competent Counsel in State Court ..... 2263''.

Redesignate succeeding subtitles and sections (and any cross references thereto) accordingly.

Mr. SCHUMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. SCHUMER. Mr. Chairman, as I have mentioned before, I favor the procedural form in the bill before us as it was reported, because I take the need for these reforms seriously. I support the death penalty in appropriate cases, and I believe that it should be carried out when the time comes.

I believe that the time for this ultimate penalty should not be delayed over and over and over again by repeated, redundant, and frivolous petitions. Those who bring the petitions are morally opposed to capital punishment. I respect that view. However, their view is not the prevalent law of the land in most of the Sates, and they should not be allowed to use that moral preference to just delay and delay and delay.

Mr. Chairman, I think that the general proposal made by the gentleman from Illinois is a fair one. I supported it in committee and intend to support it on the floor of the House, at least as it was reported. I do not know what amendments will come from the other side.

However, Mr. Chairman, I also strongly believe that to put people on trial for their very lives without giving them good counsel is fundamentally unfair and ultimately outrageous. It is not worthy of all the good and decent and fair things that make us proud of our country and of our unique system of justice. Unfortunately, Mr. Chairman, the sad truth is that we do just that in far too many cases.

The greatest single cause of error in death penalty cases is poor counsel at trial. Let me be blunt, Mr. Chairman, about what the words ''poor counsel'' mean. They mean lawyers who are drunk at trial. They mean lawyers who openly speak of their clients in racially

insulting terms. They mean lawyers who do not have a clue about how to stand up to the emotion and community pressure that is inevitably generated in every death penalty case. This is a national disgrace. Yet, this reform bill before us contains not one word, not one single word, to ensure that people put on trial for their lives have good lawyers at trial.

Mr. Chairman, my amendment would correct this important omission. Of course, the States are already required by the Constitution to provide some kind of counsel to all criminal defendants, but that is not the point. The point is whether they provide good, competent lawyers who know how to handle death penalty cases and are willing and able to do so. Unfortunately, the evidence is that in all too many instances, lawyers are appointed who are incompetent, who are overworked, who are cronies of trial judges, or, most shameful of all, are actually prejudiced against their clients.

Mr. Chairman, my amendment does not require the States to do anything. It is not a mandate of any form. It does not dictate standards from Washington. It simply gives every State a simple choice. It may choose to set up an independent counsel authority, and that authority can be the highest court, a committee appointed by that court, or a defender organization.

There is wide latitude in that part of the choice. It will be up to the State authority to set standards of competence for counsel, means of appointing counsel, and adequate pay for counsel. If the State chooses to set up an authority, then Federal courts will not review claims that should have been raised in State courts but were not. To a large extent, that is the law that now exists.

On the other hand, Mr. Chairman, if a State chooses not to set up a counsel authority, then Federal courts will consider claims that petitioners fail to raise in State court but did not. It is a very simple choice. It is saying,

> If you provide adequate counsel, without we, the Federal Government, dictating what adequate counsel is, then you don't have to have full Federal review of your claims. However, if you don't, there ought to be a full Federal review.

That makes eminent sense to anyone, it seems to me, who is fair-minded and looks at capital punishment fairly. I say that again as somebody who supports capital punishment.

Let me give the Members a few examples, all from within the last 10 years of how it happens that these claims are not raised.

A lawyer in Florida admitted to the trial judge in chambers that, ''I am at a loss,'' he told the judge. He said, ''I really don't know what to do in this type of proceeding. If I had been through one, I would, but I have never handled one except this time.''

A lawyer in an Alabama trial asked for time between the guilt phase and the death penalty phase to read the Alabama death penalty statute. A lawyer in Pennsylvania built his client's defense around a statute.

The CHAIRMAN. The time of the gentleman from new York [Mr. SCHUMER] has expired.

(By unanimous consent, Mr. SCHUMER was allowed to proceed for 3 additional minutes.)

Mr. SCHUMER. Mr. Chairman, the lawyer from Pennsylvania billed his client's defense around a statute that 3 years earlier had been declared unconstitutional. These are only a few cases of many, many examples that show bad lawyers are appointed to death penalty cases.

If a person has a bad lawyer, that lawyer obviously will fail to raise issues that should be raised when they should be raised. When that happens, Mr. Chairman, the only place they can be effectively heard is in Federal court on a habeas petition.

If one has a good lawyer, however, that will raise all the important issues, so that they are heard of and disposed of in States courts, there is no need to review them in Federal court unless the State court has made a mistake in law.

In other words, it will be done right the first time, and for so many of the members on that side of the aisle and on this side of the aisle who really feel that there is too much delay and too much appeal, the best way to ensure that there is not that delay, not only on a statutory but on a constitutional basis, is to make sure in this way that there is adequate counsel at trial.

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The amendment will help make sure we do it right the first time. It is fair, it is just, it is needed.

I urge every member, whatever their view is on the ultimate bill, to support this very reasonable amendment.

Mr. MCCOLLUM. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to this amendment. The gentleman I am sure is sincere about what he wishes to accomplish but quite frankly if this amendment is adopted, it is going to destroy the underpinnings of this bill to speed up the process of carrying out the death sentences in this country.

Right now the way the bill works is that you have to have as a State an agreement to appoint certain counsel as prescribed in the legislation, certain attorneys or lawyers, for defendants in State habeas proceedings, not at the trial level.

If you opt to do that, then the time limits come down for taking the appeals to the Federal court to 180 days instead of the lengthy time that is otherwise in the bill, and you would otherwise be subjected to. You gain the limits on successive petitions so that there is no right to have these successive petitions, and you engage the timetables in this bill that are designed at every stage of the proceeding to reduce the amount of time involved in death row cases.

What the gentleman is suggesting is that essentially this be expanded, this right to counsel, this provision of opting in, that the States in order to be able to be eligible for all of the kinds of changes in the law we are going to enact today if we pass this bill must provide counsel under the procedures that he has described at the trial level, at the original trial level.

I think everybody needs to understand that under the laws of this country, since Gideon versus Wainwright, every accused has the right to counsel and the State must provide that counsel, adequate counsel, to the accused in any case, be that a death penalty case or otherwise. If inadequate counsel is provided and sometimes unfortunately that has happened and the gentleman is quite right on that point, then in that particular case there is a grievance that is appropriately presented in the court system and sometimes that is presented in the habeas corpus petitions that we are discussing today in Federal court, and if indeed that is upheld that somebody did not have the proper counsel, did not have adequate counsel, then he is entitled to have his entire case retried, and that certainly would not be something we would particularly want to have happen.

But the truth of the matter is that we do have a procedure for adequate counsel and all kinds of protections for the accused that are built into that system at the trial level.

What the gentleman wants to do and what he does by his amendment today is to add a series of things that people have to go through, a roster has to be formed, a State has to pass a counsel authority in one of three or four forms and you have to comply with all of these procedures and in the end the expense and the problems and the difficulty of going through this in my judgment and many others' who have looked at this will mean that most States will choose not to do this. They will simply choose to not opt in. Therefore, we will not have an effective bill. We will not shorten the time death row inmates have for carrying out their sentences that we want to do. The underlying bill will indeed fail in its objective if this indeed occurs.

Right now, under current law in most Federal cases, a court cannot hear a claim on Federal collateral review that was not first raised in State collateral review. This is known as a procedural default.

The purpose of this rule is to ensure that State courts first have an opportunity to correct constitutional errors. It discourages sandbagging of claims and encourages the orderly consideration of claims by State and Federal courts.

The Schumer amendment in addition to everything else I have said will gut this important rule if States do not adopt his counsel requirements. His

amendment puts States in a no-win situation. Either they adopt his expensive requirements of counsel, which I do not think many will do, at all stages of State review, for the first time in history putting counsel in State capital trials under the thumb of Congress, or face more delays in litigation in Federal court.

Under the Schumer amendment, States can choose between an unfunded mandate or greater delay for capital cases.

Our bill gives States the option of continuing to litigate cases under current law or getting stronger rules of finality as the benefit for having provided counsel on collateral review, the State habeas proceedings that we are talking about rather than the requirements at the trial level that the gentleman from New York [Mr. SCHUMER] is talking about.

We do not punish States that want to impose the death penalty as the Schumer amendment would do and the amendment as I view it is insulting to victims and to States. It would not result in reform. It would be a retrogression, and it should be rejected.

Mr. FOGLIETTA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to oppose the Effective Death Penalty Act, and in favor of the Schumer amendment.

Earlier today we pulled the teeth out of the fourth amendment. Now we are continuing our assault on the Constitution by making it near to impossible for a prisoner sentenced to death to seek justice. The Framers said in Article I, section 9 that ''the privilege of the Writ of Habeas Corpus shall not be suspended.'' Today, we are not just suspending it. We are ripping it to shreds.

Like so many things in the contract, we resort to coping with genuine problems with artificial deadlines, gimmicks and smoke and mirrors—instead of effective solutions.

Make no mistake, there are problems with the way the courts are required to handle habeas corpus petitions. If you talk to the lawyers and the judges who deal with this every day, you will know what the problem is. It is that many of the attorneys trying death penalty cases are not qualified. I am not saying that we should pay Johnny Cochran or Robert Shapiro to represent every accused killer. But, to really solve this problem, we have to improve the caliber of attorneys in death cases. That way, a prisoner could not come back to the court on countless occasions and say that their attorney was ineffective in his case.

That is why the Schumer amendment makes so much sense. This strategy would allow us to balance the need to preserve the Constitution, with better efficiency in our courts.

There are so many things that are unfair about the Effective Death Penalty Act. The sole incentive for a state to provide counsel at the habeas stage is to reduce the statute of limitations. But that is grossly unfair to the prisoner. Just think about it. How can a new lawyer, however competent, freshly investigate the case, develop legal arguments and effectively prepare a petition in just 6 months. This law begs for the very ineffectiveness of counsel we are trying to end.

Further, the standard for filing a second habeas petition is so tough that it renders habeas a constitutional memory. How could a prisoner like Walter McMillan seek justice? This is a man who was finally able to convince a court that he was the wrong man, but only after four habeas petitions. We must allow prisoners to present newly discovered evidence in a habeas petition.

The title of this bill is the Effective Death Penalty Act. But it is anything but effective. It is unfair, unjust and unconstitutional.

A lot of my colleagues on the other side of the aisle have cited Jefferson and Madison in these debates. They assure us that they would approve of what we are doing. But they do not cite their words.

The fact is that we know precisely what the Founders have said. They said, ''no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.''

They said, ''The Privilege of the Writ of Habeas Corpus shall not be suspended.''

This is what they said. This is our Constitution. Let's begin to pay attention to it. Let us not tear it up.

Mr. CHABOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Latin phrase habeas corpus may cause people's eyes to glaze over, but the reforms in this bill begin to address what I consider to be the biggest problem in the Federal justice system, the seemingly unending string of appeals that convicted criminals may file to postpone again and again the day of final judgment.

Mr. Chairman, there is no good reason for the taxpayers in my community, Cincinnati, or anywhere else to foot the bill for the John Wayne Gacys and other criminals in this world who have taken human life, innocent human life so they can play games with our legal system from their prison cells for year after year after year.

There ought to come a point, Mr. Chairman, after a trial by a jury of one's peers and after going through the appeals process in the State court system and then finally the Federal court system where enough is finally enough.

By moving forward on this bill, the Effective Death Penalty Act, we are fulfilling another element of the Contract With America. In doing so, we are also attempting to ensure that the death penalty is of more than academic interest to jailhouse lawyers.

□ 1610

If the death penalty is to serve as a real deterrent, we must see that it is imposed fairly and surely—and reasonably swiftly. This bill is just a start, but it is a good start.

Our colleagues should understand that the statutory habeas corpus provisions we are reforming today are not related to the habeas corpus protections contained in the Constitution. The constitutional protections apply to remedy lawless incarcerations by the executive without court authority; they do not deal with imprisonment ordered by State officials pursuant to court order after conviction at trial. But confusion over the shared Latin title should not confuse the issue: Our Constitution does not mandate, nor does common sense decree, today's system of virtually unlimited frivolous Federal appeals.

Unlike the valuable protections our Constitution provides, today's statutory scheme as interpreted by the courts allows endless appeals after endless delays. If a decision ever is reached, the convicted criminal simply starts the process all over again on some other point. In effect, there is now no statute of limitations, and no finality of Federal review of State court convictions. The statutory habeas system is not rational, it's not just, and it's not followed by any other civilized nation.

As former Supreme Court Justice Lewis Powell said in his review of our flawed process: ''I know of no other system of justice structured in a way that assures no end to the litigation of a criminal conviction.''

Mr. Chairman, this bill makes a start toward bringing victims of crime some closure to their ordeals. Some may not believe that this reform goes far enough, but it is reform, and I urge the bill's adoption and I urge defeat of the Schumer amendment.

Mr. CONYERS. Mr. Chairman, Sixty-three years ago, in Powell versus Alabama, the case involving the Scottsboro boys, the Supreme Court established as a constitutional principle that indigent defendants would not be sentenced to death unless they were represented by competent counsel.

That promise remains unfulfilled to this day and it is one of the most glaring omissions in the McCollum bill.

Having competent counsel is so important because failure at the front end, that is, the trial stage, leads to the delays and multiple petitions at the back end that resulted in retrials being ordered in 40 percent of all habeas petitions filed since 1976. Without competent counsel at trials any reform is meaningless.

Leaving it to the States to appoint counsel is no solution because the current system is a disaster: in Kentucky, attorneys who represented a quarter of the State's 26 death row inmates have since been suspended, disbarred, or convicted of crimes.

In Mississippi and Arkansas, compensation for death row attorneys was limited by statute to $1,000, though hundreds of hours of work are involved.

In one judicial district in Georgia, capital cases were awarded to the lowest bidder.

South Carolina pays $10 per hour for out-of-court work and $15 for in-court work.

That is the system the McCollum bill would seek to preserve: uncompensated, ill-prepared and inexpert counsel for those whose lives are hanging in the balance. Surely, we can do better.

Habeas cases are among the most complex in all litigation. In addition to the highest stakes possible—life or death—there is a very complex body of constitutional law and unusual procedures that do not apply in other criminal cases. There are often two separate trials with very different sets of issues. Jury selection standards are different. The penalty phase requires in-depth investigation into personal and family history.

The McCollum bill is woefully inadequate in providing counsel and I urge my colleagues to support the amendment to require counsel at the trial as well as postconviction phase.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SCHUMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WATT of North Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 282, not voting 3, as follows:

[Roll No 104]

AYES—149

Abercrombie
Ackerman
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Conyers
Costello
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Thompson
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—282

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—3

Collins (MI)
Frank (MA)
Radanovich

□ 1631

The Clerk announced the following pair:

On this vote:

Miss Collins of Michigan for, with Mr. Radanovich against.

Messrs. ROSE, SPENCE, KLINK, MURTHA, ORTIZ, and DOYLE changed their vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WATT of North Carolina: Page 4, line 26, strike the period and insert the following:

''or a substantial showing that credible newly discovered evidence which, had it been presented at trial, would probably have resulted in an acquittal for the offense for which the sentence was imposed or in some sentence other than incarceration.''

Page 4, line 26, Strike the entire sentence beginning with the word ''The'' and ending with ''standard.''

Page 15, line 7, delete the period and insert ''; or''

Page 15, after line 7 add:

''(4) the facts underlying the claim consist of credible newly discovered evidence which, had it presented to the trier of fact or sentencing authority at trial, would probably have resulted in an acquittal of the offense for which the death sentence was imposed.''

Mr. WATT of North Carolina. Mr. Chairman and colleagues, we have heard, again, the Constitution of the United States is under attack in this bill.

There is only one place in the United States Constitution where the words habeas corpus are written. It is Article I, section 9, clause 2, which says, ''The privilege of the writ of habeas corpus shall not be suspended unless when in cases of rebellion or invasion the public safety may require it.''

As much as I have looked for rebellion or invasion in our streets, among all the crime I have not found it. Yet here we are attempting to undermine the provision in the Constitution again.

In the committee, Mrs. SCHROEDER brought in some evidence, a letter which was a letter of support from a number of different people and groups. And one of those groups was some people who felt strongly about supporting the Constitution because they had been involved with the Civil War issue. And the question was raised: Why would they have an interest in this? And I went back and looked, and I pointed out to the committee members that the reason that somebody who had some interest in slavery would have an interest in this bill was because the provisions, original provisions in the Constitution having to do with slavery, are in article I of the Constitution also.

That provision in the Constitution says, and this is section 9, clause 1 of

article I of the Constitution, says, ''The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year 1808,'' and then it goes on.

My colleagues, we fought a Civil War a hundred years later in this country over this provision in the Constitution. A hundred years after the year 1808, southerners were still claiming that they had the right to bring slaves into the South. And a whole war was fought about this single line in the Constitution.

And in 1 day in our Judiciary Committee, and apparently in less than 2 hours or so of debate on this floor, we are getting ready to do essentially what a civil war was fought about in our country.

We are undermining a simple provision in the Constitution, not the same provision, but I would submit to you that if that language 100 years after the prohibition in the Constitution had expired, clearly based on the language was worth fighting for, surely the right of habeas corpus in this country ought to be worth fighting for.

But here we are again, conservatives saying, ''This is a conservative group of people, we have a conservative Contract With America, we are conservatives, but we don't believe in the most conservative document that our country has ever had, and we would undermine it.''

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. WATT] has expired.

(By unanimous consent, Mr. WATT of North Carolina was allowed to proceed for 4 additional minutes.)

Mr. WATT. Mr. Chairman, the language is simple. It says, point blank, this is the only place you will find these words in the Constitution, there being no other reference to habeas corpus in the entire Constitution, and listen, let them resonate in this body, if they will, if anybody will listen to them. This is the Constitution of the United States that we are talking about.

It simply says the privilege of the writ of habeas corpus shall not be suspended unless when in the cases of rebellion or invasion the public safety may require it. There is no rebellion or invasion. There may be a bunch of crime in the streets, but I ''ain't'' seen a rebellion and no invasion.

□ 1640

And here we are, undermining the writ, and I say to my colleagues, ''Mind you, it doesn't say we can suspend it if we find probable cause. That's not here. That's what the language of the bill says, but that's not here in the Constitution. Nothing about probable cause. Probable cause is what we were arguing about in the last assault on the Constitution just a couple of hours ago that these conservative Members would have us do away with.''

Well, what does my amendment do? It says, ''At least, if somebody comes forward with credible evidence of innocence, at least they ought to be guaranteed the protections that our Constitution provides to us.''

And we are seeing it every day now. Advances in technology have given us DNA testing that allows us to run specific DNA testing to determine whether a person is guilty or innocent, and in a number of cases where this sophisticated technology—cases where people have been in jail for 20 years, been on death row—this DNA technology is coming forward now and saying we went back, and we checked that blood sample, or that hair strand, or that fingerprint, or that little piece of clothing, and this person could not have been the perpetrator of this crime. Yet they sat in jail. They have been subjected to facing the death penalty.

Mr. Chairman, all this amendment would do is preserve that right for them to raise credible evidence of innocence. We are talking about protecting people who can come in with credible evidence of innocence at any time during the proceeding.

My colleagues, I am the last person who is going to get into an argument about who is the most conservative person in this body. I think I have demonstrated, when it comes to the Constitution, though not bragging rights in my district to go home and say I am a conservative, but, my colleagues, it is a conservative principle to uphold the Constitution of the United States. This is not radical liberal stuff. This is the stuff that our country is made of.

So, Mr. Chairman, I ask my colleagues, in their haste to undermine habeas in a general way, at least preserve the rights and protections to those people who can still come forward with credible evidence of their own innocence. We should never, never, ever, put a person to death in this country when they are innocent because of procedural technicalities. In the last bill they were arguing all these procedural technicalities. Well, look. Give me a break. Give the people a break. We should never put anybody to death on a procedural technicality, and that is what this bill does. It poses an additional procedural technicality.

Mr. MCCOLLUM. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from North Carolina [Mr. WATT].

Mr. Chairman, on the face of what the gentleman from North Carolina says and offers, one might make the assumption that it sounds perfectly reasonable. He says he wants somebody to have a shot at habeas corpus petitions and to appeal his conviction if he has newly discovered evidence which, had it been presented at trial, would probably have resulted in acquittal for the offense for which the sentence was imposed or in some sentence other than incarceration. That sounds reasonable, however it is contrary to existing law. It is contrary to existing court interpretation.

I say to my colleagues, ''The standard for review of the question of whether or not you get a chance to set aside your death penalty case today on the basis of newly discovered evidence of guilt or innocence is that the petitioner, in the absence of constitutional error, which is other stuff, must show that the new factual evidence that he has presented unquestionably establishes innocence.'' That is a 1993 recent decision of the U.S. Supreme Court. Consequently what the gentleman offers would weaken the current law with respect to these processes.

I would like to remind all of my colleagues that we are now not talking about somebody who has not gone through the due process considerations. We are not even talking about whether he had a competent counsel or not. We are talking about somebody who has been to trial, gone through a jury trial, been found guilty of some heinous crime that merits at least in the abstract principle the death penalty on the books of a State or the Federal Government, has taken an appeal of that undoubtedly all the way through the State, if it is a State case, the State supreme court, perhaps the U.S. Supreme Court, probably has gone through one or at least numerous appeals in Federal court under the habeas corpus statute, and I would commend the gentleman to technically observe, and it is just a technical question, that the habeas corpus we are talking about today is statutory, not the great writ in the Constitution. But he has probably taken several statutory habeas corpus appeals, perhaps State habeas, certainly Federal, and he has been denied. Somebody has found him to all the procedures to have been fine. He is found guilty the first time around. He was sentenced properly, et cetera, and how he comes up and comes up with some new standard that is going to be put in law that says for the first time, different from anything that we have done before in the history of the country on these cases, that, ''If you find new credible evidence that would probably have resulted in an acquittal for the offense for which the sentence is imposed, then a Federal court judge can set aside the case and sentence in the conviction and require a new trial.'' It means that there is going to be a relitigation virtually in front of this Federal judge because that Federal judge has got to make a decision that the new evidence would probably have resulted in an acquittal in the first place.

This is a new complexity. It will give new opportunities for appeals. Most of these probably will be denied, and we would have lots more time dillydallying around before these sentences are carried out.

So, as well-meaning as the gentleman's amendment may be on the surface, it actually undermines the very effort we are about to hear today,

which is to speed up the process of carrying out the death sentences in this country.

We have a process now, I think that process is very, very fair. We do not alter it except in timetable sequence here today. We are not changing the underlying law and the rules that we play by in reviewing cases and death penalty cases. But the gentleman from North Carolina's amendment would change the underlying law. He would give another bite at the apple in the conditions and circumstances today the Supreme Court says, ''You don't have that right,'' and even establish an entirely new standard that does not presently today exist for appeals of death penalty cases.

So, for all of those reasons I would oppose this amendment.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Let me be sure that the gentleman understands my amendment because I think he has a misconception of my amendment or he has a misconception of the law.

My amendment only gets the person who is filing the habeas in the courthouse. This is not the standard for determining whether he wins or loses the case. This is the standard for determining whether the court will hear the case.

I say to my colleague, ''If you look at page four where I have amended the bill, it says, 'An appeal may not be taken to the Court of Appeals unless certain things apply,' and that's where my amendment comes into play. It allows him to take appeal. It doesn't set a different standard for that appeal once it is taken.''

□ 1650

If you look on page 14, it says, ''The District Court shall only consider a claim.'' And then it spells out certain circumstances.

The CHAIRMAN. The time of the gentleman from Florida [Mr. MCCOLLUM] has expired.

(At the request of Mr. WATT of North Carolina and by unanimous consent, Mr. MCCOLLUM was allowed to proceed for 3 additional minutes.)

Mr. MCCOLLUM. Mr. Chairman, I continue to yield to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. In that section it says, ''The court shall only consider a claim under certain circumstances.''

I agree with the gentleman that this is not the standard for an ultimate disposition of the case, but it is the prevailing standard for determining whether one gets review or not. That standard was set out very recently by the court again in the case of Schlup versus Delo, January 23, 1995. This is the standard for getting a review. It is not the standard for determining whether somebody gets off or not.

In that case, the court says, ''The standard requires the habeas petitioner to show that 'a constitutional violation has probably resulted in the conviction of one who is actually innocent.'" That is the same language that I have picked up.

So I just wanted to make sure that the gentleman understands. I am not trying to change the ultimate standard on which the person wins or loses. All this does is get the person into the courthouse so the court can evaluate the evidence.

Mr. MCCOLLUM. Mr. Chairman, reclaiming my time, I understand the point of the gentleman. But he changes the rules of how you get into the courthouse in the first place by striking out the current standards of having to have a constitutional infirmity. You do not have to have a constitutional infirmity after you have put your provision in. All you have to show is there is a probability that if you retry the case, you would be found innocent.

In fact what the net result or net defect of this is going to be is that you have established a new process. You may technically say the standards have not changed in the sense that ultimately somewhere down the road the Supreme Court rulings would not be overturned, but the fact of the matter is you have given another bite of the apple to somebody on death row that he does not today have because today you have gained access under this process under something less heavy, a burden on him, than a burden that requires that you show a constitutional defect to get there.

Mr. WATT of North Carolina. If the gentleman will yield further, I am not disputing what the gentleman says. Your bill says you have to raise a constitutional issue.

Mr. MCCOLLUM. So does current law.

Mr. WATT of North Carolina. My amendment says that if you show that you are probably innocent, you should not have to raise a constitutional issue.

If you can come into court at the outset and show there is evidence that you are probably innocent, why should we be telling somebody that they have got to raise a constitutional claim if they are probably innocent?

The CHAIRMAN. The time of the gentleman from Florida [Mr. MCCOLLUM] has again expired.

(By unanimous consent, Mr. MCCOLLUM was allowed to proceed for 1 additional minute.)

Mr. MCCOLLUM. Mr. Chairman, I just want to explain to the gentleman and anybody else here listening to this, other Members, that the current standard, the current threshold for all of this, is either that you have a constitutional infirmity of some sort that gets you into the habeas corpus setting, and your appeals are then heard on that basis, you did not have the proper lawyer or whatever, or the factual evidence is that you are unquestionably innocent. And that is the standard, the Herrera case, a 1993 case. It has been confirmed in the Schlup case in January of this year.

I would submit to the gentleman, while he may be intending to do something less than it is perceived by me to be doing, it seems on its face that he is making a weaker and less stringent standard in terms of getting to the appeal process, and thereby undermining what we are trying to do, to carry out sentences more quickly, and I urge the defeat of his amendment.

Mr. SCOTT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I understand the amendment, and the gentleman from North Carolina [Mr. WATT] can correct me if I am wrong, this is for people who are alleging that they are innocent and they are asking for an opportunity to be heard, and they have evidence that would show that they will probably be found not guilty if the evidence were to be heard.

It seems to me that we have an unfortunate situation in that we have to have the same procedure for those that are in fact guilty and those that are in fact innocent, and we do not know until they are heard which category they fit in. So we have to have one procedure. So we are going to have the procedure for people that are innocent, and the gentleman's amendment would allow the person that is innocent to be heard.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SCOTT. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I think the gentleman from Florida [Mr. MCCOLLUM] is debating a different amendment than the one I offered. I am not trying to change the standard by which somebody wins or loses ultimately. What I am trying to do is make sure that somebody who has a credible claim of innocence does not sit in jail for 30, 40, or 50 years without any remedies or rights; that somebody who has been sentenced to death does not go to the gas chamber or be put to death without being able to come into court and at least present their evidence. Once they present their evidence, the standard of whether they win or not is still going to be the same as the one that the gentleman from Florida [Mr. MCCOLLUM] has talked about.

I cannot be any more blunt. I mean, the Supreme Court has said this is the exact standard, and they said it as recently as January 23, 1995.

So on the last bill we were trying to codify case law. This time we are trying to keep from codifying case law, because we do not care whether somebody is innocent or guilty; we just do not want them in our court system.

Mr. Chairman, I cannot believe we would stand in this body and talk about some kind of procedural technicality to put somebody to death and not give somebody the opportunity if

they have got credible evidence of innocence to present that evidence. Have we become absolutely inhumane in our society and in our quest to deal with the crime problem in this country?

Mr. HEINEMAN. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. HEINEMAN. Mr. Chairman, let us enter into this debate with a little practicality and a little what really happens out there in the street. We will walk the walk a little bit.

On December 3, 1980, Kermit Smith kidnaped Whellette Collins and two of her girlfriends. He kidnaped them from Hallifax, NC. He robbed, raped, and murdered Whellette Collins. He attempted to rob her two girlfriends. They escaped.

Mr. Kermit Smith was apprehended at the scene of the crime. He was tried and convicted of murder and sentenced to death.

Despite the conviction, this case dragged on for 14 years, going before 46 judges and to the U.S. Supreme Court 5 times. Over 150 different writs, stays, and motions were filed during these 14 years. Each delay caused the family of Whellette Collins horrendous pain, and justice was denied them over and over again. And just yesterday we were talking about victims compensation.

Worse still, Smith should have been in prison at the time of the murder for an earlier offense. Not only do we have a problem with outrageous numbers of appeals on death row, but we also are turning criminals loose from a revolving door criminal justice system. I wish this was an isolated incident, but I am willing to wager that every Member in this distinguished body has a Kermit Smith in his or her district.

In the course of ensuring the rights of criminals, we are throwing away the rights of the victims and the victims' families from these painful, extended habeas corpuses.

□ 1700

The current appeals process takes far too long and ties up our court system. Right now State courts hearing death penalty appeals are taking as long as 2½ years. When the Federal appeals process is factored in, an appeal can take as long as 15 years.

Over 300,000 Americans have been murdered since the Supreme Court decision reinstating the death penalty. Approximately 250 criminals have been executed for those crimes. Some say the death penalty is not a deterrent. It would be a deterrent if it were carried out with surety and swiftness. Part of the reason it is not being used is because of the continual unending appeals process. Today we will change that.

The public's safety is the first duty of government. It is why governments were created in the first place, to protect us from predators, both foreign and domestic.

We are, in essence, all victims of government's inept handling of its first duty. Costs of victimization far outweigh the costs of incarceration. Violent crimes are escalating exponentially, despite the good intentions of the administration's hug-a-thug approach to criminal justice. According to the Department of Justice, if something drastically different is not done to reduce crime, five out of six of today's 12 year olds, your children and mine, will be victims of a successful or at least attempted violent crime in their lifetimes. That is five out of six.

As a former chief of police with 38 years of law enforcement experience, I am deeply disturbed by these trends in our criminal justice system. As a father and grandfather, I am outraged.

As the Congressman from the Fourth District of North Carolina and a member of the Committee on the Judiciary, I intend to take action. In this bill the Effective Death Penalty Act, we will return to the notion of deterrence. The only deterrence to criminal activity is punishment. Criminals, by their very definition, do not obey the law. We need to play hard ball so. So far we have not.

More laws will only help if they affect the way the system works. This bill will change the way punishment is meted out. It creates consistent and fair procedures for the application of the death penalty and streamlines the appeals process. In America it seems we try anything once, except criminals.

Over and over and over again criminals play the courts like the lottery, hoping to escape punishment on technicalities.

I strongly urge my colleagues to vote for the Effective Death Penalty Reform Act.

STATE OF NORTH CAROLINA,
Raleigh, NC, January 27, 1995.

Hon. FRED HEINEMAN,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN HEINEMAN: I urge you to push for action in Congress this year to reduce the time for appeals in capital murder cases to the minimum required by the Constitution.

You may have read about the case of Kermit Smith, executed this week for the brutal kidnapping, rape and murder of a college cheerleader. Despite Smith's conviction, this case dragged on for 14 years, going before 46 judges and to the United States Supreme Court five times. As the victim's family and friends told me, each delay caused new anguish. This is not right.

The current appeals process takes far too long and ties up our court system. Right now, state courts hearing death penalty appeals are taking as long as 2½ years. When the federal appeals process is factored in, an appeal can take as long as 15 years. I have included for your review, a procedural outline of the Smith case.

In the last two years, North Carolina has taken significant steps to combat violent crime. We have built or authorized the construction of more than 12,800 new prison beds, built prison work farms and boot camps, and toughened punishment for violent offenders. However, there is still much more to be done to fight crime and protect the citizens of North Carolina. I look forward to working with you on this important issue.

My warmest personal regards.

Sincerely,

JAMES B. HUNT, Jr.,
Governor.

Enclosure.

PROCEDURAL OUTLINE ON KERMIT SMITH

12–3–4–80—Kermit Smith kidnapped Whellette Collins, Dawn Killen and Yolanda Woods. He robbed, raped and murdered Whellette Collins, he attempted to rob Dawn Killen and Yolanda Woods. Smith was apprehended and arrested at the scene.

12–09–80—Halifax County Grand Jury returned true bills of indictment charging Kermit Smith with murder, (Whellette Collins) in Case #80 CRS 15266, Robbery with a Dangerous Weapon, (Whellette Collins) in Case #80 CRS 15271 and First Degree Rape (Whellette Collins) in Case #80 CRS 1565.

04–30–81—Trial in Halifax County Superior Court, before the Honorable George M. Fountain; Smith was found guilty of second degree rape, common law robbery, first degree murder, and received the Death Penalty for the first degree murder conviction.

04–30–81—Notice of Appeal to North Carolina Supreme Court.

10–07–81—Motion to By-Pass the Court of Appeals for second degree rape and common law robbery was granted.

01–29–82—Defendant-Appellant's Brief was filed in the North Carolina Supreme Court.

02–18–82—State's brief was filed in the North Carolina Supreme Court.

06–02–82—Opinion by the North Carolina Supreme Court, affirming convictions and sentences. *State* v. *Smith*, 305 N.C. 691, 292 S.E.2d 264 (1982).

08–22–22—Petition for Writ of Certiorari filed by Smith in United States Supreme Court, No. 8205335.

11–29–82—Certiorari was denied by the U.S. Supreme Court. *Smith* v. *North Carolina*, 459 U.S. 1056, 103 S.Ct. 474, 74 L.Ed.2d 622 (1982).

06–06–83—Motion for Appropriate Relief filed by Smith in Halifax County Superior Court.

08–19–83—Order by Judge Frank R. Brown, limiting issues for hearing. D.A. to file answer to claim V in 20 days.

11–23–83—Amendment to Motion for Appropriate Relief filed by Smith in Halifax County Superior Court.

11–30–83—Answer to Motion for Appropriate Relief by State.

12–5–16–83—Evidentiary hearing. State's proposed Findings of Fact and Conclusions of Law.

12–16–83—Order denying Motion for Appropriate Relief by the Honorable Donald L. Smith, Halifax County Superior Court.

12–16–83—Order setting new date for execution. Date of execution is March 9, 1984.

01–30–84—Order Staying Execution of Death Sentence by Honorable Joseph Branch, Chief Justice of the North Carolina Supreme Court.

08–14–84—Petition was filed by defendant to the North Carolina Supreme Court for certiorari to review the denial of his Motion for Appropriate Relief.

08–13–85—Order by the North Carolina Supreme Court denying Petition for Writ of Certiorari to review the Superior Court of Halifax County. *State* v. *Smith*, N.C. , 333 S.E.2d 495 (1985).

10–15–85—Petition for a Writ of Certiorari filed in the Supreme Court of the United States.

11–12–85—Brief in opposition to petition for writ of certiorari to the North Carolina Supreme Court.

12–09–85—Order by the Supreme Court of the United States denying certiorari. *Smith* v. *North Carolina*, 474 U.S. 1026, 106 S.Ct. 582, 88 L.Ed.2d 565 (1985).

01–30–86—Renewed Petition for Certiorari and Alternative Motion to Reconsider denial of certiorari filed by Smith to the North Carolina Supreme Court.

02–11–86—Order in response to Smith's renewed petition; dismissed without prejudice to allow Smith to file a motion for appropriate relief on the issue in the Superior Court of Halifax County.

04–04–86—Second Motion for Appropriate Relief by defendant to Halifax County Superior Court.

04–04–86—Brief in support of Motion for Appropriate Relief by defendant.

09–26–86—State's answer to Smith's Motion for Appropriate Relief filed April 4, 1986.

10–10–86—Smith's reply to the State's answer.

10–16–86—Brief in opposition to Kermit Smith's Motion for Appropriate Relief by the State.

03–02–87—Oral argument scheduled for hearing on defendant's Motion for Appropriate Relief.

03–06–87—Defendant's proposed Findings of Fact.

03–06–87—Motion for Appropriate Relief denied by Order of Superior Court Judge I. Beverly Lake, Jr.

06–01–87—Petition to the North Carolina Supreme Court for certiorari to review the order of Judge Lake.

02–05–88—Certiorari denied by the North Carolina Supreme Court by the Honorable J. Whichard. *State* v. *Smith*, N.C. , 364 S.E.2d 668 (1988).

02–25–88—Motion for Stay of Execution of Death Sentence, execution scheduled for April 26, 1988; Motion Denied.

03–01–88—Motion for Stay of Execution to the North Carolina Supreme Court.

03–09–88—Stay of Execution denied by Order of the Court in conference, Honorable J. Whichard, North Carolina Supreme Court.

04–15–88—Petition for Writ of Certiorari filed in United States Supreme Court seeking review of the Superior Court of Halifax County, North Carolina.

04–19–88—Motion for stay of execution pending disposition of Petition for Writ of Certiorari and filing of petitions for Writ of Habeas Corpus.

04–20–88—Response to Smith's motion for a Stay of Execution.

04–21–88—Order Staying execution of death sentence.

04–27–88—Order by United States Supreme Court denying certiorari. *Smith* v. *North Carolina*, 485 U.S. 1030, 108 S.Ct. 1589, 99 L.Ed.2d 903 (1988).

05–20–88—Petition for Writ of Habeas Corpus filed by Smith pursuant to 28 U.S.C. §2254.

06–30–88—Answer to Petition for Writ of Habeas Corpus—Habeas Corpus Rule 5, 28 U.S.C. 2243.

12–15–88—Motion for evidentiary hearing. (Rule 8, Rules Governing §2254 cases in the United States District Courts.

12–15–88—Request for Discovery. (Rule 6, Rules Governing §2254 cases in the United States District Courts.

12–15–88—Memorandum in support of Petitioner's Motion for Evidentiary Hearing.

12–15–88—Memorandum of Law in Support of Petitioner's request for discovery.

12–22–88—Memorandum in Opposition to request for discovery, Habeas Rule 6(a), Local Rules 4.05 and 5.01—Denied.

01–23–89—Memorandum in Support of Petition for Reconsideration/Request for Reconsideration.

01–31–89—Request for Reconsideration denied.

02–16–89—Request to expand the length of Petitioner's brief.

02–22–89—Request to expand both petitioner and respondent's brief is allowed.

02–28–89—Brief in Support of Petition for Writ of Habeas corpus by Petitioner.

03–28–89—Motion for Extension of Time to file respondent's brief.

03–30–89—Order granting extension of time to file brief in response to Petitioner's brief is allowed. Brief should be filed by May 1, 1989.

04–21–89—Brief in support of respondent's answer to petition for Writ of Habeas Corpus.

04–24–89—Motion for extension of time within which to file petitioner's reply brief and for permission to file a reply brief in excess of their pages.

05–30–89—Memorandum in support of renewed motion for evidentiary hearing, discovery, and expert assistance.

05–30–89—Renewed motion for evidentiary hearing, discovery and expert assistance.

10–11–89—Order from United States District Judge, W. Earl Britt, reference decision in *State* v. *McKoy*.

11–27–89—Reponse to Motion for Authorization to obtain services of Resource Counsel.

04–27–90—Order allowing extension of time by petitioner. Motion to defer further proceedings is denied by Judge Britt, United States District Judge.

05–04–90—Petitioner's brief on the applicability of the Supreme Court's decision in *McKoy* v. *North Carolina*, 494 U.S. 433 (1990).

07–06–90—Motion to remand to the Superior Court of Halifax County for the imposition of a life sentence, or, in the alternative, petition for writ of certiorari.

07–06–90—Memorandum in Support of Motion to Defer Further Proceedings pending Re-exhaustion in the Courts of North Carolina.

07–06–90—Motion to Defer further proceedings pending re-exhaustion in the Courts of North Carolina.

07–31–90—Memorandum in opposition to Petitioner's motion to defer further proceedings pending re-exhaustion in the Courts of North Carolina.

08–09–90—Order—Petitioner's motion is allowed and further consideration of petition by the Court is deferred pending ruling by the North Carolina Supreme Court of petitioner's ''Motion to Remand to the Superior Court of Halifax County for the Imposition of a Life Sentence'', or, in the alternative, Petition for Writ of Certiorari.

09–24–90—Reponse in Opposition to Petitioner's Motion to Remand to the Superior Court of Halifax County for the Imposition of a Life Sentence, or, in the Alternative, Petition for Writ of Certiorari.

11–01–90—Order—the motion by respondent for leave to amend his answer to the petition is allowed.

11–07–90—Reply (Traverse) to amended answer to petition for Writ of Habeas Corpus.

12–10–90—Brief in support of Respondent's Amended Answer to Petition for Writ of Habeas Corpus. Habeas Rule 5, 28 U.S.C. §2243.

12–11–90—Motion to suspend page limitation of local rule 5.05.

12–12–90—Motion to extend page limitation.

12–13–90—Motion to suspend page limitation of local rule 5.05 for supporting memorandum is granted.

12–13–90—Petitioner's supplemental brief on the issue of retroactively.

06–10–91—Memorandum Opinion: For reason stated in Section III.C. of this opinion Kermit Smith's petition for a Writ of Habeas Corpus is hereby granted, subject to further review by the North Carolina Supreme Court. Petitioner is not entitled to any relief on the remainder of his claim.

06–10–91—It is ordered that for reasons stated in Section III.C. of the Memorandum Opinion filed on June 10, 1991, the petition for a writ of habeas corpus is hereby granted subject to further review by the North Carolina Supreme Court and the petitioner is not entitled to any relief on the remainder of his claim. *Smith* v. *Dixon*, 766 F.Supp. 1370 (E.D.N.C. 1991).

06–20–91—Respondent's Motion for Amendment of Judgment, Fed.R.Civ.Proc. 59(e).

06–20–91—Memorandum in support of respondent's Motion for Amendment of Judgment, Local Rules 4.04 and 5.01.

06–24–91—Memorandum in support of Petitioner's Motion to alter or to amend the Judgment.

06–24–91—Petitioner's Motion to Alter or to Amend the Judgment.

07–15–91—Petitioner's response to respondent's Motion for Amendment of Judgment.

08–14–91—Order: It is ordered and adjudged that for the reasons stated in Section III.C. of the Memorandum Opinion filed on June 10, 1991, the petition for a writ of habeas corpus is hereby granted and defendant is ordered discharged from his sentence of death to be re-sentenced to life imprisonment unless the State of North Carolina shall conduct a resentencing hearing pursuant to N.C.Gen.Stat. §15A–2000 within 180 days of the entry of judgment. Entry of this judgment is stayed for 90 days to permit respondent to seek further review in the North Carolina Supreme Court in accordance with *Clemons* v. *Mississippi*, 494 U.S. 738 (1990). If such review is not obtained by November 15, 1991, this judgment will then become effective. If such review is obtained during this time period, entry of judgment will remain stayed until the stay is lifted by this court on motion by either party. Petitioner is not entitled to any relief on the remainder of his claims.

08–19–91—Corrected Amendment: that for reasons stated in Section III.C. of the Memorandum Opinion filed on June 10, 1991, the petition for writ of habeas corpus is hereby granted and defendant is ordered discharged from his sentence of death to be resentenced to life imprisonment unless the State of North Carolina shall conduct a resentencing hearing pursuant to N.C.Gen.Stat. §15A–2000 within 180 days of the entry of judgment.

10–01–91—Petition for Writ of Certiorari filed by State in North Carolina Supreme Court requesting clarification of basis for finding on direct appeal that ''especially heinous, atrocious, or cruel'' was supported by evidence, and whether instructional error was harmless.

11–14–91—Order: The stay in the entry of the Court's judgment is hereby extended from its current expiration date of November 15, 1991 until seven days followed the denial of the petition or seven days following a decision on the merits in the event that the State of North Carolina grants certiorari.

11–15–91—North Carolina Supreme Court denied State's petition, believing it did not have appellate jurisdiction. *State* v. *Smith*, 330 N.C. 617, 412 S.E.2d (1991).

12–02–91—Order: The Clerk is hereby directed to enter the corrected amended judgment which was filed on August 18, 1991.

12–13–91—Motion for stay of order granting writ of habeas corpus Fed. R. App. P. 8(a).

12–13–91—Notice of Appeal: State enters notice of appeal to the United States Court of Appeals for the Fourth Circuit from the final judgment entered June 10, 1991, modified August 19, 1991, and ordered into effect on November 30, 1991 issuing a writ of habeas corpus to Kermit Smith, Jr. requiring resentencing.

12–13–91—State's Memorandum in support of motion for stay of writ of Habeas Corpus.

12–24–91—State's Appeal docketed in the United States Court of Appeals for the Fourth Circuit.

12–27–91—Notice of Smith's Cross-Appeal to the United States Court of Appeals for the Fourth Circuit.

12–27–91—Response to respondent's motion for stay of order granting writ of habeas corpus.

12–27–91—Memorandum in support of Petitioner's request for issuance of a certificate of probable cause.

12–30–91—Smith's Cross-Appeal docketed in Fourth Circuit.

01–03–92—Order: August 19, 1991 judgment is hereby stayed until further order of this Court; respondent is not required to post a supersedeous bond. The court finds that petitioner does have probable cause for his cross appeal and therefore grants a certificate of probable cause.

01–11–92—Fourth Circuit appoints C. Frank Goldsmith, Jr., of Marion, N.C., and Martha Melinda Lawrence of Raleigh, N.C., as counsel, and the North Carolina Resource Center as ''consultant.''

01–11–92—Fourth Circuit's Briefing Order, directing State's opening Brief and Appendix to be filed by 2–20–92.

01–16–92—State's Letter to Smith's counsel designating Appendix.

01–31–92—Smith's designations for Appendix.

02–18–92—Order Appointing Counsel *Nunc Pro Tunc*.

02–20–92—The State timely filed its opening Brief of Appellant in Fourth Circuit.

03–02–92—District Court Order approving CJA Form 20 payment for counsel's requesting hours; and in addition, reimbursement for expenses incurred.

03–06–92—Smith's motion to exceed page limitation for his Brief.

03–10–92—Order by Fourth Circuit granting Smith leave to file Brief not to exceed 100 pages.

03–24–92—Smith first submitted to Fourth Circuit his 100-page Brief of Appellee/Cross-Appellant.

03–26–92—Brief returned to Smith because of improper material in the addendum; Smith was directed to resubmit his Brief in proper form on or before April 6, 1992; State's time not to begin running until Smith's Brief resubmitted and filed.

04–05–92—Smith refiled Brief of Appellee/Cross-Appellee.

04–22–92—State filed motion to suspend page limitation, seeking leave to file a Brief not to exceed 100 pages.

04–27–92—Order by Fourth Circuit granting State leave to file Brief not to exceed 100 pages.

05–08–92—State filed its Brief of Appellant/Cross-Appellee.

05–12–92—Smith's motion to exceed page limitation for his Reply Brief.

05–18–92—Order by Fourth Circuit granting Smith leave to file Reply Brief not to exceed 50 pages.

05–26–92—Smith filed his Reply Brief.

05–27–92—State's Letter of Additional Authorities.

09–22–92—Smith's Letter of Additional Authorities.

09–23–92—Smith's Motion for Additional Time for Oral Argument.

09–28–92—State's Letter of Additional Authorities, citing *Nickerson* v. *Lee*, 971 F.2d 1125 (4th Cir. 1992), CERT. DENIED, U.S. , 113 S. Ct. 1289 (1983).

09–28–92—Smith's Letter of Additional Authorities.

09–29–92—Order by Fourth Circuit denying Smith's motion for additional oral argument time.

09–30–92—Argument heard in Fourth Circuit before Wilkins, Butzner, and Sprouse.

05–10–93—State's Letter of Additional Authorities.

06–11–93—Fourth Circuit 2-to-1 panel decision affirming District Court's grant of resentencing, but otherwise denying relief on remaining grounds. *Smith* v. *Dixon*, 996 F.2d 667 (4th Cir. 1993).

06–22–93—State filed Petition for Rehearing and Suggestion for Rehearing *In Banc*.

06–25–93—Letter from Fourth Circuit to Smith's counsel requesting answer to State's Petition for Rehearing and Suggestion for Rehearing *In Banc*, and that answer be filed by 7/6/93.

07–06–93—Smith's Response to Petition for Rehearing and Suggestion for Rehearing *In Banc*.

07–19–93—Order by Fourth Circuit making technical amendments to opinion filed 6/11/93.

07–23–93—Order by Fourth Circuit granting rehearing *In banc*, calendaring case for October session, and directing additional copies of briefs and appendix to be filed.

08–23–93—Smith's Motion for Leave to File Supplement Brief.

09–03–93—Order by Fourth Circuit granting ''the parties leave to file supplemental briefs not in excess of 25 pages each''; required Smith's brief to be filed on or before 9–13–93, and that State's responsive brief, if any, be filed on or before 9–21–93.

09–08–93—Smith filed motion seeking to reorder the supplemental briefing schedule so that briefs to be filed simultaneously, or he be granted extension of time.

09–08–93—State's Response to Smith's motion to reorder briefing/for extension of time.

09–09–93—Order by Fourth Circuit extending time for Smith to file his supplemental brief until 9–17–93, and directing that any responsive brief by the State be filed on or before 9–24–93.

09–20–93—Smith's Supplemental Brief received by Fourth Circuit.

09–21–93—State was notified by Henderson Hill of North Carolina Resource Center that Kenneth J. Rose, counsel for David Huffstetler, would be submitting a motion for leave to file an *amicus curiae* brief in Smith's appeal.

09–22–93—State was served with copies of Huffstetler's motion, *amicus curiae* brief, and attachments, along with a motion for leave to file the attachments to the *amicus curiae* brief.

09–23–93—State's Supplemental Brief forwarded to Fourth Circuit by facsimile, with originals sent to Fourth Circuit by Federal Express.

09–23–93—State filed motion for leave to file attachments to its Supplemental Brief, and Attachments under separate cover.

09–24–93—State filed Response in Opposition to Huffstetler's motions for leave to file *amicus curiae* brief and for leave to file attachments.

09–24–93—Smith's Letter of Additional Authorities.

09–28–93—Argument on Rehearing *in Banc*.

01–21–94—Fourth Circuit decision reversing district court's grant of rescentencing, 9–to–5, *Smith* v. *Dixon*, F.2d. (4th Cir., Jan. 21, 1994) (*In Banc*).

02–04–94—Smith's Petition for Rehearing.

02–28–94—Fourth Circuit Order denying Smith's Petition for Rehearing.

03–93–94—Smith's Motion for Stay of Mandate.

03–14–94—Fourth Circuit Order granting Smith's Motion and staying issuance of mandate for 30 days.

05–27–94—Smith's Petition for Writ of Certiorari filed in United States Supreme Court seeking review of Fourth Circuit's *en banc* decision on appeal. No. 93–9353.

08–22–94—State's Brief in Opposition to Petition for Writ of Certiorari filed in United States Supreme Court.

10–03–94—Certiorari denied by the United States Supreme Court. *Smith* v. Dixon, U.S. , 115 S.Ct. 129, 130 L.Ed.2d 72 (1994).

10–27–94—Hearing held in Halifax County Superior Court, and Superior Court Judge James C. Spencer, Jr. Rescheduled Smith's execution for Tuesday, January 24, 1995.

12–09–94—Smith's filed Motion for Consideration of untimely Petition for Rehearing, along with Petition for Rehearing in United States Supreme Court.

12–19–94—Smith filed Third Motion for Appropriate Relief in Halifax County Superior Court.

12–29–94—State filed Answer to Smith's Third Motion for Appropriate Relief.

01–03–95—Hearing held before Superior Court Judge J.B. Allen, Jr. in Halifax County Superior Court on Smith's Third Motion for Appropriate Relief, and Memorandum Opinion and Order Denying Motion.

01–04–95—Clemency Hearing held before Honorable James B. Hunt, Jr., Governor of North Carolina.

Mr. Chairman, I yield to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding. He is my colleague from North Carolina. Both of us represent different parts of the State, and I have the utmost respect for him. He has been involved in law enforcement for a number of years.

I am not going to try to take issue with the fact that everybody could come to this floor and bring an example where the process has been abused.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. HEINEMAN] has expired.

(On request of Mr. WATT of North Carolina, and by unanimous consent, Mr. HEINEMAN was allowed to proceed for 1 additional minute.)

Mr. HEINEMAN. Mr. Chairman, I yield to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, there is one part of what the gentleman said that I just want to make sure that everybody understands. He talked about being a father and being a grandfather and doing what is necessary to protect his children and grandchildren.

I want to make sure that I am clear that the gentleman would not go out, a father and grandfather, and avenge a crime committed against his child or his grandchild by shooting somebody who is innocent. And that is what this amendment deals with.

I have no problem with the gentleman taking out whatever animosity or whatever frustration he has against victims, against a person who is guilty. But if a person is innocent, we do not sanction in this country going out and taking the life of somebody else just because the gentleman is frustrated.

Mr. WYNN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Watt amendment and perhaps unlike

some other supporters, I am not, I repeat, not an opponent of the death penalty. But I felt I had to rise today to remind my colleagues, some of whom are on the other side, that the issue is not speed, the issue is justice. And the distinguished gentleman from Florida said that in looking at this amendment, we are creating another way to get to court. And the only way that the defendant ought to get to court is if he alleges under current law that there is some sort of constitutional infirmity with his conviction.

I understand that. I have practiced a little law in my time. But the point, Mr. Chairman, is this, that, yes, you ought to be able to get into the courthouse if you have a constitutional infirmity in your case. You ought to be able to make your case. But you also ought to be able to get into the courthouse if you are innocent.

If you have evidence of probable innocence, our American judicial system ought to say, the courthouse door swings open for you. You can come through the door and present that evidence.

Now, the gentleman may suggest, well, that is a radical change. I am not going to debate that point. I would suggest, maybe it is. In the State of Maryland we recently had a man who sat on death row for 8 years for a rape-murder, probably as tragic and horrific as any of my colleagues can imagine. After 8 years, through DNA evidence, it was determined he was in fact not the perpetrator. Thankfully, he had not been executed.

That evidence should be available to the court. That at least ought to get him in the courthouse door.

There have been other cases throughout the country in which recantations of testimony have resulted in the determination that the accused sitting on death row was in fact an innocent man.

As I said, Mr. Chairman, it is not a question of speed, it is a question of justice. And justice demands that if someone can prove or establish the probability of their innocence, they ought to at least be allowed to come through the courthouse door. There will be time to conduct the execution, if that is merited, if that is the case, but certainly, we ought to seek justice before we seek speed.

Mr. Chairman, I yield to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, just for the brief purpose of assuring the gentleman that this is not a radical change. January 1995, January 23, 1995, this year, the Supreme Court said that this is the law. And all I am trying to do is stop them from changing the law.

I want them to put the law in as the Supreme Court has said it is. This is not a change from existing law. I assure the gentleman.

Mr. WYNN. Reclaiming my time, Mr. Chairman, I want to thank the gentleman for pointing that out and also commend him for the thoroughness of his research. To the extent it is not a radical change, I do not even believe the opposition can rely on that argument.

We are simply attempting, according to the sponsor, to codify existing law which has been well reasoned by the higher courts in determining that once again justice takes precedence over expediency.

Mr. CHABOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from North Carolina is very articulate and obviously feels very strongly about this particular subject. Many of us on this side of the aisle, however, feel very strongly as well.

To address the issue of habeas corpus, the allegation is made that many on this side of the aisle want to attack the Constitution and that we are not really conservative because we are attacking the constitution. That is inaccurate. And there is a report that I would like to refer to at this time, the Supreme Court Justice Lewis Powell recently chaired an ad hoc committee of Federal habeas corpus in capital cases. I would like to read a couple of sentences from that, because I think it really clears up some of the things that have been said here today.

What it says is that, ''contrary to what may be assumed, the Constitution does not provide for federal habeas corpus review of state court decisions.''

The Constitution does not provide that.

''The writ of habeas corpus available to state prisoners is not that mentioned in the Constitution. It has evolved from a statute enacted by Congress, now codified in section 28 U.S.C. section 2254.''

So it is not an attack on the Constitution. What we are talking about is a revision, a change in statute that was enacted by this body. So this body is now taking appropriate action to change a previous statute.

□ 1710

Mr. Chairman, let us look at what is really happening here. The people of this country feel very much the way I do, that the death penalty in this country is not being used to the degree that most people want it to be used. We have a death penalty on the books. There are many people, particularly of a liberal persuasion, who will say that the death penalty is not a deterrent to murder, it is not a detterent to crime.

I would submit, Mr. Chairman, that if that is true, and I do not agree that that is true, but if it is true, it is because of the way the death penalty in this country has been carried out. That is, that people remain on death row for years and years and years.

Let us just look at the case of John Wayne Gacy in Chicago. John Wayne Gacy, the killer clown who killed dozens of people and was stuffing them underneath his porch, underneath his basement, this man was on death row for 16 years, so for 16 years the taxpayers are keeping this gentleman alive, providing him with television, providing him with food, providing him with an attorney. It took 16 years to execute this individual. That is not that unusual in this country. People are on death row for 10 years, 12 years.

The last execution we have had in my State, the State of Ohio, was in the early sixties. It has been over 30 years. I will sometimes have people in Ohio say, generally, again, of the liberal persuasion, they will tell me that the death penalty is not a deterrent. If it is not, it is because of the way that it has been carried out in this country.

Mr. Chairman, I would submit that what we need to do is to have a fair appeals process, but an appeals process that is much shorter than what we have right now. I would submit that sometime in the near future I would like to see the death penalty process dramatically reduced to a year, 2 years, something like that. Even whether with what we are proposing here today it is still going to be much longer than what I would like to see it, but it is an improvement over what we have now. That is why I strongly support this measure and believe that it is time that we made the death penalty work in this country. If it does not work right now, it is because of the length of time that people remain on death row at taxpayer expense. The people in this country are sick and tired of paying for cable TV and paying for the food and lawyers for those that have killed innocent people.

One final point I would like to make. The people it is really not fair to are the victims, those families of the people that were murdered, those innocent victims that have the appeals process come up, they have to go in and testify. It is like ripping open that wound, until the person is finally executed. It is time we had a fair and fast appeals process so that the death penalty really will be a deterrent. Then we are really protecting life in this country.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. CHABOT. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I appreciate the gentleman yielding.

Mr. Chairman, I want to make sure the gentleman is clear. This is not about whether we support the death penalty or not. There is nothing in this that deals with the death penalty. It is not about the length of appeals. It is about how you get your foot in the door to raise an issue, whether if you have credible evidence that you did not commit the crime, credible evidence of innocence, that you can go through the same process that you go through that you set up in the bill.

Mr. CHABOT. Reclaiming my time, let us also be clear as to what has happened. A jury of one's peers has already

convicted this person beyond reasonable doubt.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. CHABOT] has expired.

(By unanimous consent, Mr. CHABOT was allowed to proceed for 1 additional minute.)

Mr. CHABOT. Mr. Chairman, let us also be clear that the person who is on death row, if we are talking the death penalty, and I am in this particular instance, that person was already convicted by his or her peers at a fair trial beyond a reasonable doubt. It has already gone through a fairly extensive appeals process.

We are talking about another layer after they have gone through the State appeals, they are at the Federal appeals. I think the gentleman from North Carolina [Mr. WATT] would probably agree that it does not make any sense for people to remain on death row for 10, 12, 16 years.

Mr. WATT of North Carolina. If the gentleman will continue to yield, Mr. Chairman, I just want to make sure that the process that the gentleman has set up for raising constitutional issues is the same process within which this language would fit.

It does not change that process. It does not prolong it any longer than raising a constitutional claim prolongs it.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. CHABOT] has expired.

(At the request of Mr. MCCOLLUM and by unanimous consent, Mr. CHABOT was allowed to proceed for 2 additional minutes.)

Mr. WATT of North Carolina. If the gentleman will continue to yield, Mr. Chairman, it is not about the death penalty procedure, it is about somebody coming in with credible evidence of innocence. I just wanted to make sure the gentleman understands.

Mr. CHABOT. Reclaiming my time, Mr. Chairman, I yield to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the point of this is that by doing this new procedure that the gentleman wants us to put into this law today, the gentleman would extend the opportunity for delay, because he would extend the opportunity for another bite at the apple.

Granted, it is not a constitutional right. The gentleman is creating a new one here, to come in under a probably innocent standard of some sort to get into the door for another appeal.

As the gentleman from Ohio [Mr. CHABOT] has stated, somebody might have had 10 or 15 appeals already on a constitutional basis and then they come up with new affidavit, some missing aunt or uncle comes in and says ''At 10 o'clock that night, by golly, I saw him down on Park Avenue, instead of where the crime was committed.''

Here is new evidence. If it had been admitted, maybe a Federal judge will say it is probably something the court would have considered and found the guy innocent for. By golly, they have a new appeal, and it does delay the carrying out.

That is why the District Attorney's Association nationally has said that the Watt amendment would dramatically expand death row inmates' opportunities to relitigate their convictions, and opposes this. That is why they say that the amendment of the gentleman from North Carolina [Mr. WATT] would make it easier for death row inmates to reopen their cases and delay the caseload of death row inmates, delaying their sentences.

Mr. Chairman, I think the gentleman has made a point, the gentleman from Ohio [Mr. CHABOT]. I understand the point of the gentleman from North Carolina [Mr. WATT], but I think the gentleman's point is equally and I believe preferentially made, and I believe this amendment should be defeated, because it would delay further the carrying out of sentences on death row inmates, and not do anything more than add a new door, a new avenue to that appellate process.

Mr. FATTAH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was not going to participate in this discussion, but I think it is important that voices be raised on this subject. Seemingly, to me, since I have come to Washington, people have spent a lot of time trying to make simple things complex.

The gentleman from North Carolina [Mr. WATT] has offered a very simple amendment that says that if there is evidence of innocence that an objective court would consider as a circumstance in which the person would probably be found innocent, then that should allow them an opportunity to bring that matter before the court.

We are off talking about how quickly people should be put to death and all these other matters. Now we have the gentleman who just previously spoke talking about aunts and uncles.

We should not trivialize the matter of innocence in terms of people who should not be victimized in terms of imprisoned in our land, or suffer the ultimate penalty, the death penalty, if in fact they are innocent.

Mr. Chairman, just as the case has been made that there are people who have strung these things out who were obviously guilty, I think that in almost every state of the union we could find examples of people who have been found innocent who have been in prison for long periods of time, and who have been put under the death penalty.

Whether we come to the floor and parade horrendous crimes that have been committed on one hand, and people seemingly have not suffered the appropriate punishment, or rather, whether we would take the time and look at the cases of people who have been jailed year in and year out, some for decades, almost lifetimes, who were absolutely innocent, that the same D.A. associations and others would be just as concerned for innocent Americans being wrongfully convicted and being locked out of an opportunity to present their cases to the court.

Mr. Chairman, the preamble to our Constitution requires us to, in part, participate in the process of creating a justice system in our land. That is our responsibility. It is not our responsibility to join the mob out in front of the jailhouse asking that someone be hung, or killed that night, before a trial and a jury have found them to be absolutely guilty beyond a reasonable doubt.

Mr. Chairman, I would say, finally, being not a lawyer, I am constantly interested in these matters, nonetheless. Reading the trade journal of the American Bar Association in January 1994, January a year ago, there were two interesting articles.

One was about a young man in one of our 50 States who was on death row, and because of some procedural circumstances, could not get his case back before the court, who appeared to be innocent based on all of the evidence now available.

□ 1720

There was another case this same magazine had in it in the same month of a young man who admitted, confessed that he had killed two people in the process of a drug transaction who had now served some 10 years and had been let go and was then a student at that time in law school in another one of our 50 States.

This is an interesting circumstance that now the Congress tonight, after disposing, after voting against the notion of competent counsel for people would now suggest that even if there is probable cause of innocence that that is not in and of itself enough to give them an opportunity to present their case.

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from North Carolina [Mr. WATT] and in opposition to H.R. 729, the Effective Death Penalty Act. I do not believe that this debate is whether we should have a death penalty under circumstances under which it should be imposed. Rather it is about whether a person who is innocent can be spared from having a capital punishment exacted upon them.

The amendment of the gentleman from North Carolina [Mr. WATT] is more necessary now than before, because this crime bill, the series of bills being put together now continues what I consider to be the unfortunate trend of last year's crime bill which made more crimes punishable by the death penalty.

One would think that if one were a strong advocate for capital punishment

that one would also be a strong advocate for competent counsel, as the amendment offered by the gentleman from New York [Mr. SCHUMER] proposed, or the amendment offered by the gentleman from North Carolina [Mr. WATT] to make sure that an innocent person did not receive the death penalty.

A majority of the people in this House clearly believe that procedures governing habeas corpus may need reform, Mr. Chairman, but this bill goes too far in limiting the fundamental right of appeal which is to protect innocent people from being executed and that is why it is so very important that the Watt amendment be given every consideration by this body, hopefully favorable.

What it says, and I think it is very important for our colleagues to understand, as the gentleman from North Carolina [Mr. WATT] has explained what it says, and that it is very important for all of the people of our country to understand what it says, because it affects each and every one of them, every person sitting at home watching this debate has to know that if he or she or any member of their families is ever convicted unjustly and incorrectly of a crime, especially a crime that calls for capital punishment, that he or she would not be able to have recourse should a witness come forward, or DNA evidence prove, or a confession come forward to prove that person's innocence.

The Watt amendment says, and it relates to credible, newly discovered evidence, which had it been presented to the trier of fact or sentencing authority at trial would probably have resulted in the acquittal of the offense for which the death sentence was imposed.

So, my friends, if you are sitting at home on your sofa and one of your children is accused and convicted of a crime and sentenced to the death penalty and has exhausted his habeas corpus procedures, and someone confesses to that crime, tough luck. That is not the American way.

Mr. Chairman, I would like to engage the gentleman from North Carolina [Mr. WATT] in a colloquy to ask him precisely these questions. if someone is convicted of a capital offense and sentenced to death, and a witness comes forward who can prove, who can give credible evidence that the person is probably innocent, would that person not have that opportunity for that witness to come forward?

Mr. WATT of North Carolina. Will the gentlewoman yield?

Ms. PELOSI. I am happy to yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. If this bill passes they would not have that opportunity.

Ms. PELOSI. And if someone made a confession to the crime?

Mr. WATT of North Carolina. Let me go back because the gentleman from New York [Mr. SCHUMER] has reminded me that under present law they actually would have the right to raise it, but once this bill is passed, they will not have the right to raise it.

Ms. PELOSI. The same thing for any advances in technology; for example, what is happening with DNA, et cetera, that kind of evidence and that opportunity would not be available to the person convicted?

Mr. WATT of North Carolina. Under current law they would have the right to do it, but under this bill they would not have the right to raise it.

Ms. PELOSI. Mr. Chairman, I ask the gentleman from Florida [Mr. MCCOLLUM], would he answer those same questions? If this bill passes would a person not be able to use DNA evidence or new evidence, new technology?

Mr. MCCOLLUM. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Of course he could if it was clear and convincing evidence, he could. That is the standard in our bill, if he could present them with the situation where it would be unquestionable innocent status; if that were the case.

Mr. WATT of North Carolina. If the gentlewoman would yield, before he can ever get to the clear and convincing standard, he has to get into court by raising some constitutional claim, different from innocence. So the gentleman from Florida [Mr. MCCOLLUM] is right, that would be the ultimate standard, but it would not even be able to get into the court.

The CHAIRMAN. The time of the gentlewoman from California [Ms. PELOSI] has expired.

(At the request of Mr. MCCOLLUM, and by unanimous consent, Ms. PELOSI was allowed to proceed for 2 additional minutes.)

Mr. MCCOLLUM. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I do have something else I want to say because I contend what the gentleman is putting forth here today in this rush for 100 days, in your 100-day agenda, is trampling on over 200 years of the rule of law in our country, protecting the rights of the innocent, and people can get up here all day and talk about anecdotes that are devastating and terrible and we all have those stories to tell about people who are guilty, and who abuse the process.

This is not what the Watt amendment is about. The Watt amendment is about protecting the innocent, and the overwhelming number of people in our country I believe want to protect the innocent.

Mr. MCCOLLUM. Mr. Chairman, would the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, I just want to make the point that the gentleman from North Carolina is incorrect that we have to have a constitutional infirmity. You have to have clear and convincing evidence and be able to show ultimately that you have an unquestionable innocence and you can get in. You do not have to have both. It is one or the other; it is not both.

It is basically current law that we have established in here with respect to what we have done in this bill, and the gentleman wants to retreat a little bit from it. We have changed one standard to clear and convincing. There is doubt whether it would be preponderance or clear and convincing. So, we have lowered the standard a little. The gentleman lowers the standard on present law considerably on how you get in on the innocent.

Mr. WATT of North Carolina. Mr. Chairman, would the gentlewoman yield?

Ms. PELOSI. I am pleased to yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I want to be clear on exactly what the gentleman from Florida [Mr. MCCOLLUM] said. The standard is convincing evidence, he says.

Mr. MCCOLLUM. Clear and convincing.

Mr. WATT of North Carolina. That is the ultimate standard we are talking about; that is not the standard for review. The standard for review, based on the Supreme Court's recent ruling, is the standard that I have picked up in my amendment.

Ms. PELOSI. I thank the gentleman from North Carolina for his leadership on this issue.

I urge my colleagues to support the Watt amendment.

The CHAIRMAN. The Chair wishes to inform Members that all remarks are to be addressed to the Chair and not to anyone outside of the Chamber.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Watt amendment.

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

Mr. HYDE. Mr. Chairman, the problem with the Watt amendment is it vitiates the very purpose of habeas corpus reform. It makes an already endless, interminable process increasingly subject to more and more delay.

The fair administration of justice means these matters have to finally come to closure.

John Wayne Gacy spent 14 years appealing, appealing, appealing from the time of his conviction of murdering 27 young men until the time he was executed. These matters have to be brought to closure, not as a matter of statistics, but as a matter of justice to the families of the victims and as a matter of justice to the law itself.

□ 1730

One of the weaknesses of the Watt amendment is there is no requirement of showing due diligence in discovering this new evidence. If one sleeps on his or her rights and years go by and then

something turns up that probably would result, probably, in an acquittal, it seems to me that does not rise to the level of the deprivation of the constitutional right such as would make the reopening of these trials appropriate. This goes on endlessly, endlessly, endlessly; and so without a showing of due diligence that you looked for all the evidence you could and there was a reason why you could not find this—which is not a requirement in this amendment—and probably would be acquitted by virtue of that evidence, rather than unquestionably just does not seem just.

We have Supreme Court cases, Herrera versus Collins, and Schlup versus Delo, both capital cases, that stand for the principle that if you do not show a constitutional error then you have to show that you would unquestionably be released. But, bring these habeas corpus matters to closure. Have the trial as good as you can and then exercise due diligence.

If there is evidence that was not presented at the trial but just across 15 years later and say here is new evidence that probably would result, means there is never any finality to these matters and that in and of itself is unjust.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding. I understand his frustration with the law, and the Gacy case has been cited by both the gentleman from Ohio and the gentleman from Illinois, the chairman.

And I agree with them on the Gacy case, and I agree with them that there have been too many appeals. What I would simply say to the gentleman is the law that you are proposing, other parts of it that deal with the 1 year and the timeliness of appeal and all of these other things deal with cases like Gacy.

Whether the Watt amendment were accepted or not, the Gacy case could not exist if the bill, H.R. 729, were to pass, and, in fact, as I understand it, and the gentleman can correct me, Gacy was from his State and he probably has more familiarity with the specifics of the case than I do, new evidence showing innocence was never one of the reasons that Gacy was able to extend the appeal after appeal after appeal.

Mr. HYDE. My recollection is he had 52 separate appeals.

Mr. SCHUMER. None were on the issue of the Watt amendment. All were on other issues.

Mr. HYDE. Is my figure too high? A staff person of the gentleman from North Carolina [Mr. WATT] was shaking her head.

Mr. WATT of North Carolina. If the gentleman will yield, I was not responding to that. I do not know how many appeals he had. None of them were based on a claim of innocence. That is the point the gentleman from New York [Mr. SCHUMER] is making, and if a person is probably innocent, which is, I mean, that is what your words are, probably innocent, I submit to you he should be given a shot, and that is all this amendment says.

Mr. HYDE. I submit to you he should exercise diligence in finding this new evidence, and absent a showing of due diligence, it is an imposition on the whole judicial system and on justice itself because there is merit, real merit, in bringing these matters to finality and to closure. They would endlessly be open under the gentleman's amendment.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. SCHUMER. I agree with that. Maybe the gentleman from North Carolina [Mr. WATT] does not. I do. Many do, even on this side of the aisle.

But that is not the issue of the Watt amendment, and what I would say to the gentleman, in all due respect, is the Gacy case and the endless appeals are not what Watt is trying to do. If somebody knew that they had new evidence relating to innocence——

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has expired.

(At the request of Mr. SCHUMER and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. SCHUMER. If the gentleman will continue to yield to me, I would say why, in God's name, would someone who had been convicted and was waiting on death row delay bringing up the fact that there was new evidence that they were innocent. There have been too many appeals. I do not dispute that. But I would say that there are certain exceptions.

I make one other point to the gentleman, the Schlup case was decided January 23, 1995, after the contract was issued, and the election, and I do not mean this as political, but I mean, after all of this happened.

The case, in my judgment, reading the case, requires a standard of probable, probably resulting in conviction of one who is innocent.

To quote on page 28 of the case, ''the Carrier Standard,'' which is what the court decided should be used not the more stringent Sawyer standard, ''Requires the habeas petitioner to show that 'a constitutional violation has probably resulted in the conviction of one who is actually innocent.' ''

On page 24, the court states that, ''This is, indeed, a constitutional standard.''

So in addition to the practical arguments I would make to the gentleman, who is a fine constitutional lawyer, that the Schlup case, in a sense our new evidence, would render this part of H.R. 729 unconstitutional, and the Watt standard, by simply just reechoing what is existing law as newly done by the Schlup case, does not do damage to the gentleman's general claim that, A, there have been too many appeals, and, B, that we ought limit it.

Mr. HYDE. Let me just say this: I wish you would help us bring these cases to closure. When you have had a trial, a trial that is error free, when you have been convicted beyond all reasonable doubt, and then years later evidence turns up and you are not required to even show that you diligently did everything you could to get whatever evidence you could, it seems to me you are opening the door for never ending these appeals.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has again expired.

(At the request of Mr. ACKERMAN and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. FOGLIETTA. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Pennsylvania.

Mr. FOGLIETTA. I think our objective here in passing this legislation is not to expeditiously execute people but to execute only those that we are sure are guilty of the capital crime.

Mr. HYDE. How many years does it take? How many years do we wait to find out?

Mr. FOGLIETTA. I do not care how long it takes. We should not be executing innocent people because we want to do it expeditiously.

Mr. HYDE. Do you support the death penalty?

Mr. FOGIETTA. Yes, I do, in certain cases.

Let me ask you, is it correct, I understand your position is that if a person is, or it is determined that a person who is facing execution has cause to believe that he or she is probably innocent that that person should not have an opportunity to present that evidence in court.

Mr. HYDE. I am saying the rule ought to require you to have exercised due diligence to get all of the evidence that leads to your innocence. That is my point.

Mr. FOGLIETTA. Suppose you have not exercised due diligence but you are probably; probably an innocent person should go to jail, should be executed because they did not execute due diligence?

Mr. HYDE. I do not want any innocent person to go to jail, but it seems to me——

Mr. FOGLIETTA. How about a probably innocent person?

Mr. HYDE.. The rule of right reason would say at some point we have to have finality.

Mr. FOGLIETTA. Even if the person is probably innocent?

Mr. HYDE. I do not think it is fair to impose on the system and the families of the victims to have an open-ended appeals process, and that is what the Watt amendment does.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has again expired.

(At the request of Mr. ACKERMAN and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. ACKERMAN. The gentleman from Illinois is no doubt among the fairest Members that I have ever seen in this House, and certainly one of the most compassionate. It seems to me we are talking sort of at different levels over and each other on different issues here.

Whether one is for or against the death penalty, I think most people would agree that this is not a debate on whether or not there are endless appeals and there should be limits for the kinds of the appeals that are going on and things of that nature. I think you could find some general agreement on all sides here.

The question really is this: Supposing somebody has been found guilty and is on death row, who has been convicted and suddenly some evidence does appear that did not exist; there are all sorts of scientific things now, and suppose you and I and somebody with the wisdom of Solomon, maybe even JERRY SOLOMON——

Mr. HYDE. How many years would you permit to elapse between the trial and surfacing of this newly discovered evidence?

Mr. ACKERMAN. If the person is still alive, living, breathing, innocent human being and you would look at the evidence, and you and I and a thousand judges unanimously would say, ''My God, look what happened here, this man is innocent,'' and he was condemned to death.

□ 1740

And he was condemned to death. How would you propose that he get back before the court? That is really the question. The gentleman put closure to nothing but executing an innocent person.

Mr. HYDE. I yield to the gentleman from Florida.

Mr. MCCOLLUM. I thank the gentleman from Illinois for yielding to me.

Mr. Chairman, I think we need to come up with some clear explanation; that is, here is this section. It says, first of all, that on the first appeal, that you take under habeas corpus, you do not have to have the probable cause certificate that the gentleman from North Carolina wants to amend. You do not have to have it at all the first time. So, if have a guilt or innocence question the first time you go to Federal court after you finish your State lines of appeal or other lines and you petition the first time, guilt or innocence, you do not have to have—guilt or innocence—you do not have to have prerequisites that are in the bill. In addition to that——

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has expired.

(On request of Mr. MCCOLLUM and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. HYDE. I yield further to the gentleman from Florida.

Mr. MCCOLLUM. I thank the gentleman for yielding further.

Mr. Chairman, it is only when you get into the successive petitions after you have already had regular appeals and you have already had your first-time shot at this on guilt or innocence or anything else that the issue arises that the gentleman is making all the noise about.

And in that situation, for the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth appeal, whatever it is, there are three things you have to show. You have to show the basis for the stay and request for relief is not a claim, not previously presented in State or Federal courts. That would certainly qualify if you have new evidence. Or you have to show the failure to raise the claim is, (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or, (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal prosecution review.

That is where that point comes in. Reasonable diligence on the second, third, fourth, fifth petitions. And there is a third condition, that facts underlying this claim of new facts, new evidence, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the petitioner guilty of the underlying offense.

The problem here is real clear. We want to stop these successive petitions. If you go through it on newly found evidence for second, third, fourth, or fifth, you have to go through what I just described. It seems eminently fair. It involves clear and convincing evidence, et cetera. The first time around, you do not have the same standard. And that is not what the gentleman is amending.

Mr. HYDE. Reclaiming my time, in the Herrera case, the accused's relative 6 years later came up with an affidavit that said, ''He was with me that night.'' So that was supposed to reopen the case, and that would fit in with Mr. WATT'S amendment. The court said, ''No, that is not enough.''

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has again expired.

(On request of Mr. ACKERMAN and by unanimous consent, Mr. HYDE was permitted to proceed for 2 additional minutes.)

Mr. HYDE. I will yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, we are trying to work together to remedy some inequities in the system. I think that the frustration of the American people, as has been expressed here, goes to the point that so many technicalities are raised wherein guilty people are extended indefinitely on death row. And that has caused a major frustration, which many of us can understand; that is, guilty people who are finding technicalities.

What is happening here, in trying to remedy that, we have an amendment that goes to a court issue. What happens when it is an innocent person? What we are doing here is not addressing that problem.

Mr. HYDE. The gentleman from Ohio will address that problem.

Mr. ACKERMAN. The question, if I can phrase it, is: Why are we looking to put technicalities in the way of an innocent person coming before the court? That is just as wrong. That is even worse because you are taking away a life.

Mr. HYDE. You would think it is the exclusionary rule, with all these technicalities getting in the way.

Mr. Chairman, I yield to the gentleman from Ohio.

Mr. CHABOT. Mr. Chairman, one point—and many points have been made on both sides—one point that has not been made is that every State has a Governor and the Governors have the final ability to commute a sentence. So if, in fact, one is arguing that at some point there is clearly an innocent person, the Governor can always commute the sentence.

I would also submit that in many instances these folks that are dragging out this death penalty process kill other inmates, kill guards, and ultimately end up on the streets, sometimes, and kill innocent people.

Mr. ACKERMAN. If the gentleman would make a leap of faith and say that we have one innocent person, how does that one innocent person present his case that you and I might agree and everybody might agree is innocent? You are going to kill somebody because we are dealing with other cases that say this is not expedient now——

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has again expired.

Mrs. MINK of Hawaii. Mr. Chairman, I move to strike the requisite number of words.

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

Mrs. MINK of Hawaii. Mr. Chairman, this amendment which has been offered expresses the fundamental belief that people in this country have about our courts and the judicial system. And that goes to the belief that somehow the system of justice will protect those who are innocent. And what we are doing here today is trying to insert

into legislation which has been proposed that fundamental principle of making sure that no matter how we tamper with the law, no matter what restrictions we put on the right of habeas corpus, no matter what limits we put to it, that if the defendant has newly found evidence that goes to prove his innocence, he ought to have an opportunity to raise that issue before the court and to take it back for a trial. That is all we are saying.

This is not a debate about the death penalty. This is not a debate about whether or not we ought to have greater restrictions on the use of the writ of habeas corpus. This is not even about a question of abuse.

This admits all of the necessities that have been found in the majority's legislation and says, ''Yes, but wait a minute, if we put all of these new restrictions into the law, what is going to happen to an individual who might be found innocent because of newly found evidence?''

We are not saying that these defendants have a right to try the case all over again de novo. We are just saying that if there is newly found credible evidence, it gives the courts a point to decide whether this issue is genuine or not genuine, is a technicality or contrived. And that is why the importance of the word ''credible'' evidence, newly discovered.

Certainly, every one of us has a firm understanding of what the court system is, what the guarantees of due process are in this country and what the symbol of justice is for every American. And that is, if you are innocent, no law, no contrived limitation, no restrictions put on by the Congress is going to take that life if there is credible evidence that that individual is innocent.

So I am saying to the majority that has put forth this bill, accept this amendment. It does no harm to the basic tenets that you are trying to impose for all of these other criminals that you do not want to have these endless appeals on technicality.

Innocence is not a technicality. It is basic to our understanding of what the courts are supposed to protect.

Individuals, perhaps, could not come before the courts of law in a timely way. Due diligence for a defendant is not the same as due diligence for the prosecutor or for the State. It is extremely difficult to come up with evidence to prove your innocence. But when they do, they ought to have their day in court.

So I urge this House to accept the Watt amendment and perfect it so that we do not have to go back and say we passed a law today in the Congress that does not protect the rights of the innocent in this country.

Mr. Chairman, I rise in opposition to habeas corpus reform in the Effective Death Penalty Act, H.R. 729, which would severely diminish the constitutional rights of State prisoners. Habeas corpus is the only means by which State prisoners who believe they have been wrongly or unconstitutionally convicted may appeal to the Federal courts to review their convictions. Particularly in cases where the death penalty is rendered, it is unquestionable that full opportunity for judicial review must be conferred upon the accused.

I am particularly concerned that H.R. 729 would strictly limit the time period during which habeas corpus petitions could be filed, and confines each individual to a single appeal. With the intricacies and numerous requirements in capital cases, 1 year is an inadequate period of time for recruitment of attorneys willing to handle Federal death penalty cases and subsequent preparation and filing of habeas petitions. To additionally limit those convicted to a single appeal unrightfully circumscribes the fairness of the judicial process in these cases. I agree that valuable time in the courts must not be occupied by unreasonably persistent cases, but discretion should remain with the courts with regard to availability of habeas corpus appeals.

The reasoning behind these unnecessary provisions is that prisoners on death row allegedly delay the filing of habeas petitions and file petitions that are frivolous. However, facts from the Judiciary Committee show that from 1976 to 1991, Federal habeas courts granted relief in more than 40 percent of death penalty cases on the basis of serious constitutional error. These decisions reconfirm our essential constitutional rights.

If the problem is that habeas appeals hamper the business of Federal courts, why does H.R. 729 fund the use of competent counsel in postconviction proceedings and not actual death penalty trials? Federal funding to States for counsel in death penalty cases should compel States to appoint attorneys proficient and experienced in death penalty cases. To require quality representation only after the death penalty has been rendered presents a grave inequity that harms the judicial process.

I am also concerned that H.R. 729 narrows the claims that a Federal court can consider in death penalty cases to claims previously raised and rejected in State courts, even if State decisions were incorrect. Eliminating Federal review of such claims would result in differential enforcement of constitutional rights from State to State, potentially producing 50 different explanations of Federal constitutional provisions. The American Bar Association has lodged its ''vigorous opposition'' to this provision which it predicts will ''insulate virtually all State criminal proceedings from Federal review.'' It is paramount that Federal court access to meaningful review in death penalty cases be preserved.

H.R. 729 will greatly compromise constitutional rights of prisoners, judicial fairness, and jurisdiction of Federal courts in serious death penalty cases. This bill would irresponsibly speed up habeas corpus appeals without ensuring that those on death row have full access to judicial review, safeguards against wrongful executions, and access to qualified counsel. I strongly urge my colleagues to cast a vote in opposition to H.R. 729.

Mr. SCHUMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just would like to make a couple of points on this debate, just to take up where we left off before.

I think, again, just to reiterate: The issue in the Watt amendment is not endless appeals. There are other parts of H.R. 729, a bill I supported when we voted it out of subcommittee, that deal with the endless appeals.

□ 1750

In my judgment I would concede the point. I think it is right that defense lawyers have used appeal, after appeal, after appeal. They are morally opposed to capital punishment, and so they feel they should use every means to prevent it from happening, something I disagree with, and that is why I support 729.

But the issue the gentleman from North Carolina brings up is not related to that. It is not related to endless appeals. It deals with the rare instance where there is new evidence, and not just any new evidence, not just something out of a lawyer's head, but something that on initial review by a judge would probably change the result of the trial. Therefore, the new evidence cannot be relatively immaterial, nor can it be not credible. It has to be credible evidence that is material so that the jurors would have said, ''When the judge looks at the new evidence, there would be a reversal.'' That is a pretty high standard.

In fact, and this is the point I would like to make to the gentleman from Florida, the gentleman from Ohio and the others, it is such a relatively tough standard that a recent case, the Schlup case, said that that was the standard based on not any statute, but based on the Constitution. The standard that the gentleman from North Carolina has wisely incorporated in his amendment is the exact standard found in the Carrier case as cited in Schlup. I ask, ''Do you know what that means, ladies and gentlemen? It means we could reject the Watt amendment, and it would still be required constitutionally.''

This is not an issue up for legislative discretion. This is an issue in the Constitution.

I say to my colleagues, ''I don't blame the other side for not putting the Watt amendment in their bill. Their bill was first drafted before this case, but, fellows and ladies, show a little flexibility. The Supreme Court has made a ruling. You shouldn't be fighting a ruling that is going to exist whether you like it or not, and I don't think, as somebody who believes that there have been too many appeals, I don't think it's going to do damage to that. But don't fight it for the sake of fighting it.''

There is a case. There is something that was issued only—today is February 8? It was 3 weeks ago, on January 23, 1995, an opinion by Judge Stevens joined in by the majority of the court that says, quote, the Carrier standard requires the habeas petition to show that, quote, a constitutional violation has probably resulted in the conviction of one who is actually innocent.

The point made by the gentlewoman from Hawaii [Mrs. MINK] and my colleague, the gentleman from New York [Mr. ACKERMAN], and others is this: If the new evidence is significant enough that it would probably change the jury.

I say to my colleagues, ''You can't make this stuff up. It's got to be real. Then why not?''

Those of us who believe in capital punishment; I am among them; were criticized last year for putting in a bill that had 60 new capital punishments. Those who believe in capital punishment want to make sure that it is done fairly and equitably, want to make sure that, if there is overwhelming new evidence, say the DNA evidence that the gentleman talks about, so it is almost crystal clear that the wrong person is on death row; it does not happen that often, but it does happen; is not executed. Those of us who believe that the ultimate sanction is sometimes called for should want to make sure that, when there is credible new evidence that would in a judge's mind, and most of the judges are appointees of Ronald Reagan and George Bush, in that judge's mind mean that the jury would probably, not possibly, but probably, overturn the case, would support this simple amendment. It would eliminate most of the endless appeals. The amendment would not eliminate most of the endless appeals; you know that, and I know that; it would simply provide a small, tightly constructed and constitutionally required window when there is new evidence.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just heard my good friend, the gentleman from New York [Mr. SCHUMER] talk about that they do not make it up. In California, we had a judge named Rose Bird who was opposed to the death penalty and found every single thing that she could to stop the death penalty, even of those that were guilty.

I have also heard the gentleman from Florida [Mr. MCCOLLUM] state that there are processes which, if they find new evidence, that they can bring this forward. I have heard him state it on the floor, and I also heard that the have a Governor that can take a look at the case, and so there are several mechanisms that enable, if someone is innocent, either new evidence, or the Governor, or due process, that that can be brought forward.

And I agree. We did have the Alton Harris case of a person who was guilty, and I appreciate it because of the sympathy, because it does drag out a process where the guy admitted, yet we kept on going, and I understand that is not what we are talking about.

But this gentleman feels that we do have a process in which someone that is innocent could bring that new evidence forward and that, if we allow the gentleman's amendment, we have got a hundred Rose Birds out there that will oppose any death penalty.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I just make two quick points.

First, if there is a judge who is opposed to the death penalty and refuses to implement the law of the land, we should not eliminate any change that an innocent person has a right to some appeal. We should get rid of the judge, and, as I understand it, that is just what the people in California did in the case of the judge the gentleman is talking about. That was the appropriate remedy. Because there are some judges who either go too far one way or the other, Mr. Chairman, we should not change the law for them. We should change them.

The second point I will make to the gentleman is this one:

If there is no Watt amendment, and if 729 passes, there will be no route after the first appeal for evidence of innocence to enter into the case.

Mr. CUNNINGHAM. Reclaiming my time, Mr. Chairman, I would like to have the gentleman from Florida [Mr. MCCOLLUM] explain again. As I understand it, there is that route.

Mr. SCHUMER. Not after the first appeal.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, there is a way after the first appeal and successive petition. I read it earlier in the RECORD. I am not going to reread the whole thing again, but:

> If you can demonstrate there is newly discovered evidence which you couldn't have easily and reasonably discovered the first time around, and if it's clear and convincing evidence that if it goes before a court would result in innocence, then you can go produce that.

Mr. Chairman, it is clearly written into our bill.

What we say here is based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review the first time around, and the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error no reasonable factfinder would have found the petitioner guilty of the underlying offense.

Mr. CUNNINGHAM. I have a question for the gentleman from Florida, and let me ask a question.

If, say, for example, DNA results came up of just recent technology that proved that the individual was innocent? Would they have a right to retrial or to be——

Mr. MCCOLLUM. Mr. Chairman, would the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Certainly they would, if it is clear and convincing evidence.

Mr. CUNNINGHAM. What happens if someone comes up and admits to the crime? Would that person also have the same rights?

Mr. MCCOLLUM. If that was clear and convincing evidence, it was very clear that would have found the petitioner, would not have found the petitioner, guilty the first time around.

Mr. CUNNINGHAM. So there is surely a way in which, if a person is innocent and evidence appears, that person has many motives to——

Mr. MCCOLLUM. Absolutely and unquestionably so, and in addition to that I might add to the gentleman that a Governor of a State could always commute. That power exists.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from New York.

Mr. SCHUMER. We are back where we were in the discussion previously, I believe, between the gentleman from North Carolina and the gentleman from Florida.

I say to my colleagues, It is true, as the gentleman from Florida states, that if you were already in the door, he had appealed for some other reason that was recognized, the clear and convincing standard would be allowed.

But I would ask the gentleman to pose the question this way:

If we found the petitioner had undergone the first appeal, had been found guilty, and let us say a year later, because under the new law it would not be 10 years or 8 years; a year later they found the DNA evidence, but there is no route——

The CHAIRMAN. The time of the gentleman from California [Mr. CUNNINGHAM] has expired.

(On request of Mr. SCHUMER and by unanimous consent, Mr. CUNNINGHAM was allowed to proceed for 1 additional minute.)

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from New York.

□ 1800

Mr. CUNNINGHAM. Mr. Chairman, I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, if there was no other way for this person to get back into that court, then it is my understanding that the capital sentence would have to be taken, even with the DNA evidence, even with the clear and convincing evidence, for the very reason that the standard for review which the gentleman from North Carolina [Mr. WATT] puts in his amendment is not in H.R. 729 or existing law.

So there would be no way, I must sincerely disagree with my friend from Florida, there would be cases where this new evidence would occur.

Mr. CUNNINGHAM. Say Elton Harris, who admitted to his guilt after 14 years and said that he admitted he was

guilty, and all of a sudden it proved that he was not guilty. You are telling me there is no way that if we had DNA evidence or if someone admitted to the guilt, that he would not be protected?

Mr. SCHUMER. I am not familiar with the details of the Harris case. But, yes, I would say to the gentleman that if in that case Harris had no other way to beg back into court, then, yes.

Ms. NORTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to respond to a number of issues that have been raised in this debate. First of all, the Watt amendment does not talk about innocence, but uses a word which is much stricter in the law, and that is that the matter would probably have resulted in an acquittal. That is a very high standard. We are not using the more amorphous word ''innocent'' here.

Moreover, you have just rejected the Schumer amendment. More than half of all attorneys handling capital trials have had no previous death penalty experience. So the probability of finding newly discovered evidence is great, and we are not even willing to say that a man or woman standing on trial for his or her life should have competent counsel.

At the very least then we ought to say if incompetent counsel has not found evidence, newly discovered evidence can be brought forward.

There was discussion of due diligence here. It may be in the bill, but the fact is it is a judge-made rule in any case, and probably the court would find, based on the way courts have looked at these matters in the past, that if due diligence had not been exercised, the court would be more likely to find this was not newly discovered evidence at all.

We are dealing with a situation where 40 percent of death penalty cases heard in the Federal courts have been granted relief because of significant constitutional error. I submit to you, Mr. Chairman, judges have been sitting all these years, where they detest these cases and would love not to find relief, and have been easily finding relief.

We have a problem here. The problem we have is that these cases have been tried, often by people who are not competent to try them. At the very least you would think if newly discovered evidence overlooked by such counsel could be found, that the person would get a second petition.

The 40 percent of the cases I speak of where significant constitutional error was found have been found in the last few years, since 1976. And we are talking about judges appointed by the two previous Presidents.

We are talking in the last 10 years about petitions representing only 4 percent of all civil filings. Whatever is the problem in the Federal courts, it is not presented by habeas corpus petitions. And while I can understand the need to reduce the number, surely given this new rule for truly exceptional cases, for cases that can find their way through this narrow hole where the person probably would have been acquitted—and we are not talking about innocence, we are talking about acquittal, and that has a fixed meaning in the law—surely, that person should be able to get into court.

This does not open a large hole. I am left to ask, what are the Federal courts for if not for looking at cases where newly discovered evidence means that the person would probably have been acquitted?

As to Governors, I say to you, this is not a country where Governors or Members of Congress ought to judge whether constitutional rights have been violated. So it is certainly not the appropriate remedy to move from the courts to the Governor, who will look to the polls and decide whether he ought to exercise a remedy that is almost never exercised. That is no remedy. That is not a remedy at law; that is a political remedy. There should not be a political remedy for a constitutional right.

This is the death penalty we are talking about. This is the great habeas corpus remedy we are talking about. The bill more than protects the rights of the victims and their families. We create here the kind of right that I believe the average American would want us to protect.

Mr. GUTIERREZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my colleague, the gentleman from North Carolina [Mr. WATT], has offered a reasonable and sensible amendment to this very unreasonable bill today, and I congratulate my friend and colleague for his spirited defense of the Constitution.

Standing up for the Constitution puts you in a minority in this body these days. Standing up for the ideas of our forefathers is considered a radical idea in this body these days.

Looking to the sacred document that has guided our ideas for what is right and wrong for more than 200 years is apparently no longer part of our contract with the people anymore.

So I thank the gentleman from North Carolina [Mr. WATT], for this important amendment, and for reminding us that the Constitution still matters.

This amendment simply states that prisoners sentenced to death will be able to file a second habeas petition if newly discovered evidence shows that the person is likely to be found innocent.

Let me repeat, because this should sound so logical to everyone that you might think that I have somehow misstated the Watt amendment: newly discovered evidence that shows that a person is likely to be innocent.

Now, I understand the desire to get tough on crime and criminals. I share the desire to crack down on crime. I believe we should get tough on criminals. I was proud to support a crime bill during the last session that moved our Nation toward that goal. It made it harder to get military-style weapons. It increased funding for prisons. It increased preventive measures. It was an important start, Mr. Chairman.

We should continue to build on that start. I think we should do more to make criminals pay for their crimes. I think we should do more to protect our families from criminals.

That is the real purpose, or should be, of anticrime legislation. Yet my colleagues have lost sight of the true goal of anticrime legislation. The goal is to protect our families, Mr. Chairman, to protect our homes, to protect our neighborhoods. I challenge any of my colleagues who support this measure to demonstrate to me how this bill helps us reach any of those goals I just stated.

How have we reached a point in our anticrime debate that we have lost interest in the Constitution? Have we reached a point in our anticrime debate that newly discovered, clear, credible evidence of innocence does not win you the opportunity in America, just the opportunity for a new trial, in this, the greatest country in the world?

□ 1810

How does denying the possibility, the mere possibility of a new trial for a person who may be innocent, Mr. Chairman, help us make our families and streets safer? How does it make our families feel safer in their homes? How does it make our kids feel safer on the way to school? We all know the answer. Denying habeas when new evidence suggests innocence does not protect our communities. We all know it. It merely gives us a sound bite for the news this evening. It gives us a headline to cheer about tomorrow morning. It merely allows us to pat ourselves on the back and convince ourselves that we are doing something to protect the neighborhoods that we are all so concerned about.

But we are not, Mr. Chairman. This is not, and I repeat, this is not about the right of criminals. This is about the right of all of us, including the Members in this body, all of us in this room, all of our families, all of the people that we represent, their right, their fundamental right, their constitutional right as Americans not to be punished for a crime that they did not commit. Their right, our right to have a chance, a fair chance to prove our innocence.

Justice and fairness can be frustrating at times. Sometimes justice and fairness takes a little more time than we want it to take. But what separates us from nations that value vengeance over justice, revenge over fairness? It is this, that we have a way of doing things differently in this country. That is what this amendment is all about.

Mr. FOX of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the call has come out as to how we make the streets safer in the United States. We make the streets

safer by making sure we have swift justice with certainty when it comes to capital offenses. The U.S. citizens are asking who protects the victims from murder? The deceased victims cannot speak but their families can. And they have told us in great numbers that they want to make sure there is certainty that sentences, especially where dealing with a capital offense like murder.

As a former Montgomery County assistant district attorney in Pennsylvania, I can tell my colleagues when I worked on the crime victims bill of rights in Pennsylvania, the people of this country and of my commonwealth want to make sure there is certainty when it comes to the offense of murder.

Habeas corpus relief is a concept whose time has arrived. The endless appeals are inappropriate. The proposed amendment would drastically expand the possibilities for death row inmates to reopen cases where there was no trial that had any kind of constitutional error.

I urge my colleagues to adopt this habeas corpus reform. It is a step in the right direction to protect crime victims.

Mr. CONYERS. Mr. Chairman, there is a major omission in the bill that goes to the heart of due process and fundamental fairness: An innocent man should never be executed.

The McCollum bill gives a criminal defendant ''one bite at the apple'' but would not permit any appeals after the 6-month deadline has passed except in the difficult-to-imagine situation where there is clear and convincing evidence of innocence and no reasonable juror would find the petitioner guilty.

The amendment that we are considering will substitute preponderance of the evidence instead of the more restrictive standard in the McCollum bill.

This amendment simply states that the Federal courts should always be available to hear claims of innocence when based on newly discovered evidence. Representative MCCOLLUM's standard is far better suited to judge and dispose the claim rather than a standard of whether to really hear the claims in the first place.

If this is intentional, then it is a sly smokescreen to cut off all claims based on innocence. I would hope that is not the case and that the majority is willing to support this amendment.

Claims of innocence in habeas proceedings are not part of a far-fetched scenario that can never happen in this day and age. The truth is this is all too common. In fact, the Supreme Court decided a case just this January 23, 1995, that shows how easily this can occur.

The facts in Schlup versus Delo are that a prison inmate accused of murder argued that a videotape and interviews in the possession of prosecutors showed he could not have committed the murder but in the information was not revealed to him until 6 years after his conviction. The Court ruled that Mr. Schlup should be allowed to raise his claims of innocence.

There is case after shocking case of similar horror stories:

James Dean Walker had served 20 years in prison when one of his codefendants confessed that he had pulled the trigger that killed a Little Rock police officer. Walker's gun had not been fired but he had been convicted on the testimony of a witness who said she had seen him shoot the officer. The eighth circuit, which had denied his first habeas petition 16 years earlier, agreed in 1985 that he should be freed.

Rubin ''Hurricane'' Carter was convicted of murder in 1967 and served in prison for 18 years even though the witnesses whose identification led to their convictions later recanted their identifications. The conviction was reversed after a Federal judge ordered prosecutors to turn over evidence, including failed polygraph tests, which showed the witnesses were lying. Carter was set free.

Robert Henry McDowell was almost executed for a crime that the victim initially told police was committed by a white man. McDowell was black. The North Carolina supreme court reversed a trial court order granting him a new trial but the fourth circuit ordered him to be released after the police reports were made public.

False identifications, witnesses recanting, death-bed confessions, these are all too familiar to those who defend death row inmates. Access to Federal courts is vital.

This bill may achieve the goal of speedier executions but the cause of justice will not be served. It is an admission of failure to pursue one without the other. Support the amendment that prevents executing an innocent person.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. WATT].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 151, noes 280, not voting 3, as follows:

[Roll No. 105]

AYES—151

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Reynolds
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOES—280

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand

Sensenbrenner	Stump	Wamp
Shadegg	Tate	Watts (OK)
Shaw	Tauzin	Weldon (FL)
Shays	Taylor (MS)	Weldon (PA)
Shuster	Taylor (NC)	Weller
Skeen	Thomas	White
Skelton	Thornberry	Whitfield
Smith (MI)	Tiahrt	Wicker
Smith (NJ)	Torkildsen	Wilson
Smith (TX)	Torricelli	Wolf
Smith (WA)	Traficant	Wyden
Solomon	Upton	Young (AK)
Souder	Volkmer	Young (FL)
Spence	Vucanovich	Zeliff
Stearns	Waldholtz	Zimmer
Stenholm	Walker	
Stockman	Walsh	

NOT VOTING—3

Andrews	Sisisky	Talent

□ 1831

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. COX OF CALIFORNIA

Mr. COX of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COX of California: Strike section 104 and insert the following:

SEC. 104. EFFECT OF PRIOR STATE CONSIDERATION.

(a) EXHAUSTION OF REMEDIES.—Section 2254(b) of title 28, United States Code, is amended to read as follows:

''(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State. A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless through its counsel it waives the requirement expressly.''.

(b) STANDARD OF DEFERENCE TO STATE JUDICIAL DECISIONS.—Section 2254 of title 28, United States Code, is amended by adding at the end the following:

''(g) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was decided on the merits in State proceedings unless the adjudication of the claim—

''(1) resulted in a decision that was based on an arbitrary or unreasonable interpretation of clearly established Federal law as articulated in the decisions of the Supreme Court of the United States;

''(2) resulted in a decision that was based on an arbitrary or unreasonable application to the facts of clearly established Federal law as articulated in the decisions of the Supreme Court of the United States; or

''(3) resulted in a decision that was based on an arbitrary or unreasonable determination of the facts in light of the evidence presented in the State proceeding.''.

In the proposed new section 2259(b) of title 28, United States Code, added by section 111, strike ''section 2254(d)'' and insert ''subsections (d) and (g) of section 2254''.

Mr. COX of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. COX of California. Mr. Chairman, I also ask unanimous consent that debate be limited on both sides, for purposes of this amendment and any amendment thereto, to 10 minutes on each side.

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

Mr. WATT of North Carolina. Mr. Chairman, reserving the right to object, I am trying to figure out why we want to limit debate. Could the gentleman enlighten us? I just want to find out what the amendment does and what is the justification for limiting debate on it.

Mr. COX of California. Mr. Chairman, if the gentleman will yield, in informal discussions on the floor prior to offering the amendment, our side was asked whether we would be agreeable to a limitation on debate. It is not my personal intention in any way to limit debate, but there were Members on the Democratic side who were interested in proceeding in a timely fashion. That is the only purpose for the unanimous consent request that is now on the floor.

Mr. WATT of North Carolina. Mr. Chairman, I withdraw my reservation of objection.

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

Mr. CONYERS. Mr. Chairman, reserving the right to object, could I ask, are there more than two amendments on the gentleman's side? It seems to me that there is only one amendment on our side. Can the gentleman give us an idea on that?

Mr. COX of California. Mr. Chairman, if the gentleman will yield, for that purpose I would defer to the gentleman from Florida [Mr. MCCOLLUM].

Mr. CONYERS. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, if the gentleman will yield, I believe there are two amendments altogether. There may be three. It seems to me the gentleman from Texas, Mr. FIELDS on our side, and also the gentleman from Texas, Mr. LAMAR SMITH, each had amendments. I do not know of any others, and I do not know their intent about offering those amendments.

Mr. CONYERS. If they are going to offer them, would the gentleman just ask them to provide copies to this side, please?

Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

The CHAIRMAN. The gentleman from California [Mr. COX] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. COX].

Mr. COX of California. Mr. chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer a simple common sense amendment to H.R. 729. My amendment, which I am calling the Harris amendment, provides that a habeas writ will not be granted when State court decision reasonably interprets and Federal law reasonably interprets the facts of the case and reasonably applies the law to the facts, or to put it simply, State decisions that are reasonable on the law and the facts will be upheld by a habeas review.

The purpose of my amendment is to prevent the use of endless appeals to frustrate the punishment of already convicted criminals, including first degree murders. We do not have a Federal Criminal Code. We have, in chief, a State criminal justice system. When one commits murder, rape, robbery, and so on, all of these are offenses against State law.

Our Federal criminal jurisprudence is a gloss on that State criminal justice system. The Federal procedural rules, in fact, operate in many cases as a frustration to the State system. So we find that there are egregious cases, and all too many of them, of convicted first degree murderers who have run all of their appeals in the State criminal justice system, who then get another bite, and another bite at the apple, seemingly endlessly in the Federal system, and who have been able, through the abuse of the habeas device, to postpone their executions, seemingly indefinitely.

I said I am calling this the Harris amendment. It is so named after Robert Alton Harris, the notorious first degree murderer who postponed for well over a decade his own execution through the abuse of the device of Federal habeas corpus, statutory habeas corpus.

Harris, even before the murder conviction that was the subject of that long legal odyssey, was already a murderer. He had been convicted of murdering a 19-year-old boy in California. For this he served 2 years and 5 months, and he was out on parole, went out on parole, and he and his brother decided that they ought to rob a bank.

They went after the San Diego Trust and Savings Bank. They decided they needed to steal a getaway car. So they headed out for the Jack-in-the-Box, in San Diego, and they spotted two high school sophomores, John Mayeski who was 15, and Michael Baker was 16, sitting in their Ford LTD eating Jack-in-the-Box hamburgers.

Let me quote from the January 17, 1990, San Francisco Chronicle article about this terrible crime.

Armed with a 9mm Luger automatic pistol, Robert Harris commandeered Mayeski's car and ordered the two boys to drive him to a

wooded area near Miramar Lake. He promised them no one would be hurt.

Daniel Harris, who later became the chief prosecution witness against his brother, followed in another car. He testified that they drove to the lake, where Robert Harris fired two rounds into Mayeski, then went after Baker, who was running for his life.

''I went over to John after he was shot. I looked at him for three or four seconds, I guess. I heard some screaming from the bushes, then three or four shots,'' said Daniel, who served three years in Federal prison for his role. Later after he was arrested, Robert Harris boasted to his cellmate that he told the terrified Baker boy to quit crying and die like a man. When the boy started to pray, Harris said, ''God can't help you now, boy. You're going to die.'' After the murders, Robert Alton Harris and his brother finished the boys' half-eaten hamburgers. They then went on to rob the bank. In one of the great ironies of this case, one of the police officers who ended up apprehending Robert Alton Harris was the father of one of their murdered boys.

□ 1840

Unfortunately, this case is not unique. There are many, many cases like this. But Robert Alton Harris' case took a long time to lead to his conviction.

It was 1979, a year later, when the Superior Court pronounced judgment on him. It was years later when finally the Governor denied his application for clemency. It was years later when he filed his ninth State habeas corpus petition, and he was already then on his fourth Federal habeas corpus petition. In 4 days, Harris filed a fifth and sixth Federal habeas corpus petition. He was not executed, even though this crime occurred in 1978, until 1992.

To repeat, this crime that I have described in some detail occurred in 1978. The judgment was pronounced in 1979, but it was not until 1992, a total delay of 13 years from judgment, that Robert Alton Harris finally finished abusing Federal habeas corpus and was executed. That made him only the second person executed in California under our death penalty since 1978.

We have 400 prisoners sentenced to death in California since the State reinstated the death penalty in 1978. Only two, Robert Alton Harris and David Mason, have been executed.

Today there are 125 California death penalty cases before the Federal courts, and because of the abuse of Federal statutory habeas corpus and this device of endless appeals, we will never perhaps be able to execute these convicted first-degree murderers.

As the Powell Commission wrote, ''The relatively small number of executions as well as the delay in cases where an execution has occurred makes clear that the present system of collateral review,'' referring to statutory habeas corpus, ''operates to frustrate the law.''

Opponents of reform correctly state that our whole system of criminal justice rests on the premise that it is better for 10 guilty men to go free than for one innocent man to suffer, and for that reason, the Constitution requires the States and the Federal Government to provide every criminal defendant the full panoply of protections assured by the Bill of Rights, an unrivaled arsenal of procedural and substantive rights. And that is why, after cases have been fully litigated through the State judicial system, habeas corpus review is available in Federal court, a duplicative system of review that, as Justice Lewis Powell has written, ''is without parallel from any other system of justice in the world.''

The question before us today is not the availability of that habeas review, but, rather, the standard that the Federal courts will use so that we can avoid the kind of repetition and abuse that we saw in the Robert Alton Harris case and that we see in so many cases throughout the country.

The reasonableness standard that I am proposing is already used for factual determinations in habeas cases pursuant to statute and for legal determinations in many cases. This reasonableness standard respects the coordinate role of the States in our constitutional structure, while assuring ample Federal review of State determinations of law and fact.

It strikes a sensible balance that is consistent with the interests of defendants, victims, and States. It is supported by crime victims and law enforcement professionals around the country, including the National District Attorney's Association, which has written to all of us in this Chamber about urging our support for what they call the Cox amendment, what I am calling the Harris amendment, the California District Attorneys' Association, my home State, DA's around the country through the National DA's Association, and as I mentioned, Citizens for Law and Order, and victims' rights groups from across the country and coast to coast, Democrat and Republican attorneys general alike, including the AG's in Texas and California, Democrat and Republican.

I urge your strong support for this strong habeas reform.

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

The CHAIRMAN. Is there a Member who wishes to speak in opposition to the amendment?

Mr. CONYERS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] is recognized for 10 minutes in opposition of the amendment.

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

What we have here in this full and fair concept is a throwback to an outmoded idea first advanced in the other body that would effectively end all rights of habeas corpus, if minimal State guarantees are satisfied. In other words, there would be no right of Federal review unless the State court decision is totally arbitrary. This makes the previous one-bite-of-the-apple position of the gentleman from Florida [Mr. MCCOLLUM] of which we argued about and against, look absolutely great.

This is probably the throwback amendment to habeas corpus of all throwbacks. I mean, this would effectively end habeas corpus today at the Federal level. It almost says that: Let each State do their own thing on habeas corpus and forget Federal habeas review. That's a totally untenable position that I am surprised my friend, the gentleman from California, would even drag it out on the floor at this late hour.

This would end even the very modest advances in the McCollum bill, which are very few, indeed.

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

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. LIGHTFOOT) 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. Edwin Thomas, one of his secretaries.

PARLIAMENTARY INQUIRY

Mr. WATT of North Carolina. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WATT of North Carolina. How can we rise out of the Committee of the Whole without a motion to that effect? I did not hear anybody make a motion. It is strictly a technical point, but there are some procedural rules that apply in this body, I thought.

The SPEAKER pro tempore. The Chair will inform the gentleman from North Carolina the Committee of the Whole can rise informally just for the purpose of receiving a message.

Mr. WATT of North Carolina. Informally.

The SPEAKER pro tempore. Yes. A motion is not required just for the purpose of receiving a message.

Mr. WATT of North Carolina. I thank the Chair for enlightening me.

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

EFFECTIVE DEATH PENALTY ACT OF 1995

The Committee resumed its sitting.

Mr. CONYERS. Mr. Chairman, in continuing my opposition against the biggest throwback amendment of all, I must express my shock and disappointment at the gentleman from California for really attempting to end Federal habeas corpus, if even the most minimal State guarantees are satisfied.

Presumably the bill, the crime bill, has been reported by the subcommittee, the full committee, it is now on the floor, and now from the Republican ranks we now have another amendment that even vitiates the provisions, the very modest provisions, in the McCollum bill, and so we would end up with not even one bite at the apple which I thought was awfully scarce, no right to counsel even in a postconviction proceeding.

So the result with the 50 States would have 50 different standards for protecting Federal constitutional rights. I do not think that we would want this kind of provision put in the bill under any circumstances.

□ 1850

The full and fair issue was deadlocked in the other body last year, and this amendment is another attempt to pass it again.

I urge overwhelming rejection of this amendment.

Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. I thank the gentleman for yielding this time to me, although I doubt I will take 4 minutes.

I do not know what I can say about this. I just want to make sure people understand what it is we are doing here.

All of my colleagues and the American people are getting, if this amendment passes, the Federal courts completely out of the habeas business. You will not have any Federal habeas rights if this bill passes, because in order for you to get in the Federal court, the Federal court would have to find that a decision that was rendered in the State court was arbitrary or unreasonable interpretation of clearly established Federal law, resulted in a decision that was based on an arbitrary and unreasonable application to the facts, resulted in a decision that was based on an arbitrary and unreasonable determination of the facts in light of the evidence presented in the State proceeding. And what you are doing, really, is inviting rock-throwing between the Federal courts and State courts.

Now, we know how gentlemanly and cordial the courts have been with each other. Federal courts never ever say to a State court that, ''Court, you have been arbitrary and unreasonable.'' That would not even be gentlemanly, would not even be proper protocol, almost, in a Federal court.

I have never seen a Federal court say to a State court, ''Judge, you have been arbitrary and unreasonable.'' That is the kind of stuff that we say to claimants when they file lawsuits.

So here we are now inviting the Federal courts to start throwing rocks at the State court and the State court to start throwing rocks back at the Federal court and doing away with even the one opportunity that was guaranteed, or at least provided in the underlying bill. And we are doing it, I would add, without the benefit of one iota of discussion in committee about it.

I have been banging my head against this wall all day, and I am sure you are going to do whatever you want to do. But at least if you are going to do this, have somebody came in and present some evidence that it makes sense. Ask Federal judges if they think it is a good idea for them to start saying to State judges that, ''You are arbitrary and unreasonable.'' It just does not happen.

So the practical effect of what you are doing is to say that you are never going to have any rights in the habeas arena in Federal court.

I encourage my colleagues to be reasonable and defect this proposed amendment.

Mr. CONYERS. I thank the gentleman from North Carolina, my colleague.

Mr. Chairman, may I remind my friends on the other side on the Committee on the Judiciary that this matter has never come up before that I can recall, before the Committee on the Judiciary. The gentleman from California [Mr. COX] has never appeared before the committee.

Mr. MCCOLLUM. Not in this Congress, but it certainly came up in other Congresses.

Mr. CONYERS. Just a minute, please. I will be happy to yield time. We have never considered this matter in this 104th Congress. It has never come up, was never the subject of an amendment.

Mr. Chairman, I will give the gentleman from Florida [Mr. MCCOLLUM] a chance to correct anything he would like to correct. But this has never been put before the Committee on the Judiciary for a vote, and the gentleman from California [Mr. COX] has never presented this subject matter before, and we are literally blind-sided in the last hour of this debate on this very important part where you have advanced the habeas part of the Contract With America, and now we have another amendment that goes in a completely different way.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I would yield to my friend, the chairman of the Subcommittee on Crime.

Mr. MCCOLLUM. I thank the gentleman for yielding.

Mr. Chairman, I would just like to point out to the gentleman that at hearings of the subcommittee, on January 19, 1995, we had two panels on habeas corpus reform, and both panels addressed this question. One panel involved the Attorney General of California, Daniel Lungren. Attorney General Lungren spent a great deal of time discussing and arguing for the full and fair concept that Mr. COX is advocating here tonight.

Mr. CONYERS. Mr. Chairman, I was there. He did mention, it was rather fulsome testimony on a great range of subjects. But I could hardly consider that that was the notice that we needed to come here tonight. In the markup, it was never mentioned at all. As a matter of fact, it was the gentleman's provisions on habeas that we gave great attention to.

Mr. Chairman, I yield further to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, I would like to inquire of the gentleman from Florida [Mr. MCCOLLUM] if, in fact, testimony was presented and the committee then dealt with this and thought it was a wonderful idea, why was it not in the original bill? Why are we coming to the floor with it at the 99th hour on this bill and dealing with it in 10 minutes of debate?

If you all thought it was a great idea, I would have thought you would have incorporated it into the bill.

Mr. MCCOLLUM. If the gentleman will yield further.

Mr. CONYERS. Briefly.

Mr. MCCOLLUM. I thank the gentleman.

Briefly, the idea of 10 minutes of debate was by unanimous consent request. We did not have to follow that.

Second, it has come to the floor the way it has. The gentleman from California [Mr. COX] is not a member of the committee. We did not bring it up, the committee did not bring it up. He has a right to bring it up, to bring it forward, and he has.

The CHAIRMAN. The time is controlled by the gentleman from California [Mr. COX], who has 1½ minutes remaining.

Mr. COX of California. I thank the Chairman.

Mr. Chairman, I just point out that the language of the amendments says reasonable. It also says arbitrary. But a separate standard is reasonable. It is arbitrary or unreasonable.

Obviously, the reasonableness test is the more difficult to meet.

Simply stated, the Federal courts will defer to reasonable decisions on the facts, reasonable decisions on the law, and reasonable decisions on mixed questions of law and fact made at the State courts.

That is exactly what they should do because after all we are already requiring in this bill that criminal defendants exhaust all of their State remedies, if they go through trial, if they have an appeal, if they have another appeal, and so on. All of this within the State court system.

But if habeas corpus, statutory habeas corpus is available simply to throw out the whole State judicial system, why do we have it in the first place? If we are going to look at all of these questions from scratch, de novo, facts, evidence, law, the whole thing, as if the State proceeding had never happened, then Robert Alton Harris would be able to, in the future, to be able to delay his execution for 13 more years.

(The letter referred to by Mr. COX of California is as follows:)

FEBRUARY 8, 1995.

Hon. HENRY HYDE,
Chairman of the House Judiciary Committee, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN HYDE: We would first of all like to thank you for your tireless effort on behalf of habeas corpus reform. As Attorneys General for our respective states we are confronted with a system of federal habeas review that is often intrusive, cumbersome, and time consuming. It also imposes a great cost on victims of crime and undermines finality in our criminal justice system.

The central problem underlying federal habeas corpus review is a lack of comity and respect for state judicial decisions. The lower federal courts should simply not be relitigating matters that were handled properly and reasonably by the state judicial systems. This not in any way a criticism of those who serve in the federal judiciary, but rather a demonstration of the need for Congressional action to reform the federal statutory scheme.

In this regard, we strongly support an amendment that will be offered by Congressman Christopher Cox to title I H.R. 729, which would give deference to state court decisions on federal habeas review, as long as the state courts acted reasonably in their adjudication of the case. Specifically, the amendment would provide:

An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a state court shall not be granted with respect to any claim that was decided on the merits in state proceedings unless the adjudication of the claim:

1. resulted in a decision that was based on an arbitrary or unreasonable interpretation of clearly established federal law as articulated in the decisions of the Supreme Court of the United States;

2. resulted in a decision that was based on an arbitrary or unreasonable application to the facts of clearly established federal law as articulated in the decisions of the Supreme Court of the United States; or

3. resulted in a decision that was based on an arbitrary or unreasonable determination of the facts in light of the evidence presented in the state proceeding.

We believe that meaningful habeas corpus reform must contain such a standard of deference to reasonable state court decisions. This is essential if the trial of criminal defendants is to be the ''main event'' rather than a sideshow for ultimate resolution of the case on federal habeas corpus review.

Thank you again for your continued effort on behalf of prosecutors and crime victims. We look forward to working with you on this and other issues in the future.

Sincerely,

Dan Morales, Attorney General of Texas; Grant E. Woods, Attorney General of Arizona; Franie Sue Del Papa, Attorney General of Nevada; Daniel E. Lungren, Attorney General of California; W. A. Drew Edmondson, Attorney General of Oklahoma; Joseph P. Mazurek, Attorney General of Montana; Pamela Carter, Attorney General of Indiana, Jeff Sessions, Attorney General of Alabama; Ernest D. Preate, Jr., Attorney General of Pennsylvania.

THE HARRIS CASE FOR HABEAS CORPUS REFORM

On July 5, 1978, Robert Alton Harris murdered two teenage boys in San Diego. Two days later, he was arraigned.

On March 6, 1979, the San Diego Superior Court pronounced judgment on Harris, following a trial in which the jury convicted him of two counts of first degree murder and returned a death sentence.

Five days before execution, Gov. Wilson denied Harris's application for clemency. Harris filed his 9th state habeas corpus petition and 4th federal habeas corpus petition.

In the next four days, Harris filed his 5th and 6th federal habeas corpus petitions.

Harris was even the named plaintiff in a class action filed in U.S. district court on behalf of all California death-row inmates. The suit alleged that the gas chamber was a cruel and unusual means of execution and sought a stay on Harris' execution.

On April 21, 1992, Harris was finally executed.

The total delay from judgment to execution was 13 years.

In all, Harris filed 6 federal habeas corpus petitions.

69% of the 141 significant events in the Harris proceedings occurred in federal court. Only 31% occurred at the state level.

THE HARRIS CASE IS NOT UNIQUE—THAT'S THE TRAGEDY

One Ninth Circuit Judge has called the Harris case, even before its particularly egregious final rounds of litigation, ''a textbook example'' of the abuse of federal habeas corpus.

While 400 prisoners have been sentenced to death in California since the state reinstated the death penalty in 1978, only Robert Alton Harris and David Mason have been executed.

Today, there are 125 California death penalty cases before the federal courts.

A similar case in Washington state: 4 federal habeas corpus petitions dragged out for 12 years the execution of Charles Campbell. Campbell was a convicted rapist who murdered 3 people while on work furlough from prison. The victims were his earlier rape victim, a neighbor who had testified against him, and her 8-year-old daughter. The 9th Circuit took 5 years to resolve must one of the habeas corpus petitions.

Mr. Chairman, I yield to the gentleman from Florida [Mr. MCCOLLUM] to close.

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding, and I would like to say that everything we are doing here is reasonable. If there is a full and fair review of the provisions by the courts, the Federal courts, of what is going on underneath, and if the lower courts have made this decision, why should one Federal judge overturn the rulings of the State court judge, five State intermediate appellate courts, and perhaps nine Supreme Court justices.?

The CHAIRMAN. All time has expired.

Mr. CONYERS. Mr. Chairman, I ask unanimous consent to proceed for 30 additional seconds.

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

There was no objection.

□ 1900

Mr. CONYERS. Mr. Chairman, I just want everybody in this Chamber to know that, as opposed as I am to this Draconian amendment offered by the gentleman from California [Mr. COX], ironically, if adopted, it may be the kiss of death for any habeas corpus reform since we know that the Senate is almost sure to deadlock.

So, Mr. Chairman, I say to my colleagues, Have it your way, gentlemen. The McCollum habeas and the Cox habeas are in direct contradiction, and you——

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. COX].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 291, noes 140, not voting 3, as follows:

[Roll No 106]

AYES—291

Allard	Dickey	Johnson (SD)
Archer	Dooley	Johnson, Sam
Armey	Doolittle	Jones
Bachus	Dornan	Kanjorski
Baesler	Doyle	Kaptur
Baker (CA)	Dreier	Kasich
Baker (LA)	Duncan	Kelly
Ballenger	Dunn	Kim
Barcia	Edwards	King
Barr	Ehlers	Kingston
Barrett (NE)	Ehrlich	Klink
Bartlett	Emerson	Klug
Barton	English	Knollenberg
Bass	Ensign	Kolbe
Bateman	Everett	LaHood
Bereuter	Ewing	Lantos
Bevill	Fawell	Largent
Bilbray	Fields (TX)	Latham
Bilirakis	Flanagan	LaTourette
Bliley	Foley	Laughlin
Blute	Forbes	Lazio
Boehlert	Fowler	Leach
Boehner	Fox	Lewis (CA)
Bonilla	Franks (CT)	Lewis (KY)
Bono	Franks (NJ)	Lightfoot
Borski	Frelinghuysen	Lincoln
Boucher	Frisa	Linder
Brewster	Frost	Lipinski
Browder	Funderburk	Livingston
Brownback	Gallegly	LoBiondo
Bryant (TN)	Ganske	Longley
Bunn	Gekas	Lucas
Bunning	Geren	Manzullo
Burr	Gilchrest	Martini
Burton	Gillmor	Mascara
Buyer	Gilman	McCollum
Callahan	Goodlatte	McCrery
Calvert	Goodling	McDade
Camp	Gordon	McHale
Canady	Goss	McHugh
Castle	Graham	McInnis
Chabot	Green	McIntosh
Chambliss	Greenwood	McKeon
Chapman	Gunderson	Menendez
Chenoweth	Gutknecht	Meyers
Christensen	Hall (OH)	Mica
Chrysler	Hall (TX)	Miller (FL)
Clement	Hancock	Minge
Clinger	Hansen	Molinari
Coble	Harman	Montgomery
Coburn	Hastert	Moorhead
Coleman	Hastings (WA)	Moran
Collins (GA)	Hayes	Morella
Combest	Hayworth	Murtha
Condit	Hefley	Myers
Cooley	Heineman	Myrick
Costello	Herger	Nethercutt
Cox	Hilleary	Neumann
Cramer	Hobson	Ney
Crane	Hoekstra	Norwood
Crapo	Hoke	Nussle
Cremeans	Holden	Ortiz
Cubin	Horn	Orton
Cunningham	Hostettler	Oxley
Danner	Hunter	Packard
Davis	Hutchinson	Parker
Deal	Hyde	Paxon
DeLay	Inglis	Payne (VA)
Deutsch	Istook	Peterson (FL)
Diaz-Balart	Jefferson	Peterson (MN)

Petri	Seastrand	Tejeda
Pickett	Sensenbrenner	Thomas
Pombo	Shadegg	Thornberry
Porter	Shaw	Tiahrt
Portman	Shays	Torkildsen
Poshard	Shuster	Torricelli
Pryce	Sisisky	Traficant
Quillen	Skeen	Upton
Quinn	Skelton	Vucanovich
Radanovich	Smith (MI)	Waldholtz
Ramstad	Smith (NJ)	Walker
Regula	Smith (TX)	Walsh
Richardson	Smith (WA)	Wamp
Riggs	Solomon	Watts (OK)
Roberts	Souder	Weldon (FL)
Roemer	Spence	Weldon (PA)
Rogers	Stearns	Weller
Rohrabacher	Stenholm	White
Ros-Lehtinen	Stockman	Whitfield
Roth	Stump	Wicker
Roukema	Stupak	Wilson
Royce	Talent	Wolf
Salmon	Tanner	Wyden
Sanford	Tate	Young (AK)
Saxton	Tauzin	Young (FL)
Scarborough	Taylor (MS)	Zeliff
Schaefer	Taylor (NC)	Zimmer

NOES—140

Abercrombie	Gutierrez	Pallone
Ackerman	Hamilton	Pastor
Baldacci	Hastings (FL)	Payne (NJ)
Barrett (WI)	Hefner	Pelosi
Becerra	Hilliard	Pomeroy
Beilenson	Hinchey	Rahall
Bentsen	Houghton	Rangel
Berman	Hoyer	Reed
Bishop	Jackson-Lee	Reynolds
Bonior	Jacobs	Rivers
Brown (CA)	Johnson (CT)	Rose
Brown (FL)	Johnson, E. B.	Roybal-Allard
Brown (OH)	Johnston	Rush
Bryant (TX)	Kennedy (MA)	Sabo
Cardin	Kennedy (RI)	Sanders
Clay	Kennelly	Sawyer
Clayton	Kildee	Schiff
Clyburn	Kleczka	Schroeder
Collins (IL)	LaFalce	Schumer
Conyers	Levin	Scott
Coyne	Lewis (GA)	Serrano
de la Garza	Lofgren	Skaggs
DeFazio	Lowey	Slaughter
DeLauro	Luther	Spratt
Dellums	Maloney	Stark
Dicks	Manton	Stokes
Dingell	Markey	Studds
Dixon	Martinez	Thompson
Doggett	Matsui	Thornton
Durbin	McCarthy	Thurman
Engel	McDermott	Torres
Eshoo	McKinney	Towns
Evans	McNulty	Tucker
Farr	Meehan	Velazquez
Fattah	Meek	Vento
Fazio	Mfume	Visclosky
Fields (LA)	Miller (CA)	Volkmer
Filner	Mineta	Ward
Flake	Mink	Waters
Foglietta	Moakley	Watt (NC)
Ford	Mollohan	Waxman
Frank (MA)	Nadler	Williams
Furse	Neal	Wise
Gejdenson	Oberstar	Woolsey
Gephardt	Obey	Wynn
Gibbons	Olver	Yates
Gonzalez	Owens	

NOT VOTING—3

Andrews	Collins (MI)	Metcalf

□ 1919

Ms. FURSE, Mr. POMEROY, and Mr. RAHALL changed their vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1920

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. FIELDS OF LOUISIANA

Mr. FIELDS of Louisiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FIELDS of Louisiana: In the matter proposed to be inserted in section 3593(e) of title 18, United States Code, by section 201, insert ''or a sentence of life imprisonment without the possibility of release'' after ''shall recommend a sentence of death''.

Strike subsection (b) of section 201 and eliminate the subsection designation and heading of subsection (a).

Mr. FIELDS of Louisiana. Mr. Chairman, I ask unanimous consent that time on my amendment and all amendments thereto be limited to 10 minutes, equally divided on both sides.

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

There was no objection.

The CHAIRMAN. The gentleman from Louisiana [Mr. FIELDS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Does the gentleman from Pennsylvania [Mr. GEKAS] wish to manage the opposition to the Fields amendment?

Mr. GEKAS. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. FIELDS].

Mr. FIELDS of Louisiana. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, today my Republican friends continue along with their stampede to undo over 200 years of constitutional rights and protections afforded all of our citizens. I have decided that the GOP should rename their 100-day legislative agenda the Assault on America.

I am truly disturbed with the short-sighted and politically misguided attempts by those on the other side of the aisle to limit individual liberties and establish an eye-for-an-eye justice system in the United States. Their irrational cries for vengeance as a form of crime control do nothing but blind society to the real solutions to the problems with which we are confronted and inevitably heighten divisiveness among varying races and socioeconomic classes across our Nation.

We have a perfect example of this, Mr. Chairman, in the bill before us, H.R. 729, the Effective Death Penalty Act. The title of this legislation is an absolute oxymoron. No study that I am aware of has ever proven the deterrent effect of the death penalty, and yet the leadership wants to accelerate the rate of executions in this country while at the same time greatly curtailing the rights of defendants to receive not only adequate representation and fair trials, but also sufficient protections against wrongful executions.

No matter what your stance on the death penalty, I firmly believe that few in America wish to run the risk of putting an innocent person to death. However, this bill clearly heightens that risk.

Not only does H.R. 729 fail to require that States provide defendants with competent lawyers at the critical trial stage of death penalty cases, it also effectively bars defendants from second habeas corpus petitions even where newly discovered evidence shows that the defendant is most likely innocent of the charges leveled against him or her.

I am particularly alarmed because, as Supreme Court Justice Harry Blackmun stated last year, ''the death penalty experiment has failed * * * it remains fraught with arbitrariness, discrimination, and caprice, and mistake.'' Given that this is the case, why in the world would the GOP want to expand its use?

It is becoming increasingly clear, Mr. Chairman, that the Republicans believe the Constitution applies only selectively to those individuals and groups that they deem acceptable or deserving—poor, underserved, minority Americans need not apply.

Mr. Chairman, the fate of our system of justice rests on the citizenry believing that it is fair. Whenever that fairness is lost, so follows the justice. Unfortunately, the bill before us would only bring greater unfairness to the system.

I urge my colleagues to vote no on this nonsensical attempt to accelerate government-sanctioned executions in the United States.

Mr. FIELDS of Louisiana. Mr. Chairman, I yield myself such time as I may consume. Let me briefly explain the amendment.

The amendment under the present piece of legislation that is before us—it provides in no uncertain terms that the jury or, if there is no jury, the court shall recommend a sentence of death. What this amendment simply would do is not take out, it would not take out the sentence of death, as much as I would want to do that, but it would maintain that language, but it would add to, to give the jury and the court the opportunity of not only being able to recommend a sentence of death but give them the option to either recommend a sentence of death or a sentence of life in prison without the possibility of release.

That is all the amendment does.

Now, philosophically, I am very strongly and adamantly opposed to capital punishment, but it does not do away with capital punishment in the bill. But I do think if we leave the bill as it is in its present form, we will have a bill that would give the judge and would give the jury no option whatsoever. Due to the fact that many of the people who are victims of capital punishment are the people who do not have capital, many times he who does not have the capital normally get punished.

So this amendment certainly gives us an opportunity to give the judge and the jury the option of either imposing capital punishment or giving a person life in prison without parole.

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

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

Mr. Chairman, if the gentleman's amendment should be accepted by the House, it would in effect make the

present bill that calls for instructions to the jury to carry a certain essence with them, would make those provisions unconstitutional.

We have to recall that in the crime bill that is now the law of the land the flawed language, which we consider to be flawed, calling for instructions to the jury that no matter what the aggravating circumstances and mitigating circumstances might be, no matter what weight is placed on them allowing the jury to find life or the sentence of death is clearly unconstitutional.

What we do is implant language into the bill which makes it mandatory to find the death penalty, if a jury, in the second hearing, in the bifurcated hearing, determines that the aggravating circumstances outweigh the mitigating circumstances.

That conforms with many of the States who have crafted death penalties of their own with respect to the jury instructions, and the Supreme Court has blessed the language of at least 15 States who have similar mandatory language, finding that the aggravating circumstances outweighing the mitigating circumstances requires a death penalty.

Now, what this gentleman's amendment does is allow another alternative to the jury, as I understand it, life imprisonment without patrol, which means that the mandatory feature, that which the Supreme Court has found to be constitutional and which forms the bedrock of the provisions in the present legislation, which we are offering to the House, would render it unconstitutional.

We have gone through this road many times. In a strange way, adopting this amendment would be like repeating last year's error in the crime bill, which itself took us back to prior to 1974, before the Supreme Court struck down the death penalty. And provides for a jury deliberation on the death penalty that allows for so much discretion that discrimination or racial or gender basis or age or any of those things could enter into the picture, where in our language, in our bill, because of the mandatory features, if aggravating circumstances outweigh mitigating, the chances for discrimination, bias, gender, race, all of those are eliminated.

So we would ask that the gentleman's amendment be defeated.

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

Mr. FIELDS of Louisiana. Mr. Chairman, this amendment has nothing to do with race. There is not race in the bill. It has nothing to do with race.

Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Vermont [Mr. SANDERS].

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

I think the Fields amendment is eminently sensible.

At a time when many of our friends are saying, get the big, bad Federal Government off the backs of local communities, what the Fields amendment says to judges and juries all over America, if they understand what the circumstances are in the case and if they want to rule for the death penalty, OK, they can do that, but if they want to rule for life imprisonment, they also have that right.

□ 1930

It is flexible, it is consistent with local control.

In a more general sense, Mr. Chairman, I get a little bit nervous with the fervor that we hear here about the death penalty. I would point out to my friends that to the best of my knowledge, the United States of America remains the only major industrialized nation on Earth that allows for the death penalty in all circumstances other than war crimes and in treason. Our friends in Canada do not have the death penalty. Our friends south of us in Mexico do not have the death penalty.

What the amendment of the gentleman from Louisiana [Mr. FIELDS] says is, give juries and give judges the option. I think it is a sensible proposal.

The CHAIRMAN. The Chair will inform the gentleman from Louisiana [Mr. FIELDS] that he has 2 minutes remaining, and the gentleman from Pennsylvania [Mr. GEKAS] has 2 minutes remaining.

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

It is well-known, and it is so well-embedded in the CONGRESSIONAL RECORD in previous sessions and in newspaper reports, television reports, and in every poll known to mankind that the American people, by a wide margin, 75, 80 percent, favor the imposition of the death penalty in a proper case. They do not exactly favor the imposition of the death penalty, they favor the concept of allowing a jury that hears the facts to have the option of listening to whether aggravating circumstances appear in a particularly vicious case to determine that a death penalty is the proper sentence.

Mr. Chairman, the amendment that we have here returns us to the stone age of the death penalty, where discretion was so freakishly applied by the jury, and that word ''freakishly'' is in the Supreme Court opinion that struck down the death penalty, that we cannot be certain that bias and prejudice would not enter into the final decision made by the jury.

The amendment that we have at hand would do much of the same. In giving unfettered discretion to the jury to determine, regardless of the aggravating circumstances or the mitigating circumstances, that they could find death or life throws us back to the unconstitutional days of the death penalty, which we are trying to avoid, and which this bill corrects and brings into play language already approved by the Supreme Court. Thereby we avoid the possibility of the death penalty. The Supreme Court has said that this language, as it appears in the State criminal statutes in 10, 12, 15 States, is sound, is constitutional, is proper, and we are lifting it from a Supreme Court opinion already in existence, so that we would be safe in assuming that this language cures our constitutional problems with the imposition of the death penalty.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GEKAS] has expired.

Mr. FIELDS of Louisiana. Mr. Chairman, I yield 30 seconds to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, the gentleman is correct, I think, in saying that polls in America support the death penalty. People want judges and juries to have the option to use the death penalty. I think the gentleman will not disagree with me that polls and studies also indicate that the public wants judges and juries to have the option to use the death penalty or not to use the death penalty to allow for life imprisonment. That is precisely what the Fields amendment is.

Mr. FIELDS of Louisiana. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. DURBIN] to close the debate.

Mr. DURBIN. Mr. Chairman, I thank my colleague, the gentleman from Louisiana, for yielding time to me.

Mr. Chairman, I would say to the committee that I have a different position on the death penalty than the gentleman who has offered the amendment. I favor the death penalty, he opposes it, but I still believe he offers a valuable amendment.

If Members believe in the bedrock of the American judicial system, it is trial by jury. It is a decision by America's citizens as to the guilt or innocence of an individual.

What the gentleman from Louisiana [Mr. FIELDS] is suggesting is that that jury, under the most heinous crimes and heinous circumstances, would be given two options and not one. Under the bill, they have only one option, the death penalty. Under the amendment offered by the gentleman from Louisiana [Mr. FIELDS], they have a second option of life in prison without parole.

It strikes me we are dealing with factors that are somewhat subjective, aggravating and mitigating factors. I think that if we believe in the Constitution and the bedrock of our judicial system, we give to that jury these two options.

Both options protect society from those individuals who have committed such violent crimes that we no longer want to see them on the streets or in our neighborhoods, but I think it is reasonable to offer this option. I salute my colleague, the gentleman from Louisiana, for offering that option.

I hope that my colleagues, despite their fervor over the death penalty, will understand that this gets to the

bedrock principle of justice in this country, whether or not a decision is to be made by a jury of a person's peers.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Louisiana [Mr. FIELDS].

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GEKAS. Mr. Chairman, I demand a recorded.

A recorded vote was ordered.

The CHAIRMAN. This is a 15-minute vote.

The vote was taken by electronic device, and there were—ayes 139, noes 291, not voting 4, as follows:

[Roll No 107]

AYES—139

Abercrombie
Ackerman
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Chapman
Clay
Clayton
Clyburn
Collins (IL)
Conyers
Coyne
de la Garza
DeFazio
Dellums
Dingell
Dixon
Doggett
Duncan
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gonzalez
Green
Gutierrez
Gutknecht
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kennedy (MA)
Kennelly
Kildee
Kleczka
LaFalce
LaTourette
Laughlin
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Matsui
McCarthy
McDermott
McKinney
McNulty
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Rangel
Reynolds
Rivers
Roemer
Rose
Roth
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Shays
Skaggs
Slaughter
Smith (MI)
Spratt
Stark
Stokes
Studds
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOES—291

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Menendez
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Richardson
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torricelli
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—4

Andrews
Collins (MI)
Metcalf
Wilson

□ 1951

Mr. SMITH of Michigan changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Texas: Proposed section 2257 of title 28, United States Code, in section 111 of H.R. 729, is amended—

(1) in subsection (b)—

(A) by striking '', or fails to make a timely application for court of appeals review following the denial of such a petition by a district court'' in paragraph (1);

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2);

(D) by striking the period at the end of paragraph (2) as so designated and inserting ''; or''; and

(E) by adding a new paragraph (3) as follows:

''(3) a State prisoner files a habeas corpus petition under section 2254 within the time required in section 2258 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review.''; and

(2) in subsection (c), by striking ''If one of the conditions in subsection (b) has occurred, no Federal court thereafter'' and inserting ''On a second or later habeas corpus petition under section 2254, no Federal court''.

Proposed section 2260 of title 28, United States Code, in section 111 of H.R. 729, is amended to read as follows:

''§ 2260. Certificate of probable cause

''An appeal may not be taken to the court of appeals from the final order of a district court denying relief in a habeas corpus proceeding that is subject to the provisions of this chapter unless a circuit justice or judge issues a certificate of probable cause. A certificate of probable cause may only issue if the petitioner has made a substantial showing of the denial of a Federal right. The certificate of probable cause must indicate which specific issue or issues satisfy this standard.''.

In the table of sections for proposed chapter 154 of title 28, United States Code, in section 111 of H.R. 729, the item relating to proposed section 2260 of title 28, United States Code, is amended by striking ''inapplicable''.

Mr. SMITH of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. SMITH of Texas. Mr. Chairman, I ask unanimous consent that debate on my amendment and all amendments thereto be limited to 10 minutes, 5 minutes per side.

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

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the committee bill provides for an automatic stay of execution throughout all stages of federal review for the first federal habeas petition for states that provide counsel on state collateral review. Some States had raised concerns that this provision may have the unintended effect of prolonging litigation by allowing a stay of execution even where the federal habeas petition presents no substantial claim for the federal court to consider.

This amendment has bipartisan support.

I would like to read an excerpt from a letter from the attorney general of Texas, a Democrat, Dan Morales. This letter reads in part,

Providing for an automatic stay regardless of the merit of the issues raised is inconsistent with the purpose of federal habeas review, and as a practical matter, will lead to unwarranted delay in the imposition of valid sentences. The goal of affording death sentence inmates ''one bite of the apple'' should at the very least be accomplished without staying an execution while a petitioner pursues frivolous appeals.

Mr. Chairman, the amendment before us provides that the automatic stay will terminate once State court review is completed if that petitioner fails to make a substantial showing of the denial of a Federal right or a denied relief on his petition in the Federal district court or at a later stage of Federal habeas review. Under current law, Federal courts routinely must evaluate whether an issue exists to warrant review in granting of a stay, so the rights of the inmate are still protected.

This amendment improves the legislation, Mr. Chairman, and I urge its adoption.

OFFICE OF THE ATTORNEY GENERAL
Austin, TX, February 7, 1995.

Hon. LAMAR S. SMITH,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE SMITH: The recently introduced House of Representatives Bill 729 raises significant concerns for the State of Texas in the post-conviction litigation of capital cases. Specifically, I am concerned with the provision of proposed §2257 for an automatic stay of execution while a death-sentenced inmate litigates a complete round of federal habeas review, from district court through the circuit courts of appeals and the Supreme Court and the provision of proposed §2258 eliminating the certificate of probable cause requirement for appeals. Providing for an automatic stay, regardless of the merit of the issues raised, is inconsistent with the purpose of federal habeas review and, as a practical matter, will lead to unwarranted delay in the imposition of valid death sentences. The goal of affording death-sentenced inmates ''one bite of the apple'' should at the very least be accomplished without staying an execution while a petitioner pursues frivolous appeals. I urge you to support a floor amendment eliminating these two provisions.

As I'm sure you are aware, death-sentenced petitioners pursuing federal habeas review have, virtually without exception, pursued a direct appeal to the state's highest court of the review, and, in most instances, sought certiorari review of the state court's disposition of the direct appeal. Further, most if not all such petitioners have litigated at least one complete round of state habeas review. Under these circumstances, if a petitioner cannot satisfy the standard of *Barefoot* v. *Estelle,* 463 U.S. 880 (1983), which requires a substantial showing of the denial of a federal right, then a stay is unwarranted. As demonstrated by existing practice, United States district courts, circuit courts of appeals and the Supreme Court are fully able to evaluate whether there exists an issue which warrants review and a stay.

Notably, the certificate of probable cause requirement was originally enacted to eliminate or reduce the number of unwarranted stays of execution entered while death-sentenced inmates pursued frivolous appeals. *Barefoot* v. *Estelle,* 463 U.S. at 892 n.3 (and citations therein). Thus, the proposed automatic stay, which would extend through the appeal and disposition of a petition for certiorari review, represents a step backward rather than forward in the goal of expediting post-conviction review. Indeed, the automatic stay is an unwarranted step in the opposite direction from the ''full and fair'' provisions that have garnered so much support in the past. Rather than deferring to a state court's reasonable disposition of constitutional issues, the automatic stay provisions disregard the significant amount of review that precedes federal habeas review. The ''full and fair'' concept aside, the current practice of allowing each federal court from the district court through the Supreme Court to determine whether a stay is warranted is preferable.

The effect of the automatic stay is not ameliorated by the time limits imposed on adjudication at each stage or by the designation of a finite period of time to go from state review into federal habeas review. The time limits imposed do very little, if anything, to streamline the process of the United States District Courts in Texas, the Fifth Circuit Court of Appeals, or the Supreme Court. For example, a death-sentenced inmate has normally delineated his grounds for relief in state court and exhausted state remedies with respect to those grounds. It simply does not require 180 days to transform a state petition into a federal petition founded on the same legal bases and, in practice, federal district courts in Texas normally require a petition to be filed if the petitioner has been allowed, on the average, 60 or more days following state habeas review. Similarly, the time limits imposed for adjudication at each stage do not impose real limitations. For example, allowing the district court 60 days after argument to rule does not limit the time a petition may languish on the court's docket before argument.

Finally, by staying an execution until the Supreme Court denies a petition for certiorari review, the legislation almost assures additional litigation by death-sentenced inmates. Capital litigation will expand to fill anytime allowed. If an execution date cannot be set until after the Supreme Court's disposition of a certiorari petition, the time between the vacating of the stay and the scheduled execution date will afford a petitioner the opportunity to formulate a second round of review, which will have to be resolved regardless of the limitations imposed on successive petitions. By contrast, if a state is able to schedule an execution date to coincide approximately with the filing of a certiorari petition, the initial round of review is likely to be the only round.

In short, I urge you to support an amendment to the expedited procedures providing for the retention of the certificate of probable cause requirement for the first tour of federal habeas review and eliminating the automatic stay. The provisions of the ''expedited'' federal habeas procedures would lengthen the time between conviction and imposition of sentence beyond the current 8.5 year average for Texas. Indeed, although it is expected that the Texas legislature will, in the immediate future, enact habeas reform that fully complies with the requirements of proposed §§2256–2262, federal habeas review would be expedited by Texas choosing not to ''opt in'' to those provisions.

In addition, I urge you to support the amendment sponsored by Representative Cox which would require federal habeas courts to defer to state court decisions as long as the state courts acted reasonably in their adjudication of the case and application of federal law. As I noted earlier, the State of Texas expends considerable judicial and law enforcement resources assuring that capital convictions comply with the constitutions of the United States and Texas. Relitigation of issues fully and fairly resolved by the state courts is unnecessary and inappropriate unless those issues have not been reasonably resolved by the state courts in accord with federal constitutional principles.

Very best wishes,

Sincerely,

DAN MORALES,
Attorney General.

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

The CHAIRMAN. Is there a Member who wishes to speak in opposition to the amendment?

Mr. CONYERS. Mr. Chairman, I rise in opposition.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] is recognized for 5 minutes.

Mr. CONYERS. Mr. Chairman, I yield myself 1½ minutes.

The gentleman from Texas, with this amendment, has unerringly gone to the one part of the McCollum habeas reform matter that we could have complimented him on, because he institutes an automatic stay of execution while the habeas petition is pending.

By honing in on this one provision, we are now saying that there will not be any need for Federal habeas because the petitioner may be executed while his petition is pending. He might not ever live to find out that he was granted habeas.

This is the most ultimately inhumane proposal that we have heard tonight.

It is amazing that we have had these contradictory provisions coming from the side of the aisle that wrote the habeas bill that we do not like, and now we have these worsening amendments as the night goes on.

I urge the strong strenuous rejection of this proposal by the gentleman from Texas.

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

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

As has been the case so often this evening, the real question is whether we are going to allow those who have been convicted of capital crimes to indulge themselves in almost endless appeals. I think the American people would answer ''no'' to that question. I think Congress should answer ''no'' to that question.

Mr. Chairman, I yield the balance of my time, 3 minutes, to the gentleman from Florida [Mr. MCCOLLUM], the chairman of the subcommittee.

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

I simply wanted to point to everybody here, and I will not consume the entire 3 minutes, but the amendment before us provides the automatic stay that we are going to routinely have in the bill underlying will terminate once

State court review is completed, if the petitioner fails to make a ''substantial showing of the denial of a Federal right'' or is denied relief on his petition in the Federal district court or at a later stage of Federal habeas review.

It really is only a statement of what the law truly is and is intended to be in a codified form. If somebody does not make a substantial showing after denial of a Federal right, there should not be any stay. It seems self-evident, but we have had problems technically with this during the courts and the process.

If there is an appeal ongoing and there obviously is a request for a stay, if the appeal has any meaning at all, the Federal court is going to grant the stay.

This does not say you cannot have it. It just is not going to be automatic. There can be somebody who stops that stay along the process before you go through a whole bunch of hoops to go in there and say, ''Look, this is not a substantial showing of the denial of a Federal right. Let's go on and get the execution carried out'' instead of having automatic stuff that the statute would otherwise require.

I think what we did when we wrote this bill was probably err in going overboard on these automatic stays, so the gentleman from Texas is correcting a flaw in the underlying bill.

I urge my colleagues to vote for it.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield for a question?

Mr. MCCOLLUM. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, the question here is, and again being mindful of the fact that we do not want to allow endless appeals, but let us say that the defendant is in the process of going to the judge to ask for an appeal, can the State rush him to execution before that appeal is adjudicated one way or another?

□ 2000

As I understand it, that is the purpose of the automatic stay, that you do not have this sort of very obscene sort of beat-the-clock game, ''we can rush him to do it before you can rush to the judge.'' An automatic stay, my understanding has always been, usually works for a very short period of time. Again, the great length of appeals that we have heard in the cases has been dealt with in the main body of the bill, something that I agree with. Now answer that question.

Mr. MCCOLLUM. Reclaiming my time, I would simply say the difference is that the stay is not automatic.

Mr. Chairman, I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for his continued generosity in yielding.

My specific question is that: While the defendant's attorney is making a petition to the judge, a motion to the appellate judge for appeal, could the State execute that gentleman while they are trying to get that appeal, under the gentleman from Texas' amendment?

Mr. MCCOLLUM. Theoretically, I suppose that could occur, but it would be an awfully fast execution because you could certainly get that effort up there very quickly to the courts. That is the way that things work. You have people working the midnight oil in all the courts in the country and certainly in that State during the time under consideration.

I urge a ''yes'' vote on the gentleman's amendment.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. I thank the gentleman for yielding. I will not take a minute.

I would just rise in opposition to this amendment and say that this bill already speeds up the appeals process. My amendment that I offered that would have tried to redeem people who come forward with evidence of innocence was defeated, and now we are going to rush to judgment without any stay, and this is just criminal.

I urge strongly that this amendment be defeated.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, just summing up to my colleagues on both sides of the aisle what the gentleman from Florida, Mr. MCCOLLUM's answer to the question would mean: It would indeed mean that there could in case after case be a sort of rush, petitioners' attorneys rushing to get a judge to authorize a stay and the State, in many cases, rushing to execute the defendants.

That kind of result, those of us who are for the death penalty, those who are against the death penalty, that is not the kind of result we would want. And there are better ways to cure the endless appeals that have gone on than this. I think this amendment deserves to be defeated in a bipartisan way. It just besmirches some of the food efforts the gentleman from Florida [Mr. MCCOLLUM] is trying to do.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] has 1½ minutes remaining and is entitled to close debate on this amendment.

Mr. CONYERS. Ladies and gentlemen, we are now taking out the one redeeming feature in McCollum habeas reform. I want to just point out that the section providing for automatic stays of execution while a habeas is pending was a much needed improvement on the current system where the fate of a condemned man hangs in the balance while lawyers scramble at the last minute to find a judge that will stay the execution. We had corrected that.

Why on Earth he got talked into having that undone at the last minute of the final minutes of debate on the floor amazes me. It was the gentleman's amendment all the time. Mr. MCCOLLUM literally wrote this bill. He put in the stay. Now it is being taken out.

Did we do something wrong? Have we disappointed you in some way?

Please let us keep the automatic stay feature in. It will not make this habeas bill much better, but it will certainly be a lot better than going back to the system of lawyers scrambling around looking for judges before a person is executed, who may find out or who may never find out that his habeas was in fact granted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. SMITH].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 189, not voting 4, as follows:

[Roll No. 108]

AYES—241

Allard	Doyle	Kelly
Archer	Dreier	Kim
Armey	Duncan	King
Bachus	Dunn	Kingston
Baesler	Ehrlich	Klink
Baker (CA)	Emerson	Klug
Baker (LA)	English	Knollenberg
Ballenger	Ensign	Kolbe
Barr	Everett	LaHood
Barrett (NE)	Ewing	Largent
Bartlett	Fawell	Latham
Barton	Fields (TX)	LaTourette
Bass	Flanagan	Lazio
Bateman	Foley	Leach
Bereuter	Forbes	Lewis (CA)
Bilbray	Fowler	Lewis (KY)
Bilirakis	Fox	Lightfoot
Bliley	Franks (CT)	Linder
Blute	Franks (NJ)	Livingston
Boehlert	Frelinghuysen	LoBiondo
Boehner	Frisa	Longley
Bonilla	Funderburk	Lucas
Bono	Gallegly	Martini
Brewster	Ganske	McCollum
Brownback	Gekas	McCrery
Bryant (TN)	Geren	McDade
Bunn	Gilchrest	McHugh
Bunning	Gillmor	McInnis
Burr	Goodlatte	McIntosh
Burton	Goodling	McKeon
Buyer	Goss	Metcalf
Callahan	Graham	Mica
Calvert	Green	Miller (FL)
Camp	Greenwood	Molinari
Canady	Gutknecht	Montgomery
Castle	Hall (TX)	Moorhead
Chabot	Hancock	Myers
Chambliss	Hansen	Myrick
Chenoweth	Hastert	Nethercutt
Christensen	Hastings (WA)	Neumann
Chrysler	Hayworth	Ney
Coble	Hefley	Norwood
Coburn	Heineman	Nussle
Collins (GA)	Herger	Ortiz
Combest	Hilleary	Oxley
Condit	Hobson	Packard
Cooley	Hoekstra	Parker
Cox	Hoke	Paxon
Crane	Holden	Peterson (MN)
Crapo	Horn	Petri
Cremeans	Hostettler	Pombo
Cubin	Hunter	Porter
Cunningham	Hutchinson	Portman
Davis	Hyde	Pryce
Deal	Inglis	Quillen
DeLay	Istook	Quinn
Diaz-Balart	Johnson (CT)	Radanovich
Dickey	Johnson, Sam	Ramstad
Doolittle	Jones	Regula
Dornan	Kasich	Richardson

Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—189

Abercrombie
Ackerman
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Edwards
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Gunderson
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Houghton
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn

NOT VOTING—4

Andrews
Collins (MI)
Frank (MA)
Yates

□ 2021

Messrs. DEFAZIO, BEVILL, and JOHNSON of South Dakota changed their vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to the bill? If not, 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. Pursuant to the order of the House of yesterday, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. QUINN) having assumed the chair, Mr. DREIER, 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. 729) to control crime by a more effective death penalty, pursuant to the order of the House of Tuesday, February 7, 1995, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the order of the House of yesterday, the previous question is ordered.

The previous question was ordered.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The CHAIRMAN. 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 ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 297, noes 132, not voting 5, as follows:

[Roll No. 109]

AYES—297

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—132

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Bonior
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Clay
Clayton
Clyburn
Collins (IL)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Dixon
Doggett
Durbin
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren

Lowey	Obey	Skaggs
Luther	Olver	Slaughter
Maloney	Owens	Stark
Markey	Pallone	Stokes
Martinez	Pastor	Studds
Matsui	Payne (NJ)	Thompson
McCarthy	Pelosi	Thornton
McDermott	Pomeroy	Thurman
McKinney	Rahall	Torres
McNulty	Rangel	Towns
Meehan	Reed	Tucker
Meek	Reynolds	Velazquez
Mfume	Rivers	Vento
Miller (CA)	Rose	Visclosky
Mineta	Roybal-Allard	Ward
Minge	Rush	Waters
Mink	Sabo	Watt (NC)
Moakley	Sanders	Waxman
Mollohan	Sawyer	Williams
Nadler	Schroeder	Wise
Neal	Scott	Woolsey
Oberstar	Serrano	Wynn

NOT VOTING—5

Andrews	Collins (MI)	Yates
Clinger	Houghton	

☐ 2041

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 665, THE VICTIM RESTITUTION ACT OF 1995, H.R. 666, THE EXCLUSIONARY RULE REFORM ACT OF 1995, AND H.R. 729, THE EFFECTIVE DEATH PENALTY ACT OF 1995

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that in the engrossment of the bills, H.R. 665, H.R. 666, and H.R. 729, the Clerk be authorized to make such clerical and technical corrections as may be required.

The SPEAKER pro tempore (Mr. QUINN). Is there objection to the request of the gentleman from Florida?

There was no objection.

GENERAL LEAVE

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 666 and H.R. 729, the bills just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 667, THE VIOLENT CRIMINAL INCARCERATION ACT

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–25) on the resolution (H. Res. 63) providing for the consideration of the bill (H.R. 667) to control crime by incarcerating violent criminals, which was referred to the House Calendar and ordered to be printed.

PERSONAL EXPLANATION

Mr. DIXON. Mr. Speaker, during rollcall vote 103 of H.R. 666, I was unavoidably detained. Had I been present, I would have voted ''no.''

NOTICE OF CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC NO. 104–29)

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 International Relations:

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of August 2, 1994, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq), then or thereafter located in the United States or within the possession or control of a United States person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. United States persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order No. 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

Executive Order No. 12817 was issued on October 21, 1992, to implement in the United States measures adopted in United Nations Security Council Resolution 778 of October 2, 1992. Resolution No. 778 requires U.N. Member States temporarily to transfer to a U.N. escrow account up to $200 million apiece in Iraqi oil sale proceeds paid by purchasers after the imposition of U.N. sanctions in Iraq, to finance Iraqi's obligations for U.N. activities with respect to Iraq, such as expenses to verify Iraqi weapons destruction, and to provide humanitarian assistance in Iraq on a nonpartisan basis. A portion of the escrowed funds will also fund the activities of the U.N. Compensation Commission in Geneva, which will handle claims from victims of the Iraqi invasion of Kuwait. Member States also may make voluntary contributions to the account. The funds placed in the escrow account are to be returned, with interest, to the Member States that transferred them to the United Nations, as funds are received from future sales of Iraqi oil authorized by the U.N. Security Council. No Member State is required to fund more than half of the total transfers or contributions to the escrow account.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Orders Nos. 12724 and 12817 (the ''Executive orders''). The report covers events from August 2, 1994, through February 1, 1995.

1. There has been one action affecting the Iraqi Sanctions Regulations, 31 C.F.R. Part 575 (the ''Regulations''), administered by the Office of Foreign Assets Control (FAC) of the Department of the Treasury, since my last report on August 2, 1994. On February 1, 1995 (60 Fed. Reg. 6376), FAC amended the Regulations by adding to the list of Specially Designated Nationals (SDNs) of Iraq set forth in Appendices A (''entities and individuals'') and B (''merchant vessels''), the names of 24 cabinet ministers and 6 other senior officials of the Iraqi government, as well as 4 Iraqi state-owned banks, not previously identified as SDNs. Also added to the Appendices were the names of 15 entities, 11 individuals, and 1 vessel that were newly identified as Iraqi SDNs in the comprehensive list of SDNs for all sanctions programs administered by FAC that was published in the *Federal Register* (59 Fed. Reg. 59460) on November 17, 1994. In the same document, FAC also provided additional addresses and aliases for 6 previously identified Iraqi SDNs. This *Federal Register* publication brings the total number of listed Iraqi SDNs to 66 entities, 82 individuals, and 161 vessels.

Pursuant to section 575.306 of the Regulations, FAC has determined that these entities and individuals designated as SDNs are owned or controlled by, or are acting or purporting to act directly or indirectly on behalf of, the Government of Iraq, or are agencies, instrumentalities or entities of that government. By virtue of this determination, all property and interests in property of these entities or persons that are in the United States or in the possession or control of United States persons are blocked. Further, United States persons are prohibited from engaging in transactions with these individuals or entities unless the transactions are licensed by FAC. The designations were made in consultation with the Department of State. A copy of the amendment is attached to this report.

2. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. The FAC continues its involvement in lawsuits, seeking to prevent the unauthorized transfer of blocked Iraqi assets. There are currently 38 enforcement actions pending, including nine cases referred by FAC to the U.S. Customs Service for joint investigation. Additional FAC civil penalty notices were prepared during the reporting period for violations of the International Emergency Economic Powers Act and the Regulations with respect to transactions involving Iraq. Four penalties totaling $26,043 were collected from two banks, one company, and one individual for violations of the prohibitions against transactions involving Iraq.

3. Investigation also continues into the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to FAC's listing of individuals and organizations determined to be SDNs of the Government of Iraq.

4. Pursuant to Executive Order No. 12817 implementing United Nations Security Council Resolution No. 778, on October 26, 1992, FAC directed the Federal Reserve Bank of New York to establish a blocked account for receipt of certain post August 6, 1990, Iraqi oil sales proceeds, and to hold, invest, and transfer these funds as required by the order. On October 5, 1994, following payments by the Governments of Canada ($677,756.99), the United Kingdom ($1,740,152.44), and the European Community ($697,055.93), respectively, to the special United Nations-controlled account, entitled ''United Nations Security Council Resolution 778 Escrow Account,'' the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $3,114,965.36 from the blocked account it holds to the United Nations-controlled account. Similarly, on December 16, 1994, following the payment of $721,217.97 by the Government of the Netherlands, $3,000,891.06 by the European Community, $4,936,808.84 by the Government of the United Kingdom, $190,476.19 by the Government of France, and $5,565,913.29 by the Government of Sweden, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $14,415,307.35 to the United Nations-controlled account. Again, on December 28, 1994, following the payment of $853,372.95 by the Government of Denmark, $1,049,719.82 by the European Community, $70,716.52 by the Government of France, $625,390.86 by the Government of Germany, $1,151,742.01 by the Government of the Netherlands, and $1,062,500.00 by the Government of the United Kingdom, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $4,813,442.16 to the United Nations-controlled account. Finally, on January 13, 1995, following the payment of $796,167.00 by the Government of the Netherlands, $810,949.24 by the Government of Denmark, $613,030.61 by the Government of Finland, and $2,049,600.12 by the European Community, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $4,269,746.97 to the United Nations-controlled account. Cumulative transfers from the blocked Federal Reserve Bank of New York account since issuance of Executive Order No. 12817 have amounted to $157,542,187.88 of the up to $200 million that the United States is obligated to match from blocked Iraqi oil payments, pursuant to United Nations Security Council Resolution 778.

5. The Office of Foreign Assets Control has issued a total of 533 specific licenses regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Since my last report, 37 specific licenses have been issued. Licenses were issued for transactions such as the filing of legal actions against Iraqi governmental entities, legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, food intended for humanitarian relief purposes, the execution of powers of attorney relating to the administration of personal assets and decedents' estates in Iraq, and the protection of preexistent intellectual property rights in Iraq.

6. The expenses incurred by the Federal Government in the 6-month period from August 2, 1994, through February 1, 1995, lthat are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are reported to be about $2.25 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near East Affairs, the Bureau of Organization Affairs, and the Office of the Legal Adviser), and the Department of Transportation (particularly the U.S. Coast Guard).

7. The United States imposed economic sanctions on Iraq in response to Iraq's illegal invasion and occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions. Security Council resolutions on Iraq call for the elimination of Iraqi weapons of mass destruction, the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third-country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, the return of Kuwaiti assets stolen during Iraq's illegal occupation of Kuwait, renunciation of terrorism, an end to internal Iraqi repression of its own civilian population, and the facilitation of access of international relief organizations to all those in need in all parts of Iraq. More than 4 years after the invasion, a pattern of defiance persists: a refusal to account for missing Kuwaiti detainees; failure to return Kuwaiti property worth millions of dollars, including weapons used by Iraq in its movement of troops to the Kuwaiti border in October 1994; sponsorship of assassinations in Lebanon and in northern Iraq; incomplete declarations to weapons inspectors; and ongoing widespread human rights violations. As a result, the U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continues to violate basic human rights of its own citizens through systematic repression of minorities and denial of humanitarian assistance. The Government of Iraq has repeatedly said it will not be bound by United Nations Security Council Resolution 688. For more than 3 years. Baghdad has maintained a blockade of food, medicine, and other humanitarian supplies against northern Iraq. The Iraqi military routinely harasses residents of the north, and has attempted to ''Abrabize'' the Kurdish, Turcomen, and Assyrian areas in the north. Iraq has not relented in its artillery attacks against civilian population centers in the south, or in its burning and draining operations in the southern marshes, which have forced thousands to flee to neighboring States.

In 1991, the United Nations Security Council adopted Resolutions 706 and 712, which would permit Iraq to sell up to $1.6 billion of oil under U.N. auspices to fund the provision of food, medicine, and other humanitarian supplies to the people of Iraq. The resolutions also provide for the payment of compensation to victims of Iraqi aggression and other U.N. activities with respect to Iraq. The equitable distribution within Iraq of this humanitarian assistance would be supervised and monitored by the United Nations. The Iraqi regime so far has refused to accept these resolutions and has thereby chosen to perpetuate the suffering of its civilian population. More than a year ago, the Iraqi government informed the United Nations that it would not implement Resolutions 706 and 712.

The policies and actions to the Saddam Hussein regime continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. The U.N. resolutions require that the Security Council be assured of Iraq's peaceful intentions in judging its compliance with sanctions. Because of Iraq's failure to comply fully with these resolutions, the United States will continue to apply economic sanctions to deter it

from threatening peace and stability in the region.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 8, 1995.*

FIRST REPORT ON THE OPERATION OF THE ANDEAN TRADE PREFERENCE ACT—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 Ways and Means and ordered to be printed:

To the Congress of the United States:

I hereby submit the first report on the Operation of the Andean Trade Preference Act. This report is prepared pursuant to the requirements of section 203 of the Andean Trade Preference Act of 1991.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 8, 1995.*

MAJOR LEAGUE BASEBALL RESTORATION ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–30)

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 Economic and Educational Opportunities:

To the Congress of the United States:

I am pleased to transmit for your immediate consideration and enactment the ''Major League Baseball Restoration Act.'' This legislation would provide for a fair and prompt settlement of the ongoing labor-management dispute affecting Major League Baseball.

Major League Baseball has historically occupied a unique place in American life. The parties to the current contentious dispute have been unable to resolve their differences, despite many months of negotiations and the assistance of one of this country's most skilled mediators. If the dispute is permitted to continue, there is likely to be substantial economic damage to the cities and communities in which major league franchises are located and to the communities that host spring training. The ongoing dispute also threatens further serious harm to an important national institution.

The bill I am transmitting today is a simple one. It would authorize the President to appoint a 3-member National Baseball Dispute Resolution Panel. This Panel of impartial and skilled arbitrators would be empowered to gather information from all sides and impose a binding agreement on the parties. The Panel would be urged to act as quickly as possible. Its decision would not be subject to judicial review.

In arriving at a fair settlement, the Panel would consider a number of factors affecting the parties, but it could also take into account the effect on the public and the best interests of the game.

The Panel would be given sufficient tools to do its job, without the need for further appropriations. Primary support for its activities would come from the Federal Mediation and Conciliation Service, but other agencies would also be authorized to provide needed support.

The dispute now affecting Major League Baseball has been a protracted one, and I believe that the time has come to take action. I urge the Congress to take prompt and favorable action on this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 8, 1995.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now take 1 minute requests.

CONGRESSIONAL INVOLVEMENT IN BASEBALL'S LABOR DISPUTE

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

Mr. LUCAS. Mr. Speaker, I would like to step to the plate and take a few swings at the baseball strike. The Natural tendency for all baseball fans is, I think, to urge Congress to involve itself in this labor dispute which impacts all of us beyond the Major Leagues.

Unfortunately, I am not inclined to believe it is our place to send these players back to their Field of Dreams.

As it stands now, if something is not done, we may have a 1995 Rookie of the Year from the Little Big League.

I would strongly urge that both sides stop slinging the Bull Durham that we have endured for the past several months, and send Eight Men Out to negotiate a workable agreement, or The Pride of the Yankees will be playing for the Bad News Bears this summer.

REQUEST FOR CERTAIN COMMITTEES AND SUBCOMMITTEES TO SIT ON TOMORROW DURING THE 5-MINUTE RULE

Mr. FOX of Pennsylvania. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule.

Agriculture; Banking and Financial Services; Commerce; Economic and Educational Opportunities; International Relations; Resources; Transportation and Infrastructure; and Veterans Affairs.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennyslvania?

Mr. BONIOR. Mr. Speaker, reserving the right to object, we have in the last couple of weeks, I think, worked with the minority in a cooperative manner to facilitate the needs of the committees meeting.

In every case, we have been able to come up with an agreement, a bipartisan agreement, I might add, to the issues that we face. However, we are troubled here on this side of the aisle over what occurred today in the Committee on Science.

Mr. Speaker, the members of that committee, we believe, were not provided in a timely manner with the bill which they marked up, a very important bill. Secondly, we were not accommodated in terms of voting.

There were votes going on in the Committee on Science while there were votes going on directly here on the floor. Of course, without proxy voting and the other reforms that we initiated at the beginning of the Congress, it is impossible for people to be in two places at one time. In fact, Mr. Speaker, there were a number of votes today, I understand, that were taken in that committee that occurred while Members were on the floor here, and they were not able to register their votes when they returned back to the committee.

Therefore, Mr. Speaker, I just mention that for the second time on the floor, and I did it earlier this afternoon, just to alert my friends in the majority that if this type of activity continues, we will be constrained to object in the future. I hope, Mr. Speaker, that this type of behavior will be corrected and that we can work amicably so we can move this agenda, which I do not agree with in many instances, but nonetheless, take it up and discuss it in a fair and open manner in which the American people can have some pride and respect for our work.

With that, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 2050

CONGRATULATIONS TO THE MIGHTY MARYLAND TERRAPINS

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

Mr. HOYER. Mr. Speaker, This morning there is a cloud in the Carolina blue sky. Last night, as the final buzzer sounded and the frenzied fans spilled onto the basketball court, the scoreboard flashed—number one North Carolina 73, and the mighty Maryland Terrapins 86.

With Smith slam-dunking, Simpkins soaring, Booth blasting-off, Hipp hopping and Rhodes rising to the occasion, the Terps beat an equally impressive North Carolina team.

Under the amazing coaching of Gary Williams, the Terrapins beat the top-ranked team in the Nation for the first time since 1986. We play them at least two times every year. They beat a North Carolina team, coached by the legendary Dean Smith, who, year after year, has produced champion basketball players.

From last year's sweet sixteen team to this year's top ten rankings and a tie for first place in the Atlantic Coast Conference, there is only one word to describe Maryland basketball—awesome.

Michael Wilbon of the Washington Post called it a night to remember. If last night's caliber of play by the mighty Maryland Terrapins is any indication of what we will be seeing in the near future, there are going to be many nights to remember for the players and fans of Maryland basketball.

Mr. HAYES. Mr. Speaker, if the gentleman will yield, is this an apology to the District for redistricting Mr. McMillen out of Congress?

Mr. HOYER. Mr. McMillen has been redistricted out of Congress, but he was five seats from me cheering on the Terrapins.

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, I move that these slanderous words be immediately taken down.

Mr. Speaker, I withdraw my motion.

THE TRUTH ABOUT FEDERAL PAYMENTS TO ALABAMA

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

Mr. BROWDER. Mr. Speaker, I know it is difficult to correct a piece of misinformation once it is published, but I am going to try. Much attention has been directed in recent weeks to the impact of the balanced budget amendment on the finances of the various States. In that vein, several national publications have reported that my home State of Alabama led the nation, with 58 percent of its 1993 budget coming from the Federal Government.

That figure is amazing, but it is not true. The confusion results from a difference in Alabama's accounting system that was not adequately explained when the State's budget figures were reported in the national survey.

Mr. Speaker, I will include for the RECORD a letter from the Department of Finance of the State of Alabama showing that Federal funds accounted for 32 percent, not 58 percent, of Alabama's budget for fiscal year 1993.

STATE OF ALABAMA,
DEPARTMENT OF FINANCE,
Montgomery, AL, January 27, 1995.

Hon. GLEN BROWDER,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN BROWDER: Recent news articles published by Newsweek and by Time on January 23, 1995, analyzed the Federal Balanced Budget Amendment and its effects on state finances. Both articles reflected that 58% of Alabama's Budget for fiscal year ending 1993 was received from the Federal Government. This information is not correct. Actual Federal revenues received by Alabama for the fiscal year ending in 1993 were $2.74 billion and compared to total revenues received (from all sources) of $8.52 billion is approximately 32 percent.

This confusion has been brought on by the data supplied to Newsweek and Time by the National Association of State Budget Officers in their ''NASBO 1994 State Expenditure Survey—Fiscal Years 1992–94.'' Alabama provided data for the referenced NASBO survey, but our data was not adequately explained. Alabama included in the section for Federal Funds, expenditures from Federal funds, local funds, state earmarked funds, tuition, fees, grants and, contracts with a footnote to that effect. This footnote was included because expenditures are made from fund accounts made up of these various revenue sources thus precluding actual identification of each expenditure by source of funding. A reasonable estimation of the Federal percentage can be made from the revenue perspective of Alabama's accounting system and for FY 1993 is approximately 32 percent.

I wanted to clarify this data for you, so you would not base your vote on this issue on incorrect data.

Sincerely,

BILL NEWTON,
Assistant Finance Director.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. QUINN). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. KOLBE] is recognized for 5 minutes.

[Mr. KOLBE 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 Illinois [Mr. GUTIERREZ] is recognized for 5 minutes.

[Mr. GUTIERREZ 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 New Jersey [Mr. MARTINI] is recognized for 5 minutes.

[Mr. MARTINI 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 gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

[Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

CRIME LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, as a former prosecutor in Pennsylvania, I found today's discussions about addressing crime most illuminating. I have spent much of my life battling criminals in our courts and trying, in my own way to make the streets of my home—Montgomery County, PA—a little bit safer.

I have had the opportunity to witness the frustration of police officers, prosecutors, and judges as skillful defense attorneys have manipulated the system to place violent repeat criminals back on the streets despite overwhelming evidence against them.

I've seen families terrorized by the very memory of the unspeakable crimes against them and the reality that the perpetrators may be released by the system.

The bills considered by this body today will take a dramatic step forward to end the terror of victims and the frustration of law enforcement officials who are hamstrung by technicalities. H.R. 666, the Exclusionary Rule Reform Act is important and long-overdue legislation which will ensure that those guilty of violent crimes against other persons get exactly what they deserve, and that is time in prison.

Current law provides that a guilty defendant may be set free to again terrorize innocent victims based upon the exclusion of evidence seized by law enforcement officers who have acted in the good faith belief that their conduct did not violate the defendant's constitutional rights.

In such cases, the conduct of a police officer does not involve coercion of a confession or other wrongful conduct, but technical errors that have nothing to do with the defendant's guilt or innocence. The release of guilty defendants on technicalities makes a mockery of our society's laws. We need to place the rights of the victims above all else. When I served in the district attorney's office I prosecuted a case where a 12-year-old young lady was viciously and forcibly raped. She and her family were so traumatized by the violence of the crime that they never returned to that house.

My fellow members, I do believe that a person is innocent until found guilty but I don't believe in placing impediments to prosecution which have no basis in fact or law. H.R. 666 removes those impediments.

Finally, I would say the Effective Death Penalty Act H.R. 729 has been

strongly endorsed by the National District Attorneys Association. It will provide the kind of habeas corpus reform that will stop the endless appeals of capital cases where a defendant has been found guilty of murder, the death penalty sentence was issued, and there was no trial error or constitutional infirmity.

By passing this kind of tough anticrime legislation like the exclusionary rule modifications and habeas corpus reform we will send a clear message to those who would break our laws that crime does not pay, and the victims will find a measure of protection that can come from Congress.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 5 minutes.

[Mr. SKAGGS 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 California [Mr. HORN] is recognized for 5 minutes.

[Mr. HORN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

INCREASING THE MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. HILLIARD] is recognized for 5 minutes.

Mr. HILLIARD. Mr. Speaker, I rise today to address the issue of increasing the minimum wage.

We the Members of the United States Congress have a moral obligation simply to ensure that the working men and women of this country are granted the ability to live on the wages that they earn. We are speaking about Americans who have chosen to live and to work and to try to raise a family.

I tell my colleagues we are not talking about the wealthy, we are not talking about the corporate executives. We are talking about people who are common like I am, like you are, people who should have the opportunity to live the American dream.

The ones who end up losing, of course, when the minimum wage does not keep up with the rising costs of inflation are the real Americans. They are the people that make this country as strong as it is today. These are the men and women who have rejected welfare, who have rejected subsidies from this Government like the corporate executives and the farmers. These are men and women who work 8-hour shifts every day, 40 hours a week. These are men and women who truly are the real working poor, the real working Americans. These are the men and women who work sometimes two jobs in order to provide their children with an education. Yes, Mr. Speaker, sometimes they work two jobs in order to meet the minimum necessities of living. Yes, sometimes they work just to be able to put food on the table, to provide a comfortable place for their families. They work two jobs, 12 hours a day, sometimes 16 hours a day.

We must not forget these real Americans.

□ 2100

They have committed themselves to work within the system, and they give all that they have to make sure that their families are taken care of. We should not penalize them.

But today's minimum wage is not sufficient for the needs of today's families. At the current rate, these families can barely make it. If the minimum wage had increased with inflation after the year 1970, the current rate would be $5.54 an hour. That is still low, but it is a long ways from where we are now. It would give them the opportunity to make sure that their children have the right, and perhaps have the opportunity, to live the American dream.

While the wages have lagged behind the times, minimum wage earners have decreased especially when you consider the erosion caused by inflation. Between the years 1979 and 1992, the number of working poor people have increased 44 percent. These are people who live below the poverty level, not because they are on welfare, not because they do not work, but because they do not earn a sufficient amount of money to be classified by this government above the level of poverty.

Yes, we recognize that they make enough money to live below the poverty level. That is a shame and a disgrace, especially for a country as wealthy as this. We must address these issues. We must raise the minimum wage to a livable level. We must index the rate for inflation so that we will take care of these injustices now and make sure that it will not occur ever again in the future, plus it will save us the choice of constantly coming back and trying to keep up with inflation for those real Americans who work every day.

All of the hard-working men and women of this country should be able to live without the woeful poverty on their doorsteps daily. We are talking about men and women who are gainfully employed. They are those who are trying to live and, yes, sometimes they barely make it.

Well, I say to those of you who criticize the welfare state, I say to those of you who criticize those who have not had the opportunity to live the American dream, that we must realize that we cause many of their problems. Since 1970, there have been constant increases in local taxes and, yes, in taxes that we in the United States Congress have passed. We have taken money from them.

Since 1990, we have taken more than $500 billion. The only way we can make up for it is for us to help the working Americans. Mr. Speaker, today we must commit ourselves to raise the minimum wage.

QUESTION ON CONSTITUTIONALITY OF THREE-FIFTHS VOTE FOR TAX RATE INCREASE BILLS

The SPEAKER pro tempore (Mr. QUINN). Under a previous order of the House, the gentleman from New York [Mr. SOLOMON] is recognized for 5 minutes.

Mr. SOLOMON. Mr. Speaker, it is my understanding that a lawsuit is being filed by the former counselor to Presidents Jimmy Carter and Bill Clinton over the constitutionality of the new House rule that requires a three-fifths vote to pass tax rate increases, and I guess we know on whose behalf it is being brought, for the tax-and-spend Democrats of this Congress, no doubt.

Mr. Speaker, while I do not pretend to be a constitutional lawyer, as the chairman of the Committee on Rules, I do have enough understanding of the constitutional rulemaking authority of Congress to assert that this new rule is on all fours with the Constitution. I am not alone in that assertion. I am backed by the Supreme Court itself in previous decisions.

The constitutionality of such lies in article I, section 5, which states that each House may determine the rules of its proceedings. If the House majority decides to adopt rules requiring a super majority on certain classes of bills, it may do so. That same majority at any time can repeal or waive that same rule.

The Supreme Court in the case of the United States versus Ballin, in 1892, way back then, indicated that the only constraints on the rulemaking power of this Congress are that Congress may not ignore constitutional constraints or violate fundamental rights, but within these limitations, all matters of method are open to the determination of the House, that means this House of Representatives. The power to make rules is not one which, once exercised, is exhausted. It is a continuous power always subject to be exercised and, within the limitations suggested, absolute and beyond the challenge of any other body or tribunal.

Ironically, this case was about what constituted a quorum of the Congress for conducting business. The Court upheld a ruling of the Speaker that as long as a majority of the body was present, it did not matter whether the number of Members actually voted added up to a majority.

Some have used the Court's findings that a majority quorum must be present to assert that nothing more than a simple majority may be required to pass legislation. That is not what the Court said in that case. All the Court said was that the act of a majority of the quorum is the act of the body.

The requirement in the new House rule that a super majority of three-fifths must vote in favor of any income

tax rate increase does not violate the constitutional requirements that a majority must be present to do business.

The bottom line is this: A majority of the House, under the Constitution, may determine the rules of the proceedings including a requirement that a larger majority may be required to do certain things. For instance, for 125 years in this body we have required a two-thirds vote to suspend House rules and pass legislation under this procedure. No one has ever challenged that rule.

This House has also adopted a rule that says it does not even want to have introduced, let alone considered, certain commemorative bills. We banned bills by the rules of this House, and it was a very good rule which I helped to put in.

So long as no basic constitutional principle or rights are being violated, which they are not in any of these rules, a House majority may adopt the rules of its proceedings regarding the introduction, consideration, or passage of legislation.

So, Mr. Speaker, that is something which, according to the Supreme Court, cannot be challenged in any other body or any other tribunal. A court challenge to our new rules will be dismissed on these very grounds, and thank goodness for the American taxpayer.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 5 minutes.

[Mr. LAFALCE 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 Maryland [Mr. HOYER] is recognized for 5 minutes.

[Mr. HOYER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

POSSIBLE EFFECTS OF THE PERSONAL RESPONSIBILITY ACT ON THE STATE OF TEXAS

The Speaker pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GENE GREEN] is recognized for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, I take the floor to discuss again the possible effects of the Personal Responsibility Act, the PRA, on the State of Texas. This measure reforms welfare in many ways. Unfortunately, it also repeals a number of nutrition programs such as the school nutrition program and also the senior citizens lunches which, for Texas, would be disastrous.

A recent USDA study says this PRA reveals Texas would lose over a billion dollars in fiscal year 1996 alone. The reduction in funding for Texas represents a 30-percent reduction in funding for school lunches and senior citizens lunches.

Under the block grant arrangement, Federal funds would first be awarded to the State and then allocated to the programs throughout the State. However, many nutrition programs, such as the school lunch, already go directly to the school districts.

Adding an additional bureaucracy to funnel funds appears contradictory to the premise of the block grants, when everyone agrees we need to cut the layer of bureaucracy not increase, but this Personal Responsibility Act is another layer to take away funding directly to the school children and seniors.

Local school districts could take deep cuts in funding. The Aldine Independent School District, where my children went to school, will have their food budget reduced by over $2 million and require a lunch costing $1.35 now to be increased to $1.75 and maybe even more. This could mean thousands of students in the Aldine area might not to be able to afford a nutritious lunch.

The Pasadena School District in Harris County that I also represent part of, 50 percent of their meals are served this year by a free or reduced price of lunches. The number of free meals have tripled in the past 6 years.

The Houston Independent School District provides 118,797 free or reduced meals every year, and they would be reduced.

Tufts University Center for Hunger states that iron deficiency anemia affects nearly 25 percent of the poor children in the United States and impairs their cognitive development.

The Tufts study further states that the longer a child's nutritional and emotional and educational needs go unmet there is a greater overall cognitive deficit.

While I think we can all agree that reforming welfare is needed, the needs of the school children are of paramount importance. This may not be how the people of Texas thought how welfare reform would begin, but it currently is written into this Personal Responsibility Act and will increase the hunger for Texas children and senior citizens.

I would like to paraphrase a letter from the Aldine Independent School District from our executive director of Food Services that says, ''We are proud of what we do. Last year we received $7,900,000 from the Federal Government for reimbursement for free and reduced, prepaid mails and food commodity programs.''

□ 2110

They serve an average of 12,000 breakfasts a day and 24,000 lunches a day to Aldine children. They are proud of what they do, and many students in Aldine get their nutrition from the school cafeteria which enables them to perform better academically in the classroom. The food served at the schools goes directly to that child. It does not go to their parent. It goes to that child, and a hungry child cannot learn. These children are already here, so we need to nurture them and educate them so they can become healthy and productive members of society. We do not need to turn our backs on society's most least fortunate, our children, our senior citizens. Mr. Speaker, I ask that the House change this Personal Responsibility Act to reflect the needs that are reflected in our children.

FEBRUARY 8, 1995.

The Hon. GENE GREEN,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN GREEN: Aldine ISD provides an excellent education to children in middle to lower income families. There are 46,000 students enrolled in Aldine ISD. The Aldine Food Service department received $7,947,557.71 from the federal government in reimbursements for free, reduced-price, and paid meals and food commodity value in the 1993–94 school year. We serve an average of 12,000 breakfasts a day, and 24,000 lunches a day to Aldine children.

If the block grant proposal is passed as is, with a 30% reduction in the funds provided to Texas, impact on the Aldine Food Service department would be a loss of $2,384,267.30. This reduction in funds would mean a large increase in breakfast and lunch prices, reduction in labor, and reduction in spending to businesses in this area. Many children in Aldine would not be able to afford the increase in price for lunch and breakfast. Our department has always operated in the black with all excess funds being reinvested into the Child Nutrition Program to benefit students. These cuts would most likely throw us into the red.

We are proud of what we do. Many of the students in Aldine get their best nutrition in the school cafeteria which enables them to perform their best academically in the classroom. The food served at schools goes directly to the child, not through a parent or guardian. A hungry child cannot learn!

These children are already here, so we need to nurture and educate them so that they become healthy, productive members of society. Your support in our endeavor will benefit us all.

Thank you!

Sincerely,

JOYCE H. LYONS,
Executive Director of Food Services Aldine ISD.

MELANIE B. KONARIK,
Assistant Director of Food Services Aldine ISD.

UNDER THE CONTRACT WITH AMERICA WORK IS A PENALTY RATHER THAN A PRIZE

The SPEAKER pro tempore (Mr. QUINN). Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, the Contract With America proposes to put 1.5 million welfare recipients to work by the year 2001.

On its face, that proposal is appealing. Many of us support welfare reform.

The current system does not encourage self-sufficiency and does not always work well.

Reform, however, does not mean change for the sake of change. Reform means change for the sake of improvement.

Improvement in our welfare system is best accomplished by rewarding work—by making work a prize rather than a penalty.

Work is a prize when a full-time worker can earn enough to pay for life's necessities. Work is a penalty when a person cannot earn enough to pay for food, shelter, clothing, transportation, medical care, and other basic needs.

That is why any discussion of welfare reform must also include a discussion of minimum wage reform.

Under the Contract With America, work would be a penalty rather than a prize.

The work slots proposed to be created by the Personal Responsibility Act would pay $2.42 an hour for a mother in a family of three.

That hourly wage is almost $2.00 below the current minimum wage of $4.25. In Mississippi, pay under the Contract With America would equal just seventy-nine cents per hour.

That is a penalty. That is not a prize.

It is noteworthy, Mr. Speaker, that the vast majority of those who will be forced to work at below minimum wage earnings are women.

It is also noteworthy that 6 out of 10 of all minimum wage workers are women.

And, contrary to a popular misconception, most minimum wage earners are adults, not young people.

In addition, many of the minimum wage workers are from rural communities. In fact, it is twice as likely that a minimum wage worker will be from a rural community than from an urban community.

Most disturbingly, far too many minimum wage workers have families, spouses, and children who depend on them.

That is disturbing, Mr. Speaker, because a full-time worker, heading a family of three—the typical size of an American family today—and earning a minimum wage, would fall below the poverty line by close to $2,500 dollars.

In this country, a person can work, every day, full-time, and still be below the poverty level. Work, in that situation, is a penalty.

A review of the history of the minimum wage is revealing. First implemented in 1938, with passage of the Fair Labor Standards Act, the minimum wage covers 90 percent of all workers.

Between 1950 and 1981, the minimum wage was raised 12 times. During the 1980's, however, while prices were rising by almost 50 percent, Congress did not raise the minimum wage.

I spoke yesterday, Mr. Speaker, of the impact of a frozen minimum wage during the decade of the 1980's when income dropped and costs escalated.

While the minimum wage stood at $3.34 an hour, the average cost of a domestic automobile increased from less than $9,000 to more than $16,000.

The average cost of local transit went from thirty cents to seventy cents.

While the poor got poorer and the minimum wage stood stagnant, the average per capita cost of health care more than doubled, from $1,064 per person annually to $2,601.

From 1980 to 1990, the average cost of a half gallon of milk went from ninety-six cents to a dollar and thirty-nine cents.

The average retail cost of bread went from forty-six cents to seventy cents during this period.

And, a dozen of eggs, which cost 85 cents in 1980, cost more than $1 by 1990.

In short, Mr. Speaker, while the bottom 20 percent of America lost income and got poorer, the minimum wage was frozen, and cost climbed.

Low income workers are yet to recover from that period. They are still far behind the cost of living and further behind high income workers.

Most importantly, raising wages does not mean losing jobs. Recent, comprehensive study dramatically demonstrates this conclusion.

In my State of North Carolina, for example, a survey of employment practices after the 1991 minimum wage increase is instructive.

That survey found that there was no significant drop in employment and no measurable increase in food prices.

Indeed, the survey found, workers' wages actually increased by more than the required change. The State of Mississippi was also the subject of that study.

When a person works, he or she feels good about themselves. The contribute to their communities, and they are in a position to help their families. Work gives a person an identity.

Our policies, therefore, should encourage people to work. We discourage them from working when we force them to work at wages that leave them in poverty.

When Congress has the opportunity to raise the minimum wage, let's make rewarding work and wage reform an essential part of welfare reform.

Let's encourage people to work. And, let us insure that they can work at a livable wage.

Mr. Speaker, we support a minimum wage that affords every American a livable wage.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. CLYBURN] is recognized for 5 minutes.

[Mr. CLYBURN addressed the House. His remarks will appear hereinafter in the Extension of Remarks.]

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Ohio [Mr. HOKE] is recognized for 60 minutes as the designee of the majority leader.

REVIEW OF LEGISLATION ALREADY PASSED IN THE 104TH CONGRESS

Mr. HOKE. Mr. Speaker, tonight I have asked some of my good friends in the House to join me in a special order where what we are going to do is review some of the legislation that has already been passed in the 104th Congress, and then we are going to continue to talk about some of the things that have not been passed yet but that we are working on. It is all part of the program that we call our Contract With America.

I have asked the gentlewoman from Washington [Mrs. SMITH] the gentleman from Georgia [Mr. KINGSTON], and the gentleman from Tennessee [Mr. BYRANT] to join me in this, and what I wanted to do first is I have got a nice chart here that is courtesy of the gentleman from Georgia [Mr. KINGSTON], and I want to use this red pen to talk about some of the things that we have done already.

What we have done is on the very first day of Congress we had promised that a Republican House would, first of all, require Congress to live under the same laws as every other American. We have done that.

We also said that we are going to cut one out of every three congressional committee staffs. We have done that.

And we said that we would cut the congressional budget. We did that as well.

In addition, Mr. Speaker, we promised the American people that we are going to pass a balanced budget amendment and a line-item veto, and we said that we would give relief to our States, counties and local cities on unfunded mandates, and we have done that as well.

Now I think one of the things that I want to point out this evening about everything that we have done is because there is so much partisanship that happens on this floor that we see every single day, one would think that there was an open battle going on between the minority and the majority, the Democrats and the Republicans, on a daily basis. Let us review the bidding for just a moment because I think that maybe, Mr. Speaker, you will find these numbers rather surprising:

First of all, the Congressional Accountability Act requiring that every single law of the land also require, be applied, to Congress. Two hundred Democrats joined every single Republican in voting for that.

□ 2120

It was completely unanimous. When it came to the unfunded mandates bill that we passed last Thursday, 130 Democrats joined us to pass that bill. The line-item veto, 71 Democrats joined us. The balanced budget amendment, 72 Democrats joined us. We passed just yesterday and today, three

important crime bills that Mr. BRYANT is going to tell us about, habeas corpus reform, the exclusionary rule reform, and Victims' Restitution Act. We had 71, 71, and 133 Members of the minority join us in that.

What does that prove? Clearly, it proves that this is a bipartisan effort. If you say to yourself as you listen to this, you say, ''If that many Democrats were voting for them, why on Earth did you not bring these things to the floor and pass them previously. What is going on?''

Well, what it does show you is two things: First, there is absolutely bipartisan support, in some cases overwhelming bipartisan support, for all of these bills. The other thing it tells you is that some of these bills were never allowed to come to the floor of Congress because the previous leadership refused to allow them to see the light of day to ever get a vote.

We made the pledges that we would bring these things to the floor. We made pledges that we would have votes on them. And we have in fact passed them all. I am not saying we are going to pass everything that comes up under the Contract With America, but we are going to try to.

It has proven to be a remarkable road map for Republicans and for this Congress to stay very focused on the agenda that America wants. And it has also proven, I think, very importantly to be a way for us to reinstill confidence of the American people in what we are doing as a Congress, and their confidence in their ability to elect officials that will actually deliver what they promise.

One of the ways that you can see that is that in the Washington Post survey or poll that was taken last week, we find that confidence in the Congress has doubled, doubled, just since January 4 when we were sworn in. And that is the first time in the 15 years that that particular polling question, how do you feel about Congress, favorable, unfavorable, that has doubled, it is the first time it has ever happened since they have been doing that kind of polling.

Luckily, we have with us two freshmen Members, Mr. BRYANT and Mr. SMITH, who are part of the revolution, and they are going to be talking to us about the crime bill.

Mr. BRYANT of Tennessee. I appreciate the very fine introduction of what this Congress is about from the gentleman from Ohio. I just wanted to add a remark or two to what you are saying about the popularity increase on the part of the Congress.

I tell you, we are all having trouble getting back to our districts because of the hectic pace that we are involved in. I heard today that we have already voted more than 100 votes in this month of January and the early part of February, and I think last year we reached that mark of 100 votes somewhere in May. So that is some indication to the viewers of the pace at which we are moving.

Mr. HOKE. The gentleman is completely correct. In fact, we are on track for doing more in the first 100 days of this Congress than has ever been achieved in the history of our Congress if we keep up at this rate. We had through the end of January been in session 115 hours. The average for the previous 10 Januarys was 28. We had had 79 votes on the floor up until then. The average had been 9.

Mr. KINGSTON. If the gentleman will yield, I think, though, what is really important is as we talk to our two freshmen that are with us, is that this spirit of change really was affected by your election. It would not have happened. We would be continuing at the status quo of year after year everybody signs the balanced budget amendment, year after year everybody signs the line item veto, and a couple of these other hero bills, and you go back home and tell your Rotary Club, ''I sponsored a bill, but doggone it, those rascals in Washington will not get it to the floor.'' The time for that kind of talk is over with, because of the huge new freshman class, and a freshman class who as candidates went out on a limb, most I think signed the Contract, but they said, ''This is my agenda. If you elect me, this is what I am going to go for.'' And instead of throwing away that brochure on a election night, they are coming back day after day and reminding the voters what they said, instead of waiting for the voters to invite them.

With that, I think we owe them a lot of this credit, just to get the chance to vote. You may want to comment on, you know, what it is like. Because Mr. HOKE and I served under a previous regime, and it was not as fun and certainly it was not as vigorous as what we are doing now.

Mrs. SMITH of Washington. If the gentleman will yield, I think what we have turned the American people into is C–SPAN junkies. I am having friends that didn't even have TV's who are getting up each morning so they can see what we did today. They got rid of the idea of Congress as a slow moving process, and they are saying, ''We want to see what they did today.'' I think the freshmen came with the belief that we would do something everyday, but we did not realize when we got here that people would say, ''Do you realize this is fast?'' And when you look at what they used to do, we would not have barely got started. My understanding is it took way into February before we would actually even gear up very much.

Mr. HOKE. Generally speaking, we did not even come to Washington until the last week of January previously.

Mrs. SMITH of Washington. I was trying to do a summary of what we had done thus far, and I could not do a newsletter with enough in it, it would have had to have been so big. I said, you know, that is really something. I said I was never coming to Congress. My polls were very high for the last 6 years, nearly 90 percent, I said I am not going because those guys are not doing anything. I am pretty glad to say not only are we doing something, but I am actually not sleeping more than 4 or 5 hours a night. It is pretty exciting. We came to a whole bunch of people ready to do action. We might be the steam, the freshmen, but there certainly was a train on its way. We are just pushing it along a little.

Mr. HOKE. We gave a great American a wonderful birthday present on Monday. Mr. KINGSTON, I wonder if I might ask you to talk a little bit about what that birthday present was, how it came about, and what it does for the American people.

Mr. KINGSTON. Of course, the great American you are speaking of is Ronald Reagan, and he was a man even before he was elected President who talked about the concept of the line-item veto. And the analogy that I have given my voters is just imagine if you are in a grocery store and you are buying your meat and potatoes, your fruit and your vegetables, and you are in the checkout line and the cashier says buy some caviar for me. You say I don't owe you any caviar. I don't eat caviar, it is too expensive. He says if you want your meat and potatoes, you have got to buy my caviar.

That sounds bizarre, but that is how the Congress has treated the American people, and the American presidents, for all these years. That anytime the President would go into an area like a flood disaster or something like that, we would always go in there and tack on our latest social program, our new little warm and fuzzy midnight basketball of the month or whatever it was. We say OK, we know you want to take care of the California earthquake victims, but in addition to this I want a little research money for the university back my way.

This gives the President the actual ability to take a pen and line item that out, that pork out of there, and say we do not need it anymore.

Mr. HOKE. Is that something that Governors have in most States or many States?

Mr. KINGSTON. Forty-three Governors have it. We have it in our State of Georgia. It has worked effectively. The Governor does not overuse it. But what it does is it puts him back in the process.

Mrs. SMITH of Washington. That is something that amazed me when I got here. I was in the State Senate and the House and we always had a balanced budget amendment, and we had line-item veto. In fact, we not only had line-item veto for the budget, we had it for every bill, and the Governor could go in and take out pork and things that did not work. Now, sometimes we were a little irritated at the Governor, but the reality was it brought a great balance to some of us that might want to kick in a little pork for our district.

We had to think about a check and balance of the Governor. So I think that most States have something like this. For the Federal Government not to have it, seems a little ridiculous.

Mr. HOKE. Maybe one of the greatest reflections for the need for this is we seem to have an absolute inability to balance our budget. This is one more tool to try to get specifically to that. And Mr. KINGSTON, maybe you could illuminate this a little bit. It seems to me when we saw the people opposing it, were these the fiscal conservatives, the deficit hawks, the tightwads, or the big spenders in Congress?

Mr. KINGSTON. The people who opposed it generally used this philosophical argument that it tipped the balance of power. But what they were really saying is I want my pork. And I think we saw, for example, getting back to the earthquake, on the earthquake we sneaked into the budget or had sneaked in $1.3 million for the Hawaiian sugar cane mills.

□ 2130

We have $1.5 million to convert a nuclear power commercial ship into a museum, or $10 million for a new train station in New York.

Mr. HOKE. Why is that not appropriate as a Federal expenditure?

Mr. KINGSTON. Well, there is certainly a philosophical question that these should probably not be things that the Federal Government is involved in. But more importantly than that, we have got people who have health care emergencies because of the earthquake, business emergencies, lives literally at stake. We need to get the money out to help the earthquake victims. We do not need to be sending it for train stations. The list goes on and on. But remember, it is every single appropriation bill has this little Christmas tree, what is in it for me, and if you want something in Ohio, then you are going to take care of me in Georgia. That is one reason why we have a national debt approaching $5 trillion right now.

Mr. HOKE. And it got nearly 75 percent of the votes in this Congress. It had never previously been allowed to even come to the floor. Yet we got 301 votes.

Mr. BRYANT of Tennessee. One of the things that we, a couple of things that we campaigned on heavily during our election process, were the line-item veto and the balanced budget amendment. And I used to say, after I had signed this Contract With America, one of the hidden pearls in this contract, not necessarily each and every item might be passed, but that we are calling forth from everyone that is in Congress a vote. We are making them vote up or down on each one of these issues. And if an item did not pass, then the people back in the district would understand that and how their Congressman voted. And they would have the opportunity next election to decide if they wanted to retain that Congressman.

But everywhere I went, the people back in west Tennessee felt that these two items, the line-item veto and the balanced budget amendment, were required because of the forced discipline. I have heard that term used an awful lot up here, but I am convinced that not only at the State level but at the Federal level, we need to force discipline by law. But we have to balance the budget.

The Chief Executive, the President, whoever, the Governor has a right to the line-item veto. And I think we have taken the correct steps. And once we got those bills out of the committee, up on the House floor for the first time probably, at least the line-item veto, I think maybe the balanced budget amendment was up a couple times, but we were forced, the Members, to vote and to show our cards. And I think that is why you saw the large amount of votes in support of each of these.

Mr. KINGSTON. One of the many votes on this was rejection of what I would call the light-item veto, l-i-g-h-t.

Mr. HOKE. Line-item veto light.

Mr. KINGSTON. That says that when the President does this, then it comes back to the Congress and we sit on it. And what he actually vetoed out does not take place, but we do not ever have to vote on it again. It is just the same old——

Mr. HOKE. That is pretty much the rescission package that we have got now.

Mr. KINGSTON. We rejected that. This package, what is so different about it, he sends it back to us. We have 20 days to say yes or no or to modify it or pass part of it or not, but if we do not take action, it is automatically in effect. So the ball is in our court.

It is not this, oh, well, we just kind of look the other way and pretend it does not count. The clock starts and we have got 20 days.

Mr. HOKE. I know it is a little technical, but I wonder if you could just share with me how the process works. We pass a bill. The Senate passes a bill, comes out of conference, goes to the President for a signature. What happens next?

Mr. KINGSTON. Let us just say it is an education bill, health care, welfare reform, and we stick in there, as are actual cases in years past, $58 million for the American Shipbuilding Co. in Tampa, FL, $11 million for a powerplant modernization for a naval shipyard that is about to be closed in Philadelphia. And we stick in another $1 million for plant stress studies in Texas.

The President gets the health care bill. He says, wait, these three items, I do not like them. And so he circles them so to speak sends them back to Congress. He has got to do that within 10 days. He cannot just sit on it.

Mr. HOKE. He has 10 days to make those line items, to veto those particular lines.

Mr. KINGSTON. That is right. He sends it back, submits it to us. And incidentally, he can say, look, I do like the New York Yankees, and I am going to give them a little bit of sweetener for the shipyard down in Florida, and there is a relationship. So instead of giving them $50 million, he decides to give them $25 million. He does not even have to zap it out. He can just reduce it.

Then we get it back within 10 days. We have 20 days to vote on it. If we decide not to vote on it, it is law.

One other thing that is important to know, this is on spending, but if we pass a sweetheart tax deal and it only benefits less than 100 people or 100 or less specific corporations, just a clear conflict, because some powerful committee chairman says, look, I want you to take care of my little buddies over here, the President can also veto those out. People complain all the time about tax loopholes. This gives the President and, in this case, the Democrat President the chance to stand up to those.

Mr. HOKE. So let us say, for example, that some of our Democrat friends would put together a loophole to sweeten the pie for some of their fat-cat contributors with a tax loophole. If it is fewer than 100 people, the President can X that out and veto it. The thing that we do joke about Democrats, but you know, we did get into this situation from Democrats and Republicans. And the beauty of this that I like is that we have got a bipartisan Congress with Republican control passing a bill for a Democrat President. So we are giving him a very powerful tool to turn around and use, if he chooses to do so. I hope he will not be partisan about it and will be responsible.

I wanted to get a little bit to the balanced budget amendment, but I see we are running out of time here. I wanted to ask the gentleman from Tennessee [Mr. BRYANT], who is the former U.S. attorney from the western district of Tennessee, and, therefore has, I would say, a fair amount of expertise with respect to crime, to talk about the crime bill.

We passed two things today. One was habeas corpus reform and the other was exclusionary reform. I have to tell you that to most Americans who are not lawyers, of course, you and I are both on the Committee on the Judiciary. We are very much involved with all of this, but to most Americans who are not lawyers, the words ''habeas corpus reform'' mean absolutely nothing. Exclusionary rule reform means absolutely nothing.

What is going on here? Can you bring it down to earth for us?

Mr. BRYANT of Tennessee. Let me try to give a primer on this. As far as the exclusionary rule, that is a judicial court creation. It appears nowhere in the Constitution. We have heard that

bantered about in our arguments, that it violated the Constitution, what our forefathers wrote, those kinds of things. Actually, it is a rule that was crafted by the courts to in effect punish police officers for unlawful conduct. And over the years, there has been a constant balancing act between the rights of society as opposed to the rights of the criminal.

And over the past number of years, many of us feel that that pendulum has swung too far over in favor of the rights of the criminal and, in some cases, has actually resulted in the exclusionary rule being applied in trials that guilty people have gone free or, even before that, you recognized you have got a bad case because of this. You would have to plea bargain out or even dismiss a case.

Mr. HOKE. Where does this name ''exclusionary rule'' come from? What are we excluding?

Mr. BRYANT of Tennessee. Actually, it is excluding evidence from the trial. That is the remedy that the Court has foisted upon us. If it was deemed illegal evidence, then it is actually kept away from the jury.

A classic example is the ongoing trial in California and the issue of the glove that the police officer found at the home of Mr. Simpson. That was the subject of a lengthy suppression hearing to exclude that glove. And in that case, the judge did allow it into evidence.

But there is a great deal of confusion over the law in all these situations involving search warrants and even the warrantless searches. And I used to marvel, as a prosecutor, how, as in the case of Mr. Simpson in California and in other cases where you could spend hours and days, even longer periods of time, with law-school-trained prosecutors and defense counsel and judges arguing over the merits of this issue in a sanitized situation, a courtroom, with law clerks writing briefs and so forth for you.

□ 2140

Yet, on the other hand, we asked police officers, law enforcement officers who were in a tough situation out in the field, in less than sanitary conditions, often life-threatening situations, to make those kinds of decisions on the spot: ''Do I seize this evidence or do I not seize this evidence?'' Again, the lawyers and judges argue over these things for hours and days and cannot reach a conclusion.

Mr. Speaker, for too long I think we have not allowed for a reasonable mistake. Nobody expects perfection from our law enforcement, or from anything in our lives. I mentioned earlier to someone that Ken Griffey hits the ball safely 3 times out of 10 and he is a superstar in baseball.

Mr. HOKE. We certainly hope he will be hitting the ball 3 times out of 10 this summer.

Mr. BRYANT of Tennessee. We hope, soon.

Mr. HOKE. What is it exactly we are talking about reforming here in this exclusionary rule?

Mr. BRYANT of Tennessee. In this body we are talking about following what the courts are already beginning to do as the pendulum swings back toward a fair balance in protecting not only, again, not only the criminals' rights, but the victims' rights.

Mr. HOKE. We are talking about the Supreme Court, now?

Mr. BRYANT of Tennessee. The Supreme Court. We are just expanding what they are doing to allow for this reasonable mistake on the part of the police officer in gathering evidence. If he makes a reasonable mistake in good faith, that is subject to the same exclusionary rule possibility, but a third party, a judge, provides an objective standard and decides whether that comes in or not. But again, it allows for a reasonable mistake and does not punish society by excluding or keeping away that evidence from the jury.

Mr. HOKE. Who has asked that this rule, that this change that has been made by the Supreme Court, actually be codified into Federal law? Who has been supporting this?

Mr. BRYANT of Tennessee. Of course, there has been a number of prosecutors, people involved in the legal system, but I would suspect both JACK and LINDA have seen demands from their constituents, as I did, that we ought to make some changes here in our judicial system and swing that balance back more toward society.

Mrs. SMITH of Washington. Will the gentleman yield?

Mr. BRYANT of Tennessee. I yield to the gentlewoman from Washington.

Mrs. SMITH of Washington. I just reverted into being a mom and a grandma, but I was a senator, too, and I think it seems worse to me than ridiculous rules, letting a rapist off, or letting someone that violently hurt someone off.

I think what we have done in this is common sense. That is the part about the Contract that I liked the most when I saw it, when I was first drafted as a write-in candidate in September. I saw this and I thought why would anybody not support this? It is common sense. That is one of those things that just came up as common sense to me.

Mr. KINGSTON. If the gentleman will yield, I think one of the problems is that the American people just get so frustrated when we cannot get control of everything, and it seems that time after time, we are forgetting the victim, we are forgetting what is in the best interests of society, and we are going to the extreme to protect or defend some thug, and we are beating the law in his favor. As a result, we are not getting the convictions we need. These people are getting out. It is all a case of who can find the best technicality, and it does not really change the fact that this person may have committed murder, may have raped somebody, may have kicked the door in and beat some people up.

That seems to be secondary to finding the technicality to getting them off. I am glad we are correcting this.

Mr. BRYANT of Tennessee. Mr. Speaker, as the gentleman well knows, on the Committee on the Judiciary we are not doing away with the exclusionary rule completely. There are still certain protections out there. The law enforcement, although they do not do this anymore, they may have done this back in 1914 when this was necessary to formulate this rule, but people do not beat folks in back rooms with rubber hoses to extract confessions anymore. However, if they did, certainly the exclusionary rule would still be available.

Mr. Speaker, what we are simply saying is that folks make mistakes. As long as they act in good faith, and a judge has to make that determination from an objective third party standpoint, that evidence ought to come in and not punish society because of a mistake. There are other avenues that that can be addressed in.

However, we did, once we came to the House floor, we had a good, healthy debate, but we had truly bipartisan support on this, and the bill passed, as I recall, overwhelmingly.

Mr. HOKE. Mr. Speaker, the gentleman is absolutely correct. We had, I think, 300 votes or 298 votes, again 75 percent or 70 percent of the House voting in favor of it. Clearly, what we are seeing here is the pendulum swinging back, so that we can take back our streets, so that victims will have the rights that they need and that society will not become the victim of the criminal. If Members will look at the figures on this, fewer than 4 out of 100 crimes at this time, and I'm talking violent felonies, result in incarceration. Now, if the criminal justice system is going to act as a deterrent, then you have to do the time if you commit a crime. Otherwise it simply does not work as a deterrent. That is not the only purpose of the criminal justice system, but that certainly is an important one. For somebody contemplating criminal activity, they have to know that they are going to get caught, that when they are caught they are going to be convicted, and when they are convicted they are going to be incarcerated. They are going to be confined.

Mr. Speaker, let me move, if I could, from the exclusionary rule issue to this thing called habeas corpus. Now, habeas corpus, what on Earth does it mean? What are we doing? What is going on?

Mr. BRYANT of Tennessee. Literally, ''habeas corpus'' means ''you have the body.'' It started out in the 1800s, as I remember reading, where people who were wrongfully convicted, or even perhaps kept in jail without a trial, used that as a mechanism to have a hearing to get out of jail.

What has developed over the years, though, has been a system of, I believe,

abuse by people in the jail who filed habeas corpus petition after petition over a period of years, with the net effect of being able to, particularly in death penalty cases, to delay the implementation of their death sentence effectively.

Mrs. SMITH of Washington. Mr. Speaker, will the gentleman yield? I am confused. Does that mean they just appeal over and over again, based on what statute? How do they do that? ''You have got the body.'' You have me confused. Try that again.

Mr. KINGSTON. Tom, she does not mean you have the body.

Mrs. SMITH of Washington. Remember, we are not all attorneys. I didn't quite understand that.

Mr. BRYANT of Tennessee. There are at least three avenues that people sentenced to the death penalty can travel. Of course, they have their natural State appeals. Then there is a habeas corpus procedure within the State, and then the Federal habeas corpus procedure.

People that are on death row and their attorneys are experts at maximizing these appeals, and in many cases, going back, and not necessarily appealing the same issues, but raising new issues each time to delay, as we all know, and we heard so often on the campaign trail from our constituents, delaying it 15, 20 years or more. That was probably, again, one of the major complaints that I heard.

As I look there on the Contract that you are checking off, on Number 2, we are getting very close, because today not only did we work on the exclusionary rule, and yesterday on victims' compensation, but we did pass this fairly severe modification, changes to the habeas corpus proceedings.

The two things I talked about were limiting the numbers of these appeals and the timeliness of them, and we did exactly that today.

Mr. HOKE. Can you flesh that out a little for us, ED? How much time does somebody have now, after they have been convicted of a capital crime, and I mean convicted through the entire appellate process, so I think people should understand that we are not talking about—habeas corpus does not begin upon conviction at trial.

You are convicted at the trial level, and then typically there is an appeal to the first appellate level, and then there is another appeal to the second appellate level, which would probably be the State Supreme Court. Am I correct on that?

Mr. BRYANT of Tennessee. As there should be.

Mr. HOKE. As there should be, absolutely.

Mr. BRYANT of Tennessee. Like any trial, they are entitled to fair appeal decisions.

Mr. HOKE. Then there is a final order of the highest court in that particular State?

Mr. BRYANT of Tennessee. That is correct. Then they usually begin the habeas corpus process.

Mr. HOKE. At that point they have already had two appeals process. This is not from the trial court, this is already after a final adjudication from the highest court in that particular State?

Mr. BRYANT of Tennessee. That is right. Generally under the law that we passed today, if it is a State appeal, a State conviction they are appealing from, they have 1 year in which to file their habeas corpus petition. If it is a Federal appeal in which they are applying for habeas corpus, then they have 2 years.

It is on a faster track now, and I think as this bill works its way over, up the process, I think you are going to see some improvement.

Mr. HOKE. Right, it is on a faster track, but just so we get a real idea, a faster track, for a U.S. attorney to say that, it may seem like a faster track to you, but I don't know if it seems like a very fast track to the public.

If you are talking about the trial, the trial could take 3 to 6 to 12 months, even, but let's say it just takes 6 months, and then how long would the first appellate procedure usually take?

Mr. BRYANT of Tennessee. Of course, that depends on the States. But I think you are looking, as opposed to the 10 to 15 years that are probably average today, you are looking at a much shorter period of time. If you could keep it under 5 years and work down from that, I think that is a fairly fast track for this type of case.

Mr. HOKE. Who is paying for the attorney's fees for the capital inmates at this point?

Mr. BRYANT of Tennessee. Probably 100 percent of them are being paid by taxpayers at either State expense, or certainly at Federal expense.

Mr. KINGSTON. Mr. Speaker, I would ask the gentleman from Tennessee [Mr. BRYANT], how much are we paying for these guys to stay in jail? I have noticed on my tours, they all have air conditioning, they all have television, they all have weight-lifting rooms and gymnasiums, and they are not required to work, so they get to watch TV. What does that cost?

Mr. BRYANT of Tennessee. You all know, literally it costs millions and millions of dollars.

Mrs. SMITH of Washington. In our State, over $30,000 a year.

Mr. KINGSTON. $30,000 to $50,000 per year per prisoner.

□ 2150

While some wealthy law firm is going around with endless appeals, not worrying about the victim, not worrying about the detriment to society and just having a good time at it.

Mr. BRYANT of Tennessee. They are usually specific lawyer capital resources centers that are publicly funded that are the experts from the defense standpoint and are able to use the system of appeal that we have just talked about in an effort to get a new trial, but also, concurrent with that, to delay the execution of cases.

So again, it is a hot button item. I think what we did do today, I want to commend our leadership, and all of those people who voted for this bill. It is a major step toward alleviating this type of problem and complaint.

Mr. HOKE. The gentleman from Tennessee has worked as a U.S. attorney. That is a big responsibility. I assume the gentleman has prosecuted capital cases.

Mr. BRYANT of Tennessee. I have not, but I have certainly been around those who have.

Mr. HOKE. Are we effectively tightening up the habeas corpus process in a way that will shorten the time frame? Are we doing anything in this process to in any way undermine the rights of defendants in this process? Do they still have the ability to make these appeals in a timely and effective way?

Mr. BRYANT of Tennessee. That is a concern. It is probably not a popular one to talk about on the campaign trail, but you have to look at it from the standpoint too of the person who is charged. And of course, by this point they have been convicted, they have had due process of law, they have had a full, good attorney, full-blown trials and they have had appeals. But they still have certain rights, especially when we are talking about the ultimate penalty, the death penalty.

But as we talked before, this bill that we passed today I think brings the pendulum back, the balance back into the system, particularly in capital cases, particularly in the time and economics of it and the actual deterrence of it. That is something that is very frequently talked about, that really the death penalty is not a deterrent. I do believe it is a deterrent, but to be an even better deterrent it has to be done like any punishment, swiftly. Those are the two things, it has to be certain punishment and swift punishment to be an effective deterrent. We have lost that in our society, particularly with the death penalty, and I think once we get this process going and up to speed, as it should be, while protecting the rights of the defendant, which I think it does, I think we will have an effective deterrent.

Mr. HOKE. I think that is important to emphasize, that defendants' rights are clearly being protected, but at the same time society's rights to have a timely resolution, a final resolution, an execution of its will, of society's will, the carrying out of its will, that that will be possible now with this habeas reform.

Mr. BRYANT of Tennessee. We are not talking about everybody that is convicted of a crime that has to do this, but you know I always talked about on the campaign trail that we had I believe about 300 people on death row in Tennessee. And I told everybody if they could go back and look at each

one of those individual cases and the underlying facts of the case, you know, each one of those is a death penalty case and when you read about it in the newspaper, it just hits you in the stomach, what an atrocious, horrible, heinous crime it is. These are the types of cases we are talking about, not just everything that comes along.

Mr. HOKE. We are talking about the tremendous frustration that society feels as a whole, that the community feels and that victims' families feel with the inability of our justice system to actually come to final resolution in these things, and the anger that is the result of that. So that this thing continues to turn and turn and turn and go on and on. I am glad the gentleman clarified that. I very much appreciate it.

I learned something tonight about the gentlewoman from Washington. I did not know that she only decided to get involved in a race for the U.S. Congress in September, literally 2 months before the election, or it must have been an even shorter time, 6 weeks. How long?

Mrs. SMITH of Washington. Nine weeks.

Mr. HOKE. The gentlewoman is not exactly a newcomer to politics.

Mr. BRYANT of Tennessee. Do I understand that the gentlewoman won by a write-in?

Mrs. SMITH of Washington. I went away for a weekend and came back after Labor Day, and there was a write-in going on, and 2 weeks later I was the person on the ballot with the most votes. But they were write-in votes.

Mr. KINGSTON. I would like to register a protest. That is a little unfair. The rest of us started 2 years, and the gentlewoman just 2 months. I am sure she blitzed it.

Mrs. SMITH of Washington. You know, it is women, they are just more efficient.

Mr. KINGSTON. I will yield the floor then.

Mr. HOKE. The gentlewoman is not exactly a newcomer to politics. But to jump into this with 9 weeks, I wish I had only 9 weeks. That is fantastic.

What was it that motivated the gentlewoman to want to be a part of this, to get involved with the U.S. Congress? We had talked earlier and the gentlewoman said something about welfare. What are your feelings there?

Mrs. SMITH of Washington. First of all, when I first went in office in the early 1980s in the State, what happened was I saw people go on welfare as our State doubled for my business, I ran a corporation, doubled the taxes in 1 year. And I laid people off, and I saw people go on to welfare who used to work for me as secretaries and receptionists, at the entry level mostly, mostly women, and it got my attention that government could put people out of work.

So the point on the contract that I have been focusing on is the item of welfare and job creation. You know, the best welfare is a job. I cannot think of any family, any single mom, any family of any kind that would not just as soon take care of themselves. Welfare is where we do not want to be, or we want to get off.

So when I looked at the contract I saw that they did several things in the contract that I liked. I saw capital gains. I used to teach tax law changes and I saw people not sell because if they sold they lost everyting in taxes, and it tied up their money, and it tied up their jobs. And so I looked at the capital gains portion of the contract which we are coming up against and I saw it as jobs. If that money is released, I had money to hire people.

Then I looked at the small business section.

Mr. HOKE. Could I ask the gentlewoman a question about the capital gains thing, because our friends from the other side of the aisle, as soon as they hear the words capital gains, the accusation is oh, that is for rich people, that is just something that is designed to help them pay lower taxes. Is that what is going on? Who gets, who gains the most from reductions in capital gains?

Mrs. SMITH of Washington. The people I saw were the people I did the tax returns for, and I had about 400 clients as well as the company I ran, and most of them were small business owners. They were families that were investing in property or equipment or whatever. And they would benefit or they would lose everyting. And what I would see is when we had a high capital gains tax they would hold on, and they would not sell, and they would not buy new equipment, and they might not upgrade, they might not do anything with their business to grow, and they would not create jobs. If we had a reasonable capital gains they would turn over equipment, they would buy, they would hire more people, and they would grow. And I did tax returns for 15 years and worked with small businesses and corporations and it never changed. I did not work with the big guys. I worked with the people that provide in my State 80 percent of the jobs, and that was small business.

Mr. HOKE. In Germany there is no capital gains tax. In Japan there is a capital gains tax of 5 percent, which I understand from accountants gets zeroed out with some exemptions, so there is effectively a zero capital gains tax.

It is by creating more jobs, by having that money that would have been locked in because people are afraid to sell, they are reluctant to sell because of high taxes, that money getting recycled through the economy in a way that creates more commerce, creates more enterprise, creates more jobs, that is the bottom line of reducing the capital gains tax, is it not?

Mrs. SMITH of Washington. Yes. And you know what was really something, was for years I sat there running a corporation and not realizing until one day when they doubled my tax, and the Federal Government messed around with the capital gains again and raised it that it was affecting me, and I connected it to jobs like that. And I think what is happening around the Nation, and why November was so significant is small business people all over the Nation really spoke. I really believe that. I know in my district I was a write-in candidate, and in 2 weeks the people, nearly 40,000 came together and wrote in my name.

That was fueled by entrepreneurs. It was not fueled by a Boeing or Weyerhauser, and these people know that they had better change the policymakers here. And when you look at this contract I think it gave them hope.

□ 2200

I see it as a key ingredient to us producing jobs.

Mr. KINGSTON. There is another angle to this, too. In my area, for example, Bulloch County, GA, Statesboro, GA, Georgia Southern University has a lot of growth. There are a lot of ladies who are widows now but they live on a family farm which is in a growth area. The city is sprawling, and they want to sell that property. They have owned it for 30 years. They may have bought it for $10,000. Now it is worth a half-a-million dollars. But they are in their seventies or eighties. They cannot farm it. They have trouble getting somebody to lease it out. They want to sell it. Their fixed income on Social Security and whatever benefits may be $12,000 or $15,000, but if they sell that farm, then all of a sudden they are in the highest tax bracket.

Mrs. SMITH of Washington. Worse than that, they have the inheritance tax in some cases, depending on when their spouse dies.

Mr. KINGSTON. That is right.

Mr. HOKE. Let me ask you a question, if I could, I say to the gentleman from Georgia [Mr. KINGSTON]. What is that tax on from $10,000 to a half-a-million dollars, is that on what is really being taxed there with this capital gains tax?

Mr. KINGSTON. It is not the tax of the income but the 500,000 sales value is treated like income for that year. For that year she might as well be a stockbroker on Wall Street.

Mr. HOKE. She is being taxed on inflation, is she not? Is that not really what is being taxed?

Mr. KINGSTON. That is right. Also what we are doing is we are making her dependent, because she may want to sell that farm so she can go into a long-term care home. We are saying you cannot do that. She wants to be independent. That is why she held onto the property, and now we are denying her that option.

Mrs. SMITH of Washington. You know, what you have also led to is another part of the contract. We deal

with inheritance tax reform in the contract, and I would like to go even further, whether it is a small business person, usually it is, or the tree farmer in my area. They are having to actually sell their small businesses to pay the inheritance tax. By the time they get done, they can pay nearly 70-some percent in taxes, and they literally are often cash poor. In our area now they are mowing down trees on these family farms. We grow trees in Washington. They have to cut them down prematurely so they can pay inheritance tax to barely hold onto the property. That is pitiful.

In the contract we say middle America should not have to give away the farm to the Government. It is unfair. They have paid taxes on that. It goes to their families. It should not be lost to Government.

And so this contract has a great amount of compassion for middle-class America in it, and that is what made it attractive to me as a candidate to be able to talk about it, and now as a policymaker, it is in my mind a gift we can give to the American people that we will be able to be proud of for many years to come.

Mr. HOKE. Did I understand that you, as a freshman Member of this Congress, are chairing a subcommittee in the Small Business Committee?

Mrs. SMITH of Washington. Yes. I think it is fantastic, because my background is taxation and finance for small business. You know, that was my life before this. I ran a tax preparation business and a management business and was a licensed tax consultant, so it fits well, and that is what is wonderful about this contract.

Mr. HOKE. What else do we have in the Contract With America that is designed specifically, aimed at job creation?

Mrs. SMITH of Washington. Regulation, regulation reform. You take a look at it.

Mr. HOKE. You want to regulate more?

Mrs. SMITH of Washington. No. We need to regulate right. When a regulation is needed, it is needed, and sometimes we have to say there needs to be some rules, but the reality is the Federal Government is regulating where it is not necessary. So we put some accountability into this for businesses and communities.

A lot of the regulation is raising people's water bills, and so by the time we get done making it more job friendly, we are also making it more friendly to the families that are trying to get jobs.

I do not see business as anything more than a job creator, and this contract has a section that says we are going to create jobs, and that is our best welfare system.

Mr. HOKE. You know, what I hear in everything that is being said tonight is that it sounds to me like we have got a pendulum that has been way out here, and it is moving back. It is moving back in a lot of different ways. It is moving back with respect to reform of our criminal justice system so that the victim gets an even break instead of just the criminal. It sounds like we are moving back toward the center in our way of regulating enterprise so that the enterprise gets a break, the farmer gets a break, the person that is creating jobs so that he or she can create more jobs, is getting a break, and we are swinging back that way.

And it sounds like with respect to the regulation of Government itself, we are giving tools in this case to our executive branch with the line-item veto, to the Congress itself with respect to the balanced budget amendment. So there can be some fiscal sanity, some basic common sense in the way we spend the taxpayers' money.

And it seems to me that this is a theme that we have seen in terms of what the American people want repeated over and over and over again, and I believe that is why they gave us the honor of having a majority, and it is our job, it is our job to keep the promises that we made to the American people and to fulfill them in a way that gives them confidence in our ability to govern and to bring about the kind of commonsense legislation in governing that they expect, demand, and deserve.

I happen to see the gentleman from California [Mr. CUNNINGHAM], my good friend. It looks like you wanted to say something.

Mr. CUNNINGHAM. I do not want to take a whole bunch of time. We are marking up an education bill tomorrow which is part of the contract. We are not talking too much about that; also the defense side. But we have got the freshmen represented here. Most of them we campaigned for. We have got sophomores.

I just wanted to let you know how proud that we are that for 4 years, many of us sat here on the House floor and were rolled over day after day. The Committee on Rules determined every piece of legislation that came to the floor.

In 20 years, the Republicans only had one motion to recommit passed. The King-of-the-Hill rules, we never won a single one, and for the first time, I heard the gentleman from Georgia [Mr. KINGSTON] bring it up, that there are many of the Members on the other side of the aisle that really want to work and do the people's business, but the leadership, the liberal leadership, in the past has prevented that either from twisting arms or preventing it by the rules on the House floor, and I think we are seeing by the numbers of these votes that we can do these things in a very bipartisan way in which the American people are asking.

You look at 290 votes or 300 votes on an amendment or against an amendment, that I think that shows bipartisanship, and I think that it shows people that this House can work, and after the contract is over in 100 days, I hope we can continue to do the same thing.

I just wanted to thank you. I am over there working on this markup for tomorrow. I want to thank all of you.

Mr. HOKE. Thank you very much.

Mr. KINGSTON. If the distinguished fighter pilot and American hero will yield, what we feel so good about, I think being sophomores, the gentleman from Ohio [Mr. HOKE] and I am, to be on the team with the freshmen, but really to follow in the footsteps of people like you who have been out fighting the battle, yet we seem to add more and more who are concerned about the future of America.

You know, none of us are really career politicians. We are going to try to do this. We are going to try to get the contract passed. We are going to try to change America, but we can also go back home if somebody better can do it, if somebody can do a better job, and you know, we are not up here so that we are going to be here for 30 or 40 years and build our own little empires, and Representatives like you who have helped us along the way have made it possible, I think, for the changes that are taking place to occur.

Mr. HOKE. My hat is absolutely off to every senior Republican Member in this Congress. I am amazed; I mean it, I know what it was like the last 2 years. Never having been in a legislative body before, I know what it is like just getting beat up every day and losing and feeling, frankly, not very proud of that work that is being done in this body, and the difference to have something that we feel we ourselves can feel proud of, of what we are doing, and we hope, we hope to goodness that the American people feel proud of what we are doing.

My indications from what I understand and from my constituents, and if you look at this poll, doubling the approval rating of Congress, I mean, where they are feeling confidence once more.

Mr. CUNNINGHAM. That is Republicans and Democrats, the approval of Congress, what we are doing.

Mr. HOKE. Is bipartisan. As you point out, I said it earlier, we have strong, strong bipartisan support on every single measure we passed. You remember, what was the toughest victory for the Democrats in 1993?

Mr. CUNNINGHAM. The tax package.

Mr. HOKE. The tax package. In August 1993, one vote here, one vote in the Senate. It took the Vice President of the United States to break that vote. That is because Democrats voted against it. The only reason they finally passed it was because they could not abandon their President who then at that point had only been in office for about 8 months.

What have we seen on this package? We have seen a very positive bipartisan cooperative effort notwithstanding the kind of ugly partisanship that you see from time to time on the floor.

The fact is, look at these numbers, and you will see that we have had tremendous bipartisan support on every

single one of these bills. This is Americans thinking of not being Republicans first or Democrats first but being Americans first and doing what is best for America. I am excited. I am proud to be a part of it. I really am proud to be a part of it. I cannot say that I was proud to be a part of the 103d Congress. I made no bones about it. I let my constituents know that as well.

Mr. CUNNINGHAM. You should be proud of what you are doing, but being held down and getting beaten down every day makes it kind of tough.

Mr. HOKE. I wonder if I could ask the gentleman from Tennessee and the gentlewoman from Washington and the gentleman from Georgia if there are any final thoughts you wanted to share?

Mr. BRYANT of Tennessee. Well, I had mentioned in my first remarks that I had not had a chance to be home that much because of this hectic pace here. I have gone home every weekend though for short periods of time, and this Contract With America is great. People are still talking about it. They know what are doing up here. They are pleased with what we are doing. They know we are making progress, and what I tell them is that we are in essence simply doing what we said we would do.

□ 2210

Now I got to admit that is unusual for somebody in politics to do that, but that is our motto, we are actually doing what we said we would do. We are holding ourselves out as responsible, as accountable, to the American public.

We put it down in writing. It was published in TV Guide. People out there know what it is, and I am pleased to stand up and say, ''Yes, hold us accountable, make us do what we said we would do, make us bring these bills up onto the floor, have a full and open debate, which we are having,'' and again, as I say, the hidden peril in this is make us all vote up or down on those, and, if you don't like the way we voted on it, then you can bring us home the next time you have a chance, in 2 years.

So, I, too, am pleased to be with all of you. I cannot imagine what it is like to toil in the trench like you have. We are spoiled, and I would not have it any other way.

Mrs. SMITH of Washington. As my colleagues know, I think he started something that makes me think about the word I used so much in the campaign, short as it was, and that was the word commitment. I was actually—I came home from vacation after 3 days of vacation, and people wanted me to run, and so they did a write-in, and I said,

> I tell you what I'll commit to do: the same thing I've always done, and that's smaller government. I'm going to say no a lot, and I'm going to keep my commitments to you as I always have.

Well, that is the word this contract represents to me, and that is keeping my commitment to the American people. People really like that. They do not seem to expect me to dot every i and cross every t, but they want us to try very hard to keep our commitments.

While I have been here a month, and I did serve in the Senate in Washington State for several years, so I have some experience, I have never had the experience of people working so hard to keep their word to the American people. Because I think we all know that in November people said, ''Go do what you said, and, if you don't, we're going to get some others.''

We know that, but we also are driven by the fact that we understand we are servants, we are messengers from the people, and I think most of us understand it, and I got here in a whole bunch of people that have been here before me, and they were just ready to deliver that message, too.

The freshmen have been the steam, again, but the train was going down the track, and we were able to jump on and be a part, and we have not been excluded. I am not LINDA SMITH, a freshman here. I am LINDA SMITH, an integral part of a complete change that is going to be written in history as a turning point of America.

Mr. HOKE. What do you think, Mr. KINGSTON?

Mr. KINGSTON. I say this, Mr. HOKE and Mr. CUNNINGHAM, we heard Mr. BRYANT and Mrs. SMITH talk tonight. As she said many times, they are the team. I would say they are also the fuel and a little more volatile than steam in many respects.

The changes are real though. We are not turning back. America is going to change, I hope, because Congress has changed. We have left the foxhole. We are advancing. We are going to take the hill or we are going to get shot, and that is still up to the American people, but we cannot turn back at this point.

I will caution this:

There is talk, the Senate today. I understand that the balanced budget amendment might not pass. They are against the line-item veto. We are going to be passing a spending cut bill which the Senate has already said they are not going to do.

So I would say to people, let's keep this revolution going, the revolution is alive and well in the House. Let's wake up the folks over in the other body by phone calls and letters. But we're going to keep moving, and I'm proud to be with you, and I'm proud to be serving with people like Mr. BRYANT and Mrs. SMITH.

Mr. HOKE. Well, we are going to keep moving, and I think it is important, and you are absolutely right. We ought to encourage our constituents to do that.

Mr. CUNNINGHAM, do you want to add anything?

Mr. CUNNINGHAM. I would like to say one thing:

I see my distinguished colleague, the gentleman from New York [Mr. OWENS], here, and even though in many of the economic issues we disagree, I want to point out something, that on the floor, when the leadership of his party was blasting Christians, two of the Members of the Black Caucus came up to me, MAJOR, and they grabbed me by the arm and said, ''DUKE, don't you ever lose your Judeo-Christian values,'' and they stick tight, and they believe in those values, and I would like to thank my friend, Mr. OWENS.

Mr. HOKE. Thank you very much. Thanks for participating. I particularly want to thank the gentleman from Tennessee [Mr. BRYANT] and the gentlewoman from Washington [Mrs. SMITH] and the gentleman from Georgia [Mr. KINGSTON] for their participation tonight. This is great, to be able to share with each other our thoughts on these things and to keep track because I think the fact is that we are right on track, we are right on target. We are using this as a roadmap to stay the course and to do exactly what we said we would do.

We said it before, we will say it again, and you know how true it is in terms of how hard we are working, but we are working hard to keep the promises that we have made for real changes. We are going to continue to do that.

It certainly makes for long days, and it is making for some rings under people's eyes, but it is very exciting.

I appreciate your input, and I appreciate your sharing this special order with me tonight.

WILL WE BE BETTER OFF WHEN THE CONTRACT WITH AMERICA HAS BEEN PASSED?

The SPEAKER pro tempore (Mr. QUINN). Under the Speaker's announced policy of January 4, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, jobs, the No. 1 concern of the overwhelming majority of Americans. Jobs are the No. 1 concern of the people, but you do not see that same concern reflected here in Washington around the floor of this House. The question that most Americans are asking is will we be better off when the 100 days are ended and the Contract With America has been passed. Does it matter one way or the other with respect to our concern about jobs and income? Will we be better off, those who have lost wages over the last 10 years? They have jobs, but the jobs are not paying as much as they paid before. So, will they have higher paid jobs after the Contract With America is passed? Will they be better off?

No.

There is a tremendous amount of downsizing that is taking place. Corporations are maximizing their profits. Profits are escalating, getting greater

and greater all the time. The wealth of the country is increasing dramatically. You know, we talk about taxes being too high, regulations being too great, and yet corporations are thriving, great profits are being made.

We are the wealthiest country, the wealthiest Nation, that ever existed in the history of the world, and yet people are worried about losing their jobs. Those who have jobs are not being paid enough. Those who have jobs often fear that downsizing is going to lead to an end to those jobs, and there are large amounts who are unemployed. Unemployment now is officially at 5.7 present. That is the official rate.

If you add those people who have been out of work for a long time and stopped looking, it is even higher than that. If you add those people that are working part time, it is even higher than that. Most people calculate the real unemployment rate as between 9 and 10 percent. Millions of Americans are out of work, about 12 million out of work.

The welfare recipients will have to go to work at the end of 2 years. Most of them would love to have jobs. Most of them would be very willing to take jobs, but when they have to go to work in 2 years they will find there are no jobs out there because we have no policies here which are dedicated to dealing with the primary concern of Government that ought to be to manage and to influence the economy in a way that guarantees that every person can survive, and survival means jobs. If you have a job, when you provide jobs, you feed the hungry. But when you provide jobs, you take care of the sick. When you provide jobs, you take certain that people are not homeless. The highest of our Judeo-Christian values, the highest of our family values, are reflected in the way we deal with the provision of jobs in our society.

But here in Washington you do not hear any talk of any great amount of job creation in the Contract of America or even among the Democrats from the White House. We hear no realistic attempt to provide the kind of jobs that must be provided during this very critical period where Americans have expressed great stress.

□ 2220

We hear no realistic attempt to provide the kind of jobs that must be provided during this very critical period where Americans have expressed great stress. They have great anxiety about losing jobs, about jobs that are not paying well, and about the ongoing increase and escalation in the unemployment rate.

Of course, the unemployment does not bother our official agencies like the Federal Reserve Board. The Federal Reserve Board seems to think unemployment is very good for people, it is good for the economy. So they take steps and promulgate policies which encourage unemployment. Whenever we have a great decrease in the amount of unemployment, they see that as a threat to the economy because it may raise inflation, and they cut off the supply of money so that those who create jobs through investment cannot create more jobs. They will hold down the employment so that labor will not be able to bid up its demand for higher wages, and therefore they will curb inflation.

Mr. Greenspan of the Federal Reserve Board is the author of this. I very much strongly would like to recommend to Mr. Greenspan that if he thinks unemployment is good for the Nation's economy, he should do his patriotic duty and take off 1 month every month. Take his turn unemployed along with the millions of others so our economy can prosper.

There are many other ways in which we show a callous disregard for the need to create employment opportunities for Americans. We have tremendous amounts of money that we are wasting that could be used in job creation.

The previous speakers on the floor talked about what they were going to do to cut the budget of the United States. In several ways, they are going to cut it short-term and cut it long-term through a balanced budget amendment. I welcome the opportunity. I would like to join with them in cutting some of the waste out of our Government.

Let us start with the agribusiness. Let us start with the agribusiness, which gets handouts from the Government of billions of dollars: $149 billion over the last 10 years has been poured into crop subsidies; $149 billion over the last 10 years.

Take the State of Kansas alone: $8 billion in the State of Kansas has been received from the Government. A handout, a dole to the farmers; $20,000 to $40,000 annually goes to the average Kansas family.

I welcome the opportunity to join with my colleagues in those kinds of cuts so the money can be transferred into job-creating programs that are being suggested, that are programs that really do something for the economy and for individuals.

If we had a school building program, billions of dollars being spent for school building, instead of paying farmers not to grow grain, then the benefit received from the school would last for decades, because the school would be there to serve as part of the educational facilities network. You know that kind of benefit would be gained.

If you use the money that you are wasting, giving a way to farmers not to grow grain, then of course you could also build some of the roads and the bridges that we need, which could be used for many decades to come, improving our transportation arteries and helping the economy overall.

So we have a problem in that we refuse to look at the problem that is the real and most important problem. The problem should be the No. 1 priority, and that is the creation of jobs so people have the opportunities to earn income and earn a living.

This evening we would like to talk about the job situation from three basic viewpoints. We would like to show that the economic picture is much bleaker than what it shows on the surface. It is important for us to understand the current Bureau of Labor Standard estimates of the unemployment rate, first of all, are way, way off. They underestimate unemployment at least by 3.3 percent. As I said before, instead of a 5.7 percent unemployment rate, if you looked at all of the people out of work and who stopped working, and the people who are working but working only half-time, then you would get an unemployment rate of 9 percent.

The No. 1 priority in America should be the creation of jobs, because we cannot stand a 9 percent unemployment rate. It hurts us in many ways. One of the ways it hurts us is just automatic common sense will tell you when people are working, they pay income taxes. When people are working, they do not have to be using unemployment insurance, they do not have to be using food stamps, or go on welfare. The Congressional Budget Office estimates for every 1-percent reduction in the amount of unemployment, the Government, the Treasury, will benefit by receiving $40 to $50 billion.

In income tax they take in and the money they do not have to send out, it all adds up to a 1-percent increase in employment equals a $40 to $50 billion gain for the Treasury. That is common sense.

But nobody wants to look at that kind of common sense. We are instead ready to propose to $50 billion increase in defense. We declared there is a military threat at this particular time in the history of America and we must have $50 billion more over the next 5 to 6 years. We must build some more *Seawolf* submarines. I see in the budget the President asked for another *Seawolf*. Who needs that? I see we need more F–22's built at Marietta, GA. They may provide some employment, but for every dollar you spend on military spending, you could create twice as many jobs for the dollars spent on military spending. If you take the dollars you spend on military spending and put it into civilian jobs, you would create twice as many jobs. Study after study confirms that.

We look at the picture, and the fact that the situation is such that it demands we take more aggressive action and make jobs the No. 1 priority.

We are also going to examine how the Republican plan for welfare forces people out of work after a 2-year time limit and creates a situation which is inhumane. Because if there are no jobs there, then we are forcing people into involuntary servitude. It is a form of slavery. Every person of African descent like myself will tell you we all

know that slavery provided jobs for everybody. There was no unemployment. In the state of slavery, everybody had a job. But who wants a job at that cost? That is what we are saying when we say that we are going to provide welfare for people.

The highest benefits are received in my State probably and a few others. A family of three may get $6,000 or $7,000 a year from welfare, versus a farm family in Kansas that gets $20,000 to $40,000 a year for not growing grain from the same Government. But never mind. They will get $6,000 a year and be asked to work 40 hours a week in order to receive $6,000 a year. That is not a form of slavery, when you force that kind of situation on people?

So unless we have jobs, unless the whole job market is dealt with so that not only do you have jobs for welfare recipients, but also for the people who have been unemployed for a long time and for people losing their jobs as a result of the downsizing, we cannot create just a group of jobs for welfare people and say we are going to provide jobs for people coming off welfare. That means everybody will want to get on welfare and will line up and be able to get a job. No, you have to improve the situation for the whole economy by creating thousands of new jobs.

The Republican welfare reform proposal, folks, focuses too much attention on one kind of welfare, as I said before, and we missed the point by focusing in and bullying mothers who are taking care of children who receive aid to dependent children. Yes, that is a high cost; yes, most of them who are able-bodied should go to work. Nobody quarrels with that, and neither do the mothers themselves. They would love to go to work if they had a job that would pay a decent wage and also provide health care.

It is the Medicaid, the health care, that keeps most people tied to the welfare system. There is nothing to be gained by accepting a minimum-wage job and losing the health care benefits for your family, and finding that as soon as someone gets sick, you will have to come back and go on welfare again.

So by focusing on the aid to dependent children, you may save $16.5 billion. If every one of them could miraculously be taken off welfare in 2 years, there would be a huge savings. On the other hand, we have far more costly forms of welfare through the dependent corporations, including the agribusinesses which I mentioned before.

Let us deal with the kind of handouts, the doles that are being received by American corporations, and let us deal with the kind of dole that is being received by the American farmers if we really want to deal with waste in Government. I think if we dealt with it realistically, we would have the money we need to create a jobs program which would have an escalating effect. You provide a job opportunity to people who make salaries, and they go forward from there in order to take care of their own needs.

□ 2230

They will feed themselves or clothe themselves and you will have a much healthier economy and a healthy society.

Mr. Speaker, I yield to my colleague, the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. I thank the gentleman for yielding, and I thank him for his comments. I look forward to engaging the distinguished gentleman from New York [Mr. OWENS] and the gentleman from Vermont [Mr. SANDERS] who was joined us as well in this discussion as it relates to our economy today.

It was that great statesman Yogi Berra who once said that when you come to the fork in the road, you should take it.

Thank you, Mr. BURTON. The gentleman from Indiana [Mr. BURTON] has a great sense of humor. He is on the other side of the aisle. It is 10:30 in the evening, and he is laughing at my jokes. I appreciate it.

Clearly, I think we have come to the fork in the road in this society. We are living through a time of great change, great change in this country. And I think the theme that my friend from New York has talked about this evening is one which is at the heart of what we as Democrats believe in. And that theme is that if you work hard, if you play by the rules, take responsibility for your own personal actions, you should be rewarded. And that belief is really central to what the Democratic Party is all about. You should be rewarded if you work hard.

There are too many working people in this country today who feel like they are part of that old Abbott and Costello routine, where Bud Abbott says to Lou Costello, if you had 50 cents in one pocket and 75 cents in the other pocket, what would you have. And Costello says, somebody else's pants.

I mean, people feel like they are working hard, but they are not being rewarded.

We pointed with pride during this last campaign, I am going to be self-critical here, if I could, for a moment because I think we need to, as a party, that we created 5 million jobs. Well, we did create 5 million jobs in this country, but what kind of jobs were they? They were not the kind of jobs that the American people wanted; 5 million jobs, and yet 60 percent of the people who were interviewed a week after the election said they thought they were in a recession. To some extent they were right. They were in a recession, because their wages had either been frozen or had declined since about 1985.

None of us can be satisfied with the fact that the job leader in this recovery is not IBM. It is not General Motors; it is not Wal-Mart; it is a company called Manpower Services. Ever hear of Manpower Services? It is a company that offers jobs with no benefits, no health insurance, no retirement.

How does that reward work? Economists like to point with pride to the fact that productivity and profits are reaching all time highs. but you cannot talk increased productivity and explain that as long as stockholders are making money, it is OK for them to ignore the rest of America. And that is exactly what is happening today in American society.

When I grew up as a kid in the Detroit area in the 1950's and 1960's, if you went to work for GM or Ford or Chrysler, like many of my friends did, and you helped boost the profits of those companies, you got a piece of the pie. That is the way it worked. You got decent salary increases. You got decent benefits. But not today. Let me illustrate that.

From 1947, right after the Second World War, to 1973, American workers gave their companies almost 90-percent increase in productivity. From 1947 to 1973, 90-percent increase in productivity. And in turn, they got back 99-percent increase in wages. Look at the figures from 1973 to 1982. Workers only got about half as much. From 1982 to 1994, they got about one-third as much.

So what is happening is that workers are working harder. They are working longer. They are as productive and, in many instances, more productive, and yet they are not seeing their standard of living increase.

In fact, if you look at where all the increase in income has come into America in the last 10 years specifically, you will find that 97 percent of income increases in America have gone to the top 20 percent of the population in terms of income-earning ability.

The rest, 80 percent, the rest, 80 percent of America, has either stayed frozen or their wages have decreased.

Despite a bumper last year in terms of jobs in our society, we have the slowest increase in wages since we have historically begun to keep track.

The fact is, hard work has not been rewarded. And yet we give these people $225 billion a year in corporate welfare, as my friend from New York has pointed out.

If we are really going to renew America civilization, we have got to focus on renewing the contract between employers and workers and not just the Contract With America. We have to renew that basic contract that if you put in a good day's work, you should be rewarded for it. There is some reciprocity there.

Mr. OWENS. We heard previous speakers give us a progress report on the Contract With America. Do you see, after that contract is fulfilled at the level of the House of Representatives, and assuming that they pass most of the legislation related to the contract, do you see any impact on the lives of American working people? Will they be better off then than they are now?

Mr. BONIOR. It is interesting, I listened to their special order, and a couple of things that were mentioned. First of all, not to the point that you mentioned—well, I will get to the point that you mentioned, then I will return to my other point.

I do not. I do not know how these process votes, line item veto, balanced budget amendment, which will not spell out where they are going to go with the balanced budget, some of the amendments that we considered in bills that we considered today, how they will have a specific affect on increasing people's living standards and increasing the spiritual awareness and the spirituality of their lives. I do not see any of that really having a direct effect on people's lives.

The other point I wanted to make, in the special order that our colleagues gave this evening, they talked about how we had bottled up a lost of this legislation. Not so. Four of the pieces of legislation that we have passed so far we had on this very floor. We talked about the Congressional Accountability Act. In fact, it was our bill. We passed it. It was killed in the Senate by a Republican right before the end of the session. We brought line item veto to this House floor last year. We brought the balanced budget amendment to the floor last year. It did not pass. Both of them did not pass. So the question that we have been bottling things up is absolutely inaccurate.

One thing that you will not find in the contract is the word ''jobs.'' Another thing you will not find in the contract, two words, ''good wages.'' You will not find that in their contract. Their contract does nothing to mention the question of minimum wage, which my friend from New York talked about a little earlier this evening. The minimum wage is a very important issue for this country, and it is not just teenagers we are talking about, who are trying to earn a few bucks on the side. We are talking about working people.

Most people on minimum wage are over 26 years of age, and the represent in their earnings about 40 percent of the incomes of their families; 60 percent of these people are mothers. Most of them have kids that they are trying to provide for.

If we are really going to renew this American civilization, we have got to get back to the contract between workers and their employers. And one of the first things we can do is increase the minimum wage.

Now, we are not alone. The gentleman from Vermont [Mr. SANDERS], the gentleman from New York [Mr. OWENS], the gentleman from Michigan [Mr. BONIOR], we are not alone in calling for this. We have about 80 percent of the American people think that we should increase the minimum wage. You will not live on $8,600 a year, especially if you have children.

□ 2240

It is virtually impossible. It is below the poverty level. In fact, the poverty level line in this country has been going up steadily as our society expands, but the cost on the minimum wage has been going down, so there is a deepening gap between those who are working and those who are collecting welfare, in many instances. That is not rewarding work. We have to get back to rewarding work. If you work, you are going to be rewarded for it.

It was a Republican, Christine Todd Whitman, who said it best. The day after she delivered the Republican response to the State of the Union, she said, and I quote, ''Obviously, in my State, if you try to live on a national minimum wage you couldn't do it. It is a sustenance wage.'' The minimum wage in her State is $5 an hour. Nationally, it is $4.25, which is about $8,600 a year. The average Member of Congress makes that much in 28 days. The average CEO of a Fortune 500 company makes that much in 28 hours, 28 hours.

Mr. Speaker, these are the people who work in our hospitals, who change our bedpans, who do tough, often dirty, often demanding work, and they ought to be compensated for it.

Mr. Speaker, as I said before, the average minimum-wage worker is not some pimply faced teenager who is trying to earn money for the weekend. Two-thirds of them are adults, and many of them with families. People have to ask themselves, ''Could you keep a family on $9,000 a year?'' These are the people who are working 40 hours a week, sometimes more, yet they are living in poverty today.

What does that say about rewarding work? We are going to be doing welfare reform soon. It seems to me if we are going to be serious about it, we have to face this basic issue. When we raise this issue, some of our friends on the other side of the aisle say ''Well, we will trade you. We will make you a swap.'' It is like you are collecting baseball cards as kids, I will give you a Mickey Mantle for a Ted Williams, or if you are lucky enough to have a Mickey Mantle or a Ted Williams, it is a swap. What they want to trade, BOB DOLE said it last week on one of those Sunday talk shows, he said: ''We will consider it if they give us a reduction in the capital gains tax.'' So basically he wants to swap raising the minimum wage for the people who make the least in our society for a tax cut for those who are making the most in our society. That is what we are dealing with here.

Mr. SANDERS. Mr. Speaker, will the gentleman yield?

Mr. OWENS. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Speaker, it is a pleasure to be here with my friend the gentleman from Michigan [Mr. BONIOR], and my friend, the gentleman from New York [Mr. OWENS].

We have heard a whole lot about the November 8 election and the so-called mandate. I would say that the most interesting aspect of the November 8 election is that 62 percent of the American people did not vote. We do not discuss that. Always, it seems to me that the more important the issues are, the less discussion takes place here on the floor of the Congress. With 62 percent of the people not bothering to vote on election day, Mr. Speaker, with poor people virtually not voting at all, many working people not bothering to participate, what that tells me, Mr. Speaker, is that the ordinary American is by and large giving up on the political process, does not have very much faith that the U.S. Government is capable of responding to the terrible pain and to the terrible problems those people have.

What in fact the ordinary people see, I think, is a lot of talk going on here in Congress, the White House, the Senate, and meanwhile the rich get richer and the poor get poorer, and the middle-class shrinks. Forty million Americans continue not to have any health insurance.

As the gentleman from Michigan [Mr. BONIOR] and the gentleman from New York [Mr. OWENS] said, the minimum wage in terms of real purchasing power continues to decline. More and more of our young people are unable to get a college education. We have the dubious distinction of having the highest rate of childhood poverty in the industrialized world. Twenty-two percent of our kids are living in poverty. Five million of our children are hungry. We hear here on the floor of the House, at a time when the richest 1 percent of the population owns more wealth than the bottom 90 percent, what we are hearing here on the floor of the House, we have to cut back on Medicare, we have to cut back on Medicaid, we have to cut back on veterans' programs, we have to cut back on nutrition programs for the elderly and for hungry children. That is what the Republican contract is about.

In the meantime, as the gentleman from Michigan [Mr. BONIOR] and the gentleman from New York [Mr. OWENS] have indicated, it is absolutely imperative that within that context, with the wealthiest 1 percent owning 37 percent of the wealth in America, obviously what we must do is give them more tax breaks. That is only fair. You cut back on nutrition programs for hungry children and you give the wealthiest people in this country more tax breaks, and of course, at the same time as we significantly expand military spending. That obviously makes sense to somebody, I am not sure to whom, but it must make sense to somebody.

Mr. BONIOR. If the gentleman will yield, I have heard that formula before. Could the gentleman from Vermont maybe refresh our history and tell us, where have we seen that defense increase formula, tax cut formula, and what was the result of that?

Mr. SANDERS. Obviously, that is what Reagonomics was about. That is

what the 1980's was about. During the 1980's, the richest one-half of 1 percent owned 55 percent of the total wealth that was created in that period. In the midst of all of this discussion, however, what frightens me the most is that ordinary people look out, and they are hurting very, very badly, as both of you have already talked about. The new jobs that are being created are low wage jobs, part-time jobs, temporary jobs without benefits. Yet, I do not hear a whole lot of discussion about those issues on the floor of the House. We spend weeks and weeks discussing this, and we discuss that, but suddenly, somehow, we do not talk, in my view, about the most important issue. In my humble opinion, the most important issue facing this country is the role of big money. Big money, and I must say, in all due respect to my friends, controls not only the Republican Party, has tremendous influence over the Democratic Party, has tremendous influence over the mass media.

Interestingly enough, when we hear about the Contract With America and how they want a citizen legislature, they forget to talk about campaign finance reform.

To the best of my knowledge, and maybe my friends here can correct me if I am wrong, my understanding is that today, or before the last election, some 20 percent of the Members of Congress were millionaires. Does that sound right to my friends?

Mr. OWENS. I think the gentleman is correct, but the important thing is that on election day, even though there was a turnover, and the 36 percent or 37 percent who went out to vote did vote for a major change, the exit polls, the interviews at the exit polls, indicated that people were voting because of their anxieties and their concern about their own incomes and their jobs.

We have not addressed that, as you said. Millionaires are obviously the favored concern here. We have just gone through a situation where, you know, when Congress refused to consider or indicated that it would not favorably consider a $40 billion bailout for Mexico, a $20 billion bailout was voted from the White House, and millionaires obviously are a great concern here, because we hear much more talk about a capital gains tax cut than we hear about a program to create jobs.

Millionaires are obviously in favor here, because it took some coaxing to get a proposal on the table for a minimum-wage increase. At least we have that and we are going forward. Most Americans agree, over 80 percent agree, that a minimum-wage increase is very much in order, but there seems to be no great deal of enthusiasm in the leadership of our party.

We are in a situation where the people who are controlling the greatest part of the wealth, and getting wealthier at a faster rate all the time, are the people who seem to be of greatest concern to Congress, while those who have the greatest anxieties about their jobs and are worried about losing their jobs and not earning adequate income are being ignored totally.

Mr. SANDERS. If the gentleman will yield, let me just pick up on that perceptive point. We hear over and over again about welfare reform. We all agree that welfare reform is important. What we do not hear a whole lot is corporate welfare, the well over $100 billion in Federal subsidies that are going to large corporations and wealthy people.

We hear about street crime, which is a very serious problem, but we do not hear a whole lot about corporate crime, about price-fixing, about monopoly power in this country.

Right now, at a time when the wages, the real wages of American workers are in decline, interestingly enough, what is happening to the income of the CEO's? The reality is, of course, that the CEO's are earning significant increases in their income, at the same time as they are cutting back on jobs in America's major corporations.

One of the interesting facts, to my mind, that we do not talk about enough is the fact that CEO's in America today, the heads of the largest corporations, are earning 149 times more than the average worker in their company. What about justice? What about family values? What about morality?

□ 2250

In fact, there was an interesting study done recently which showed that some of the highest paid CEO's who received the most significant increases in their incomes were precisely those CEO's who laid off the most workers. They seemed to get more money, they get incentives to lay off workers.

Mr. OWENS. Will the gentleman slow down for a minute and explain what a CEO is, and let the American people understand what we are talking about in terms of the kinds of salaries or the kind of what they call a total remuneration package we are talking about? The average American CEO I understand makes no less than $1 million and some of them make above $20 million. People ought to understand we are talking about $20 million in total compensation packages, salary, pension, et cetera.

Mr. SANDERS. If the gentleman will yield, a recent study showed that the CEO's of 23 of the Nation's 27 top job destroyers, these are the large corporations who are downsizing, who are throwing workers out onto the street, those particular CEO's received raises last year averaging 30 percent. So in other words, it is good for business. We are going to really reward you, give you a major increase for throwing workers out on the street. The more you throw out, the bigger the increase would be.

Mr. OWENS. Thirty percent equals what? Give us some examples in terms of the kind of amounts.

Mr. SANDERS. We are talking about people like Mr. Eisner of Walt Disney earning well over I believe $100 million in income a year.

Let me mention something else, because the problem goes well beyond just the United States. There was a study also done recently, when we talk about the world economy, if you can believe this, that 358 billionaires worldwide have a combined net worth of $760 billion, which is equal to that of the bottom 45 percent of the world's population. That is 358 people who could sit, probably not so comfortably, but we could get them into this room right now, own more wealth than several billion people who constitute the bottom 45 percent of the world's population.

Again, in our country the richest 1 percent of the population owns more wealth than the bottom 90 percent.

Now I have not heard too much in the Contract With America about that. Maybe I missed it, but I do not think I heard that. Did the gentleman hear that?

Mr. OWENS. The Contract With America does not talk about a number of things that ought to be put on the table. It certainly does not talk about the tremendous wealth of this country and how the wealthy are increasing at an escalating rate, increasing their profits while we cannot contemplate an increase in the minimum wage to $5.15 an hour. The contrast is overwhelming. We are the richest country that ever existed in the history of the world, and we take the position, or the position is taken in the contract for America that there is no room in there to provide a job for everybody, there is no room in there to provide health care, there is no room in this Nation and no resources to provide health care. And we do have 12 million people who are unemployed workers. And we said before the official statistics at 5.7 percent would give us 7,498,000 unemployed workers. That is what we admit officially that we have. If you take those part-timers who are looking for full-time work, and you just count half of them because they are only working half time, you have another 2,346,000 people who are out of work. Discouraged workers who have not been looking for work for the past week are 1,783,000. Discouraged workers not looking in the past year, 440,000.

These are figures that come from the Economic Policy Institute and they all add up to about 12 million people who are unemployed in this Nation.

There is work to be done. It is not that there is no work to be done. We do need to build schools. We do need to take care of our infrastructure in terms of roads and highways. We do need to have workers in programs like Head Start and some other programs of the kind that were mentioned in the stimulus package that the administration introduced last year and it was passed on the floor of this House. Those kinds of programs are still needed to put people to work.

It may be that there is some great adjustment taking place in the global

economy and that private enterprise will be able to provide all of the jobs we need by the year 2000. But right now there is a lack of jobs, and there is a need to address the problem of people's anxiety about jobs and those, of course, who are unemployed by the fact that they do not have any jobs. So we need a program right now to deal with the needs of 12 million people.

Mr. SANDERS. I would just like to make a couple of points. Our Republican friends raise important issues and I think good issues and they talk about values, and values, in fact, are a very important part of what human life is. Life is not just dollars and cents; it goes deeper than that. But I have to raise the question about what kind of value system are we operating under when the very wealthiest people become wealthier, when we see a growth of billionaires at exactly the same time as we see more children in America who are hungry. What about those values? I yield to my friend.

Mr. BONIOR. And what about the values of a society that fails to adequately reward work for those who are working and trying to work their way up in our society today? What does that say about a family, for instance, where because both parents might be working, one might be working at a minimum wage job, the other working at a regular, full-time job, perhaps on a different schedule, a different shift, one is working 7 to 3, the other one is working maybe 4 to 11 in the evening and they do not see each other. The husband and wife do not see each other. They do not have a decent relationship because of it, and they do not spend time with their children. I saw a recent study that came out that said that people who are in that particular situation, the mother comes home and she spends 20 minutes with the children. The father comes home, he spends 5 minutes, and the rest of the time the kids are in front of the TV set, 3 or 4 hours a day. And they are not really getting very good quality stuff. I mean, they are tuned in to stuff where the kids are killing kids, and there is violence to an over extent even on the news. It is just not a good environment, and it does not facilitate the values of family, of love, of dignity, of working together as a unit. And it certainly does not speak well of our inability to try to help families like that in terms of their income and making their lives more decent.

Mr. OWENS. I yield to the gentleman from Vermont. We also have been joined by the gentleman from California [Mr. BECERRA], if he would like to take the other mike over here.

Mr. SANDERS. All of us are members of the Progressive caucus, and some of those issues have already been raised, some of the ideas we are bringing forth that we think this Congress must deal with. As both the gentleman from Michigan [Mr. BONIOR] and the gentleman from New York [Mr. OWENS] have said, it is very clear we need to raise the minimum wage; $4.25 does not make it. We need to raise the minimum wage.

The President has come out with a proposal raising it 90 cents over 2 years. I think that is the minimum we should do, but we have to move quickly and raise the minimum wage.

The gentleman from New York [Mr. OWENS] has been talking about a very, very important issue. He points out we have billions of people who are unemployed. We have an infrastructure in this country that is crumbling. It makes no sense at all not to invest in our infrastructure, put over a million people to work rebuilding our physical and human infrastructure through a federally funded jobs program. We need to move in that direction.

I think we four are in agreement that one of the reasons that the standard of living of working people is in decline has to do with our trade policy, which seems to be exporting jobs rather than product. We now have $150 billion in trade deficits this year which could equate to some 3 million jobs. Many of us in Congress are concerned about the impact of the NAFTA, GATT, most-favored-nation status with China. We want a fair trade policy, one that does not force American workers to compete against Chinese workers who make 20 cents an hour or the desperate people of Mexico who make $1 an hour.

□ 2300

Further, at a time when there are some people who are talking about cutbacks in Medicare and Medicaid, most of us believe that it is absolutely insane now that the cold war is over to be talking about a $50 billion increase in military spending. We are now spending $100 billion a year defending Europe and Asia, and many of the countries in Europe are now wealthier than we are. Against whom? Whom? One hundred billion dollars a year. We must cut military spending, reinvest in America.

And I think the last two points that I would make, and this chart deals with one of them, the Republicans have been very successful in making everybody antitax. The real question that we should be asking is, who is paying the taxes, who gets the tax breaks?

Many of us support a tax cut for middle-income people. But we do think that the wealthiest people in this country who have gotten wealthier, we think that in terms of the corporate income tax, what you can see from this chart is that the percentage, the contribution, the corporations are making to the Federal coffers have declined precipitously over the last 50 years, and that means middle-income people are making up the difference. We want to make a progressive tax.

Mr. BONIOR. The chart shows that in 1945 corporate, as a percent of Federal receipts from corporate income tax, was about 35 percent in 1945. In 1985, it looks like from the chart it went down to about 10 percent. Is that correct?

Mr. SANDERS. That is correct.

Mr. BONIOR. That is an amazing decrease. I mean, it is more than double the percent in decrease from 35 to about 10 or 12 percent now, back up to that in 1990. As a result of that, that has to be made up somewhere either in reduced services, which we certainly have had, but also in increased revenues that have been made up by the middle class. That is one of the reasons you have seen the stagnation in living standards of middle-income people.

Mr. OWENS. We need a total overhaul of the tax structure. The personal income tax pits one group of Americans against another. Corporate income tax makes a great deal of sense.

Taxes which are focused on businesses which are accumulating wealth and on individuals accumulating wealth are the taxes that ought to be raised to take care of our needs, and there are many needs that must be met with taxes, but the personal income tax should not bear the bulk of the burden as they are at present.

I think the gentleman from California [Mr. BECERRA] would like to show us a little bit more about taxes and the kind of swindle that is being proposed by the Contract on America.

Mr. BECERRA. I thank the gentleman for yielding to me. I am glad I have a chance to engage in the conversation with the three gentlemen who have spoken eloquently on this issue.

It seems to be absurd. We are talking so much these days about reforming welfare, and we always seem to forget that welfare comes in many shapes and in many sizes and in some cases big sizes.

When you take a look at the fact that welfare, as most people think of it, welfare to a woman and her children who cannot afford to live without some assistance from the Government, we are talking about something in the order of about $16.5 billion is what we give out to people who are poor and who need some assistance.

Contrast that to welfare that we do not think of very often, but welfare that we give to corporations, welfare to the tune of about $225 billion per year, money that we pay out as taxpayers by giving corporations tax breaks, letting them off from paying certain taxes. We have to make that up.

So in this whole discussion that I hear going on about the minimum wage, about welfare reform, about trying to do something for the working man and the working woman, I think it is interesting to note a program that helps 10 million children that are in poverty is being discussed for radical, in many cases, reform, but programs that help corporations to the tune of $225 billion are not touched. In fact, Secretary Reich, from the Department of Labor, was criticized because he recently talked about reforming corporate welfare and the discussion about all of welfare reform.

It seems to me even more difficult to comprehend this whole debate about reform when you look at the Republican Contract With America, and one of its proposals not only of reforming, so-called radical reforming, welfare, but also cutting the capital gains that will go mostly to wealthy Americans.

And there I would refer my colleagues to chart. We want to find out what the Contract with America really does. Well, first, it guts welfare for the 10 million children who are in poverty, and at the same time, of course, the Contract with America says let us cut or let us give a tax break to those who have capital gains. In other words, if you own stock or if you happen to have a stamp collection or priceless art, and you want to sell that, you do not want to pay certain taxes on that capital gain, you want to be able to write some of that off.

Mr. OWENS. I earn wages, and all of the wage earners of America pay taxes on their wages. Do they pay the same, pay taxes at the same rate that are currently on capital gains?

Mr. BECERRA. Not at all.

Mr. OWENS. Capital gains are a form of income also, by the way.

Mr. BECERRA. That is correct.

Mr. OWENS. It is mostly income you do not work for on an hourly basis. Is it presently taxed at the same rate as wages are taxed?

Mr. BECERRA. Drastically differently. Wages are fully taxed. Capital gains are not. The proposal that the Republicans have in their Contract with America says let us give them a further break in their capital gains, but the interesting thing about this is who benefits, and if you look at the charts, you see really who will benefit. As Laura D'Andrea Tyson said, and she is the President's Chief of the Council of Economic Advisers, fully 75 percent of those capital gains will go to the 10 percent richest Americans.

Mr. OWENS. Will the gentleman repeat that? Seventy-five percent?

Mr. BECERRA. Seventy-five percent; the 10 percent of richest Americans in this country will receive 75 percent of the tax cuts in the capital gains proposal in the Contract with America, and you can take a look. If you happen to earn somewhere between $30,000 and $40,000, every American family that has income of about $30,000 to $40,000 stands to get about 2½ percent of those capital gains cuts. That is sharing the wealth under the Contract on America.

Mr. BONIOR. In the Contract on America, also the tax cut package that the Republicans are advocating, I wonder if the American people understand what that will cost in terms of revenue to the Federal Government.

Mr. BECERRA. There are estimates it might be over $250 billion over 5 years. The capital gains program alone will cost about $55 billion the first 5 years. There are some estimates that after 10 years that goes up to about $210 billion.

Mr. BONIOR. On the capital gains portion.

Mr. BECERRA. On the capital gains portion of the proposed tax cuts only.

Mr. SANDERS. Are these the same group of people who are talking about cutting back on nutrition programs for hungry people and senior citizens because we have a terrible deficit? I just wanted to be clear. I was a little bit confused. Are these the same folks?

Mr. BECERRA. That is correct. These are the same folks, too, who are saying we cannot afford to increase the minimum wage from $4.25 an hour.

Mr. BONIOR. Are these the same folks that want to cut back veterans' benefits as well?

Mr. BECERRA. The same ones that would probably cut veterans' benefits. Somehow we are going to have to balance the budget and give these tax cuts and still raise spending for defense, for military, and somehow with what is left in the budget to look at, not cut Social Security, not cut Medicare.

Mr. BONIOR. There is a rumor going around here they also want to cut Medicare as well significantly for the elderly.

Mr. BECERRA. That is right; that is right. You know, we should look at something here. Right now, the capital gains that we have in law right now costs this country between now and the next 5 years about $94 billion. We are already paying $94 billion for that. That, if you think about it, amounts to about $362 for every man, woman, and child in this Nation, $362 that each American has to somehow make up for either through other taxes, personal income taxes or cuts in programs like Social Security, Medicare, Head Start, job training. Somehow we have to make up that $94 billion over 5 years. It does not just come freely.

Either that or you increase the size of the deficit.

So we have to take all of those things into consideration. Then you look at the minimum wage, and it is interesting, over the weekend on some of the TV talk shows, we heard a number of Republicans say that they opposed raising the minimum wage. They thought it was a job killer. They did not want to see it happen.

But then all of a sudden you ask them, well, what happens if you get the capital gains tax cuts in exchange? All of a sudden they change their tune. All of a sudden, well, maybe they are willing to trade. Sure, would you not be willing to trade if you could get a $94 billion tax break and increase that to about $55 billion for the next 5 years, and up to $208 billion for the next 10 years, in exchange for 90 cents an hour more for people who are low income and barely surviving at the poverty level?

Mr. OWENS. I thank the gentleman. I hope at this point each one of you could sort of sum up and show how all of this ties together, when you give the multibillion dollar tax cuts, and you have to go and cut something out of the budget, and what we have here is a display by what I call some high-technology barbarians who are approaching the situation without any heart at all. They want to throw a large part of American humanity overboard and just say we do not care; we do not care whether they have homes, we do not care whether they have food, we do not care whether they have medical care, we are going to help the rich get richer.

It all ties together. They cannot help the rich get richer without committing these atrocities against the poor and atrocities are committed these days in ways where you do not have blood. When you refuse to raise the minimum wage, that is a kind of an atrocity. When you are going to force welfare mothers to get off welfare after 2 years and not bother to try to create an economy which is going to produce jobs for them to step into, those are atrocities without blood.

□ 2310

We have to see how it all holds together and make the American people understand that the Contract With America, which many of us call the Contract on America, is a very deadly approach indeed. We are dealing with a deadly approach to government which runs counter to the whole principle of government and the fact that society exists to take care of everybody, not just a few. The social order is threatened when you refuse to recognize the need to take care of all of the people.

I yield to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. It think maybe we all want to summarize our views, and the fear that I have is that this country increasingly is moving away from our democratic traditions into an oligarchy, and all that those tax breaks for the wealthy do is they make the people on the top that much wealthier, and with that money what they do is buy television networks.

I understand that the Speaker last night was at a fund raiser, a nice little dinner, I guess, and it only cost $50,000 a plate to go to that dinner in order to contribute to a TV network which will further propagate the rich person's point of view.

Mr. BONIOR. And the gentleman should note that those $50,000 contributions to that dinner were tax deductible because they went to a foundation that promoted this program that we have been criticizing.

Mr. SANDERS. And the rich get richer, and meanwhile with that money they can contribute huge amounts of money to both political parties.

This institution itself, 20 percent of the Members at least are millionaires. We expect that with the high cost of elections more and more millionaires will write out their own campaign checks and run for office.

The answer, I think, is that working people, middle income people, low income people all over America, have got

to stand up and say, ''Excuse me. This country belongs to all the people and not just the very wealthy. You can't not vote. You can't not participate in the political process.''

The big money people are here every single day. I say, ''We need your help. Stand up. Fight back.''

Mr. OWENS. I yield to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. I just want to thank my friend, the gentleman from Vermont [Mr. SANDERS], and the distinguished gentleman from New York [Mr. OWENS], and the gentleman from California [Mr. BECERRA] for participating in this hour and for allowing me to share some thoughts with them.

I guess in summation I would say that we live in a society with relatively limited resources with respect to how we operate here at the Federal Government level, and it seems to me, and I think it was demonstrated well by the discussion we have had and the charts that we have seen, that the very wealthy in our society have done extremely well, the most comfortable people in America have done incredibly well, particularly since 1979 when the rest of America had basically held on or their standard of living has decreased.

The question is how do we bring some equity into this equation? How do we deal with bringing people into the middle class who are not there, bringing people off welfare and into a work situation where they can have some pride, dignity and raise their kids with a decent future ahead of them? How do we provide for the middle income people to put money into their pocket with respect to providing tax cuts for them and not for the wealthiest in our society?

I think that is the challenge that we have. The goal in this country often for many people is to have some, to acquire some sort of wealth, and there is nothing wrong with that, but when you are dealing with limited resources, you have to make sure that those who need it the most have the opportunity to share in those resources.

So, I thank my colleagues for yielding, and I look forward to working with them on these issues.

Mr. OWENS. Mr. Speaker, I thank the gentleman from Michigan [Mr. BONIOR].

I yield to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I will be brief because I think my two colleagues preceding me did a very fine job of summarizing what we are trying to say. All I would like to say is that we should take a little bit of time and think about what we mean by reform regarding welfare. You know, what is it and who really gets it? Then, once we do that, once we think about it, let us reform welfare, let us reform it so that we get people and corporations off of welfare, and let us make sure that our policies reward working people and not continue to lavish very costly tax breaks on the rich, and we should remember that the rich are the only group of people who made off like bandits during the Reagan years when we had exorbitant spending, and now we should come back and look at 1995 and say, ''It's time to reform, but what is reformed, let's do it right.''

Mr. OWENS. I thank the gentleman from California [Mr. BECERRA] for the closing remarks.

Mr. Speaker, I submit two articles, one which appeared in the New York Times on February 6 entitled ''Farmers Brace for Stormy Debate over Subsidies'' which contains many of the facts concerning agribusinesses on the dole, and a second article that appeared on Tuesday, February 7, entitled ''Now, After $36 Billion Run, Coming Soon: 'Star Wars II'—The New G.O.P. Plan Is Smaller but Still Costly.'' It also gives facts about increasing defense expenditures at a time when we are cutting programs for the poor.

The articles referred to are as follows:

NOW, AFTER $36 BILLION RUN, COMING SOON: ''STAR WARS II''—NEW G.O.P. PLAN IS SMALLER, BUT STILL COSTLY

(By Eric Schmitt)

WASHINGTON, February 6.—Twelve years after President Ronald Reagan first proposed his ''Star Wars'' antimissile system that ultimately cost $36 billion, provoked much debate and built nothing, Republicans are pressing to revive it, although in a vastly different form.

Mr. Reagan's dream of erecting an impregnable astrodome to shield the United States against an onslaught of Soviet nuclear-tipped missiles dissolved with the end of the cold war. But in its place has risen a smaller, but still very costly, plan to defend the continental United States against a nuclear, chemical or biological attack from more than a dozen rogue nations like Iraq or an accidental strike from Russia.

''One day, mathematically, something bad can happen and you ought to have a minimum screen on a continentwide basis, and that's do-able,'' Speaker Newt Gingrich of Georgia told reporters last month. ''And I think compared to the loss of one city, it is clearly a very small investment, although it's a lot of money over time.''

Republicans want to more than double what the Clinton Administration is spending to develop a national missile defense, to at least $1 billion a year from $400 million a year now. At a time of exceedingly tight budgets, experts say such a network would cost $5 billion to $35 billion, depending on its coverage and complexity, and could never guarantee complete protection.

The new ''Star Wars'' debate puts Republicans on a collision course with the Administration over how quickly and at what cost the United States should deploy a national system. The Pentagon is developing national defenses, but at a slower pace than Congress wants. Given that senior American intelligence officials say a serious long-range missile threat from countries other than Russia or China is still 10 years away, President Clinton's priority has been to build better defenses for troops overseas to shoot down shorter-range missiles similar to the Scud rockets that Iraq launched against Israel and Saudi Arabia in the Persian Gulf war.

Hanging over the growing debate is a sore reminder of past mistakes: So far, the United States has spent $36 billion on ballistic missile defenses since 1984 without one working system to show for it. Billions were poured into exotic space weapons and laser beams that gave the program its fanciful ''Star Wars'' nickname. Even the most hawkish generals at the Pentagon fear that ratcheting up financing for national defenses will only bleed away dwindling money for training, new barracks and advanced fighter jets and warships.

Representative Curt Weldon, a Pennsylvania Republican on the House National Security Committee, is one of many missile-defense supporters who say the painful debate of the 1980's taught some hard lessons. ''The problem with 'Star Wars' was we gave the program a large blank check without holding the appropriate officials accountable,'' Mr. Weldon said. ''That's not going to happen again. This will not be a black hole.''

While Republicans express general support for a national missile defense, there is no consensus among them on important issues like cost, when to put such a system in place or what technical design it should have.

''There are still a lot of outstanding questions,'' acknowledged Senator Daniel R. Coats, an Indiana Republican on the Armed Services Committee.

Legislation that carried out the Contract With America, the House Republicans' political manifesto, directs the Administration to field ''a highly effective defense'' of the United States ''at the earliest practical date,'' but offers no other details.

''This proposal is broad and vague,'' Representative John M. Spratt, Jr., a South Carolina Democrat who is a leading Congressional authority on missile defenses, said at a hearing of the National Security Committee last week. ''Is it ground-based? Space-based? You haven't defined deployment. I don't think you've laid down a policy here.''

Indeed, the legislation, which the House will most likely approve later this month and send to the Senate, leaves it up to Defense Secretary William J. Perry to draft a deployment plan within 60 days after the bill becomes law.

After the pitched battles between the Reagan and Bush administrations and Congress, the debate over missile defenses died down when Mr. Clinton took office two years ago. Republicans and Democrats alike agreed to improve the country's battlefield, or theater, missile defenses after Iraq fired dozens of Scud rockets in the Persian Gulf war.

Indeed, when Mr. Perry's predecessor, Les Aspin, declared the ''Star Wars'' program dead in 1993, it was already moribund. The Administration merely made it official, and earmarked two-thirds of the $3 billion annual missile-defense budget to battlefield defenses like improved Patriot missiles and the new Theater High-Altitude Area Defense, or Thaad, which intercepts incoming missiles at even higher altitudes and greater distances than the Patriot.

But the Administration did not entirely give up on a national missile defense. The Pentagon scaled it back to a research program that would be developed by the year 2000 and deployed depending on the threat.

''If the decision is made at that time to deploy, the deployment will be made very rapidly, within another few years,'' Mr. Perry said last month. Pentagon officials say the projected threat over the next 10 years does not warrant speedier deployment.

But Republicans have seized on the Central Intelligence Agency's estimate that 15 nations now have ballistic missiles, and perhaps 20 will have them by the end of the decade, to push for a faster timetable to put national antimissile defenses either on the ground or in space.

As Senator Strom Thurmond, the South Carolina Republican who heads the Armed Services Committee, put it, ''Defense of our homeland against direct attack is a priority enshrined in the Constitution, yet it is an aspect of our national defense that has been woefully neglected.''

Mr. Perry has said that one quick option would be to spend $5 billion over next five years to field a ground-based system using existing sensors, radars and missiles to defend against a ''thin attack,'' a relatively small number of missiles fired at once.

Some Republicans, like Senator Jon Kyl of Arizona, favor waiting, as long as the threat is low, to develop the most technologically advanced system possible, one that could include space-based sensors and interceptors.

But most Republicans say their first step will be to revive efforts to deploy 100 missiles at one site—near Grand Forks, N.D.—which is allowed under the 1972 Antiballistic Missile Treaty. The site could protect the United States' midsection, but not the coasts. The Administration had largely abandoned this option.

In 1993 the Ballistic Missile Defense Organization, the successor to the Strategic Defense Initiative Organization, which embodied the ''Star Wars'' program, said it would cost $21.8 billion to develop and build a single site at Grand Forks by the year 2004. To cover the entire 50 states would require building five additional sites for an additional $12.5 billion, the agency estimated.

Ultimately, budget pressures may dictate the size and deployment date of a national system.

''The budget hawks are prevailing,'' said Lawrence F. Di Rita, a senior official at the Heritage Foundation, a conservative research organization in Washington. ''So whatever is proposed has to be technically feasible soon enough so that the cost is bearable. This can't be a science project.''

FARMERS BRACE FOR STORMY DEBATE OVER SUBSIDIES

(By Keith Schneider)

ARLINGTON, KAN., Feb. 1—This wind-bullied land, the center of America's wheat empire since the late 19th century, is bracing for a political fight over farm subsidies like none before.

Of the 73 new Republicans in the House, 33 are from rural agricultural districts and have been at the vanguard of the movement to cut the Federal budget, curb regulations, and limit the Government's authority to interfere in business.

This more conservative Congress is writing a new farm policy law this year, the first since 1990. In every previous law since the first one was written during the Great Depression, the paramount provision has been a contract in which the Government helps to decide how much a farmer can grow in exchange for guaranteeing to pay farmers a set price for their crops.

Now, the central question is: What arguments will farmers and their conservative champions in the House and Senate use to win support for one of the most costly and intrusive Government programs of all?

Here in Reno County and in more than 2,000 other rural counties across the country, perhaps the only thing as enduring as the great vaulted sky is the money that blows out of Washington to support farm incomes. In the last 10 years, $149 billion has been spent on crop subsidies nationwide, nearly $8 billion of that in Kansas alone. Farm economists say Kansas farmers typically gain $20,000 to $40,000 annually, far more than is received by families on welfare.

Those indisputable facts of economic life in Kansas and other farm states are now fueling a battle in Congress that is being sharpened by deepening concern about costs.

Senator Bob Dole, the Kansan who is majority leader, and Representative Pat Roberts, the Kansan who is chairman of the House Agriculture Committee, have both been advocates for cutting the Government, returning more power to the states and balancing the Federal budget. But both lawmakers have protected farm subsidies for years, particularly for growers of wheat, the state's most important crop.

In a speech last month in St. Louis to the American Farm Bureau Federation, Mr. Dole, who has helped shape farm policy since he entered Congress in 1961, was guarded as he discussed the coming debate, saying only that ''some cuts will be made'' in farm programs.

Mr. Roberts has been more voluble. In an interview, Mr. Roberts defended the subsidies, saying that nationwide they had decreased to $10.2 billion last year from $25.8 billion in 1986. Still, Mr. Roberts's 66-county Congressional district, which includes Reno County, received $5.45 billion in farm subsidies over the last decade, more than any other, according to the Environmental Working Group, a policy analysis organization in Washington.

Mr. Roberts vowed to defend those payments and his constituents from being a target for budget cutters. ''Farmers have already given at the office,'' he said. ''I will make sure that if there are additional cuts, they are not disproportionate on farmers.''

Opposing the Kansas lawmakers is Senator Richard G. Lugar, Republican of Indiana and chairman of the Senate Agriculture Committee. He said in an interview that farm subsidies were justifiably seen as a test of Republican resolve.

''We are being taunted with it almost daily,'' said Mr. Lugar, who owns a farm. ''Will we act? I would guess that subsidies will be cut at least in half over the next five years. But I also see phasing out subsidies in five years, if not completely then in such a way that there is only some minimal safety net.''

Here in Reno County, where most of the 1,540 farms receive crop subsidies, growers are nervous even as they acknowledge being somewhat embarrassed about accepting Government handouts.

''It's like insurance,'' said Ronald Jacques, who votes Republican and raises wheat and other crops on a 2,000-acre farm 10 miles west of here. ''It's not all of your income by any stretch, but it's a help. It's something you can count on.''

Budd Fountain, a retired employee of the United States Department of Agriculture who raises 1,100 acres of wheat here and received $14,000 last year in subsidy payments, said: ''If they totally did away with the program, there would be some problems. As long as Government is involved in setting the supply, then the farmer has no choice because he can't make his money from the market. The price is too low.''

Whatever decisions are made by Congress this year, the outcome will have a significant effect in counties like this one, which received $148 million in farm program payments over the last decade, according to the Environmental Working Group.

No policy ever devised by Congress has such power to shape so much land and so many lives. It is a policy that farmers eagerly accept even as they complain about the rules, the bureaucracy and the Government's control of grain markets.

When the Government called for maximum production of grain in the 1970's, farmers here cut down trees that served as wind breaks in order to plant every available acre.

In the 1980's, when storehouses bulged with surpluses, the Government paid farmers to plant grass to conserve topsoil, making a quarter of the flat land here look like it did over a century ago, before the prairie grasses were plowed under.

But taking so much land out of production also reduced the amount of seed, fertilizer and farm equipment being used, and limited the demand for storage space in the big white grain elevator hugging the railroad tracks here. Farm supply stores went out of business, and the grain elevator was sold.

In interviews here this week, farmers said they would gladly give up subsidies if the Government also agreed to withdraw from setting supplies. By controlling the supply, the program controls demand and thereby prices.

Without being able to control supply, they said, farmers have little choice but to take the handouts because the prices they have received at the market for wheat—from $3.02 to $3.72 over the last decade—are below the cost of producing it.

The program for wheat, which is similar to those for corn, feed grains, rice and cotton, pays farmers the difference between the market price for their crop, and a higher ''target'' price that is set by Congress. Last year, the difference was at times as much as 80 cents a bushel. The wheat program cost taxpayers $2 billion, about a fifth of which went to Kansas growers.

As political pressure mounts to dismantle the programs, farmers say, consumers do not recognize the advantages of having stable grain supplies—and therefore stable prices—for such items as meat, bread and milk in the supermarket. If the programs were ended, they add, grain supplies and prices would be much more erratic.

''One thing overlooked by Democrats and Republicans in this debate is that farm programs are really designed to give consumers cheap food,'' said Jim French, who with his wife, Lisa, raises cattle and wheat on a 1,200-acre farm in Partridge, just north of here. ''But we've seen the handwriting on the wall. In the early 1980's, we earned $25,000 one year from the program, the most we've ever had. That was our profit. Last year, our check was a little over $6,000.''

Farmers in this region offer many ideas about how to alter the farm programs to reduce their costs and make them more useful.

Nathan Stillwell, a cattle rancher and wheat farmer who lives just outside town urges the Government to relax the strict rules, and give farmers more flexibility to decide what to plant and how much. That will save money, he says, and produce benefits for the environment because it will allow farmers to rotate crops more easily, a soil-saving practice that the programs have discouraged.

Others, like Mr. Jacques, said that dismantling the programs altogether would be possible as long as other countries also ended the practice of subsidizing their farmers. Grain markets are influenced by international factors and as long as other countries continue to subsidize their farmers, Americans will be at a disadvantage, he said.

Mr. STOKES. Mr. Speaker, I believe in the same basic tenets that the Founders of the Republic believed in. America needs to live up to its pledge of being one nation that will provide every American an opportunity to earn a decent living. In today's society there can be no advancement without a decent job and a decent wage. We live in a nation which has veered away from its creed—from its pledge to all Americans—and is now called to conscience.

President Clinton has submitted to Congress his budget proposal for fiscal year 1996. Unlike the budgets submitted by Presidents Reagan and Bush, which were dead on arrival in Congress, I applaud President Clinton for presenting a budget that demonstrates his continued commitment to improving the lives of working Americans. His proposal would raise the current $4.25 hourly minimum wage to $5.15 over a 2 year period.

I support the President's position that the minimum wage should be increased. At a time when we are considering the reform of our Nation's welfare system, and putting more individuals to work, we need to be able to guaranteed our workers a wage they can live on.

Mr. Speaker, in the United States, we continue to make strides toward full economic recovery, with 1994 noted as the best year for economic growth in 10 years. Yet, we continue to have a permanent class of working poor—individuals who go to work every day but find it impossible to make ends meet. These are the individuals who must choose between health care and day care; food for their children or electricity; warm clothing for their children or mortgage payments. It is these individuals for whom this modest increase in the minimum wage will make a significant difference.

In my home district of Cuyahoga County, the percentage of households living below the poverty level is 20 percent. I therefore realize from firsthand experience why it is so imperative that we support the President's call for a minimum wage increase. I will certainly do all that I can to advance this important effort to improve the conditions of working Americans.

Mr. Speaker, in Dr. Martin Luther King's lifetime, America needed a war on poverty. It is my hope that with this small step we will fulfill Dr. King's mission to end poverty for all Americans.

GENERAL LEAVE

Mr. OWENS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore (Mr. QUINN). Is there objection to the request of the gentleman from New York?

There was no objection.

THE CONTRACT WITH AMERICA IS GOOD FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 30 minutes.

Mr. BURTON of Indiana. Mr. Speaker, let me just start off by saying that I have spent the last hour listening to my distinguished colleagues from the Democrat Party talking about the Contract With America and what is wrong with it. Let me start off by saying, before I get into my special order, that the capital gains tax cut that they maligned so viciously over the past hour would end up probably bringing $2 to $3 trillion of investment into the economy which would create jobs, $2 to $3 trillion.

Mr. OWENS. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am very sorry. I only have a half hour, but I would be happy to have a colloquy with the gentleman at a different time.

But when people sell a farm, when people sell stocks, when people sell a business, that money just does not disappear. That money is reinvested in our society, and we are talking about two to three thousand, thousand, million dollars that would be reinvested in new plants, and equipment, and job expansion in this country. That is one of the things that they discounted.

Now their party had control of this place for the last 40 years, and during those 40 years we saw the great War on Poverty that Lyndon Johnson talked about that was supposed to eradicate poverty in one decade end up being an abject failure, and the people of this country have said, ''Enough welfarism, enough socialism. We want to get back to the free enterprise concepts that made this country great,'' and that is why the Republican Party won the majority in both the House and Senate in the last election.

Now they talked about corporate taxes. ''Let's soak the corporations.''

Corporations do not pay taxes. Those taxes are added to the price of the product. If you raise corporation taxes on the automobile industry, for instance, then they add that to the price of a car. It is the cost of doing business, and when you go to buy a car, you pay more money for that care because the corporation has a fixed profit margin in their books.

So, when you raise corporate taxes, that means the consumer is going to pay more for that car, so they in effect are paying the tax when you raise corporate taxes. The consumer always pays, and the tax and spend policies of the Democrats are the reason for their demise in the last election, and I think that everybody in the country now realizes that, at least a majority.

They talked about the Contract With America being bad for America. The fact of the matter is every one of the 10 items in the Contract With America was approved by more than 70 percent of the American people. In polling data that we got before we came up with the Contract With America, Mr. Speaker, we found the top 10 items that Americans were concerned about, and many of those items were approved or requested by more than 70 percent of the people of this country. The problems is they do not have any ideas. They are attacking our Contract With America, and they are going to lose that battle because the American people simply want the things that we put in that Contract With America to be passed by this Congress.

They want a balanced budget amendment. They want a line-item veto. They want tax fairness for seniors. They want to stop violent criminals. They want welfare reform. They want to protect our kids. They want a strong national defense. They want to roll back government regulations. All these things we are going to bring to the floor for a vote, which they would not do over the past 40 years.

□ 2320

I think the American people will see the difference very clearly in the weeks and months to come. They are seeing it already, because polling data shows American people support what the Congress of the United States is doing under the new Republican leadership.

Tonight I want to talk briefly about some unethical contacts that have taken place in the Whitewater debacle that has taken place over the last several years we have been talking about in this body and the other body, unethical contracts between the White House and the Treasury Department.

Mr. Speaker, last November 7 members of the Senate Banking Committee asked Independent Counsel Kenneth Starr to investigate possible perjury charges by two high-ranking White House officials, White House senior advisor George Stephanopoulos and deputy chief of staff Harold Ickes.

Members of the committee believe these two men lied under oath to the Banking Committee during hearings last August about Whitewater and unethical contacts between the White House and the Treasury Department. The charges against Mr. Stephanopoulos and Mr. Ickes are a very serious matter. However, this only touches the tip of the iceberg of how improper conduct within the Clinton administration was to slow down and coverup the White House investigation. Tonight I would like to review this whole matter, and the best place to start is at the beginning.

Criminal referrals from the RTC, the Resolution Trust Corporation: When Madison Guarantee Savings & Loan in Little Rock failed, its debts and its assets were inherited by the Government-run Resolution Trust Corporation.

Madison Guarantee was owned by then Gov. Bill Clinton's business partner, James McDougal, and the Governor. In March 1992, the RTC began an investigation of possible criminal activity at Madison after the New York Times broke a major story about the Whitewater Development Corp. In September 1992, the RTC sent a criminal referral, criminal investigation request, to the Justice Department. The RTC urged a thorough investigation of a ''check kiting scheme'' in which over $100,000 in Madison funds were alleged to be illegally funneled into the Whitewater Development Corp. to pay its bills. President and Mrs. Clinton were named as potential beneficiaries of this scheme.

A year later the Resolution Trust Corporation sent a second criminal referral to the Justice Department regarding Madison Guarantee. This referral contained nine specific allegations

of criminal wrongdoing. The second referral named President and Mrs. Clinton as possible witnesses.

The U.S. attorney in Little Rock, Paula Casey, had been appointed by President Clinton. She let the first referral sit on her desk for over a year without taking any action on it. She should have recused herself, excused herself from acting in that capacity in this case because she was a friend and political ally of the President of the United States. In October 1993 she formally declined to investigate any of the allegations in the first referral.

Later in October the second referral was reported in the press, and only then did Paula Casey excuse herself from the entire matter.

Here are some questions that need to be answered. Why did the Resolution Trust Corporation's first referral sit on Paula Casey's desk for over a year? Was that because of her connections with people at the White House? Why did she refuse to open an investigation into the serious charges raised by the Resolution Trust Corporation? Why did Paula Casey wait until the criminal referrals became public knowledge before she recused herself? As a friend of President Bill Clinton and one of his campaign workers, she should have recused herself immediately because of that connection. Are Paula Casey's actions being investigated by the Justice Department's Ethics Office?

Let's talk about Roger Altman and his Senate testimony. In March 1993, Roger Altman, Deputy Secretary of the Treasury, became the acting chief of the Resolution Trust Corporation. This became necessary when Treasury Secretary Lloyd Bentsen forced out the RTC chief Albert Casey. At the time, the first RTC referral involving Whitewater and Madison Guarantee was sitting on Paula Casey's desk gathering dust for over a year.

In a routine hearing in February 1994, Roger Altman testified before the Senate Banking Committee that he had participated in one substantive meeting with White House officials about the RTC referrals. Under questioning from the Senators, he testified that he could not recall, remember, any other substantive contacts. In fact, from September 1993 to February 1994, there had been a flurry of improper meetings, phone calls, and faxes between the White House and the Treasury Department about this case. Treasury Department general counsel Jean Hanson has testified that she prepared talking points for Mr. Altman—this is unethical—outlining all of the contacts that he took, outlining all those contacts, and he took those talking points with him to the hearing. Mr. Altman denied he ever saw those talking points.

The full scope of these contacts became clear when the Senate Banking Committee held full hearings on the issue last August. After the hearings, even Democrat Senators criticized Mr. Altman and his counterparts at the White House because of this involvement, one with the other,

Senator CHRIS DODD said, ''In my view, there were far too many meetings, there were far too many people involved, and the testimony gets just too cute for my tastes, quite frankly.''

Senator SHELBY. ''I think he, Roger Altman, has been less than candid. He has been very selective in his answers.'' Senators Reigle and SARBANES told Lloyd Bentsen they no longer had confidence in Mr. Altman.

On August 17, Roger Altman resigned his position after his testimony. The next day general counsel Jean Hanson also resigned her post.

Here are some questions that need to be answered. Did Roger Altman lie to the Banking Committee during the February hearings, or did he actually forget all but one of the contacts between the Treasury Department and the White House?

It seems farfetched to me he would forget all of those meetings. Did Roger Altman read the talking points Jean Hanson prepared for him before the February hearing? These talking points listed the contact.

Three, were there any other meetings or contacts that we still do not know about?

Four, how much information about the investigation of Madison Guarantee did the Treasury Department give to the White House? And this would be unethical, very unethical.

No. five, was the RTC or the independent counsel's investigation jeopardized by these contacts?

Now, why were the contacts improper? When the Resolution Trust Corporation investigates a failed savings and loan that the taxpayers are going to have to bail out, it has two avenues it can pursue. First, it can recommend investigation of criminal wrongdoing to the Justice Department. That is called criminal referrals. Or, second, it can file civil suits against people who are responsible for the S&L's failure and try to recover some of those losses. When the RTC is in the middle of an investigation, it is very important that the details remain confidential. So if Mr. Altman was talking to Treasury and the White House about these things, he sure was not keeping these things confidential.

If information about an investigation is leaked to a potential target of the investigation, that person could potentially destroy evidence, like shred files, hide assets, or take other actions to impede the investigation. If a police department investigates a bank robbery, it does not share any of the information it has with any of the suspects. And that is exactly the kind of thing that was taking place between Mr. Altman, Treasury and the White House.

Neither of the criminal referrals from the RTC accuses the Clintons of wrongdoing. However, the Clintons are named as potential witnesses in one and potential beneficiaries in the other. Many of the top officials at the White House were from Arkansas and friends of the President. Some were probably friends and political allies of targets of the investigation. Any details of the investigation could have been leaked from the White House to people being investigated in connection with the failure of Madison Guaranty which cost the taxpayers, get this, $47 million.

Now, here is the chronology of events and contacts between Treasury and the White House. In March of 1993, after becoming Acting Chief of the Resolution Trust Corporation, Roger Altman was briefed on the first criminal referral by RTC vice president William Roelle. Altman faxed a copy of the New York Times article which broke the Whitewater story to White House counsel Bernie Nussbaum, Mr. Nussbaum was the chief counsel to the President of the United States.

He later testified that he does not remember either being briefed or sending the article to Nussbaum. However, the fax cover sheet, which is a document that tells when it was sent, the fax cover sheet confirms that it did come from Mr. Altman's office.

□ 2330

So once again, he conveniently forgot something that came from his office to the White House, to Bernie Nussbaum, the chief legal counsel to the President.

September 1993, the Resolution Trust Corporation is preparing its second criminal investigation or referral. Treasury Department General Counsel Jean Hanson briefs Altman on the confidential referral. According to Hanson, Roger Altman then directed her to brief the White House on the situation, which was against RTC procedure. That, once again, is letting people who may be under criminal investigation knowing what the investigation is about. You just do not do that. Mr. Altman denies this.

September 29, 1993, Jean Hanson initiates the first formal contact with the White House. At a White House meeting, she briefs Chief Counsel to the President, Bernie Nussbaum, in detail on the referral. Also at the meeting was Clifford Sloan, a lawyer on Nussbaum's staff. Nussbaum appoints Clifford Sloan to be Hanson's designated White House liaison on the issue. She should have not been talking to the White House and here they are setting up an official liaison.

During the next several days, Hanson and Sloan have several follow up conversations on the phone.

October 4, 1993. Senior White House aide Bruce Lindsey, who is traveling with the President, informs President Clinton about the RTC referrals.

October 7, 1993, Jean Hanson calls Clifford Sloan at the White House to tell him about press inquiries into the Whitewater investigation.

October 14, 1993, a full-fledged meeting is called at the White House to discuss the RTC investigation. Attending

from the Treasury Department, Communications Director Jack DeVore, General Counsel Jean Hanson, Chief of Staff Joshua Steiner, and attending from the White House was White House Counsel to the President, Bernie Nussbaum and Senior Advisor, Bruce Lindsey. They should not have even been talking about this. Here they are having a full-scale meeting.

February 2, 1994, the second full-fledged meeting on the Whitewater investigation is held at the White House. This meeting was reportedly called to discuss potential civil claims against Madison and people associated with Madison by the Resolution Trust Corporation. Attending this meeting from the Treasury Department, Deputy Treasury Secretary Roger Altman, General Counsel Jean Hanson. Attending from the White House again, White House Chief Counsel Bernie Nussbaum, Chief Counsel to the President, Deputy Chief of Staff Harold Ickes, Hillary Clinton's Chief of Staff, Margaret Williams comes. According to those in attendance, the substance of the case was not discussed, only procedures. But once again, a formal meeting involving this investigation which should not have been discussed between those doing the investigating and those who are being investigated.

February 24, 1994, as I mentioned earlier, on this day, Roger Altman appeared before the Senate Banking Committee at an RTC oversight hearing. He testified that he attended one meeting concerning the White House investigation and denied any recollection of any other contacts. He had a lot of failures of memory.

March 4, 1994, then independent counsel Robert Fiske subpoenaed 10 Treasury and White House officials who participated in the contacts and questioned them before a grand jury. Here are some questions that need to be answered.

Did Roger Altman order Jean Hanson to brief the White House about the first criminal investigation or referral in September of 1993 as Hanson alleges? Would Hanson go and brief the White House officials without approval from higher up? I do not think so. Why would she go over there and start briefing them unless somebody asked her to do it?

Number two, why was it necessary for Jean Hanson to have a liaison at the White House with whom to discuss the Resolution Trust Corporation's investigation of Whitewater and Madison? She was not even supposed to be discussing the investigation with the White House.

Number three, did officials from the Treasury Department who had attended the three White House meetings discuss only procedures and policies of the RTC as they have claimed or did they reveal substantive information about the Madison Guarantee case as well? And how can we ever know for sure.

Number four, did White House officials share any of the information they received through these meetings and phone conversations with any potential targets of the investigation, and how can we know about that for sure?

All of the details about these meetings that I have been just discussing became public knowledge during the Senate and House banking committee hearings last August. And additional detail that was revealed at that time concerned White House efforts to stop Roger Altman from excusing, recusing himself from the Whitewater investigation?

In January 1994, Altman was considering recusing himself, stepping aside, from the entire Madison-Whitewater case because of his close friendship with President Clinton. They had attended college together at Georgetown University and had been friends ever since. Treasury Department General Counsel Jean Hanson advised Altman that he should recuse himself, step aside, according to her testimony. Prior to the February 2 meeting at the White House, Altman reportedly had decided to step aside and recuse himself. However, during the meeting, the Chief Counsel to the President, Bernie Nussbaum, talked Altman out of it.

Nussbaum testified that he simply asked Altman to reconsider his decision. However, Treasury Department Chief of Staff Josh Steiner tells a different story in his personal diary. Steiner's diary says that Nussbaum told Altman this his decision to excuse himself or step aside was ''unacceptable''. They didn't want him stepping out of the picture because there might be some incriminating evidence that he could stop. At least that is what it appears to be.

After the meeting Jean Hanson spoke to White House Deputy Chief of Staff Harold Ickes. According to Hanson's testimony, Ickes asked her who else knew that she had advised Altman to step aside or recuse himself. Hanson told him that only three people knew. According to her testimony, Ickes told her that that was good that nobody else should know about it. According to Jean Hanson's testimony at the hearings last August, Mr. Ickes asked me, this is her quote, ''Mr. Ickes asked me who else knew that I had recommended to Mr. Altman that he recuse himself, and I gave him three names. He said, 'that's good, because if it gets out, it will look bad.' ''.

When Harold Ickes testified before the Senate banking committee in August, he denied ever making such a statement. Ickes maintains that all he said to Hanson at the meeting was, hello, nice to see you and goodbye.

At the beginning of my statement, I said that the 7 Members of the Senate banking committee have asked the independent counsel to investigate possible perjury by Mr. Ickes. The Senators were particularly concerned about his statements about his conversation or lack of conversation with Jean Hanson. The whole episode raises a number of questions.

First, why would Jean Hanson lie about her conversation with Harold Ickes?

Two, why would Bernie Nussbaum, legal counsel to the President, try to talk Roger Altman out of stepping aside, recusing himself, when Altman was clearly such a close personal friend of President Clinton?

Three, how forcefully did Chief Counsel to the President, Bernie Nussbaum, discourage Mr. Altman from recusing himself? Is Nussbaum lying or is Josh Steiner lying?

Four, did Bernie Nussbaum, Chief Counsel to the President, take this action on his own or did someone higher up in the White House urge him to do so?

Now, let us talk about Jay Stephens. As I mentioned earlier, the Senators also asked the independent counsel to investigate the testimony of George Stephanopoulos from the White House. Stephanopoulos' alleged perjury involved the hiring of Jay Stephens from by the Resolution Trust Corporation as an outside counsel in the Madison Guarantee case. Jay Stephens was hired by an independent board at the Resolution Trust Corporation for the Whitewater investigation. Stephanopoulos and other officials at the White House were really upset. They were furious because Stephens was a Republican and had been a U.S. Attorney under President Reagan.

In his testimony before the Senate banking committee in August, Stephanopoulos testified about a conversation he had with Treasury Department Chief of Staff Josh Steiner. He said that he complained about Stephens to Josh Steiner, but he denied trying to get rid of him. Mr. Stephanopoulos testified, and I quote, ''I did blow off steam in the conversation, based on my belief that Mr. Stephens could not be an impartial investigator. Mr. Steiner informed me that the decision had been made by an independent board. That ended the conversation. I took no further action.'' That is what Stephanopoulos testified. However, Josh Steiner's personal diary tells a different story.

The February 27 entry reads: ''Stephanopoulos and Ickes also asked about how Jay Stephens had been hired to be outside counsel on this case. Simply outrageous, they said, that RTC had hired him, Stephens, but even more amazing when George Stephanopoulos then suggested to me that we needed to find a way to get rid of him.'' Obviously because he did not want him to go on and conduct an investigation. ''Persuaded George,'' he persuaded George Stephanopoulos, ''that firing him would be incredibly stupid and improper.''

Stephanopoulos's testimony was also contradicted by Roger Altman.

□ 2340

Altman testified that in a phone call on February 25, Stephanopoulos and Ickes complained about Stephens being hired by the RTC. Altman testified that he told Josh Steiner that he thought it was unwise for them to be complaining so vocally about Jay Stephens, because he was a Republican and he might get too deeply involved in the investigation.

Stephanopoulos was also contradicted by Jean Hanson.

Here are some questions:

No. 1, did George Stephanopoulos and Harold Ickes lie to the Senate Banking Committee, and if they did, should they be prosecuted for it?

Two, what motive could Josh Steiner, Roger Altman, and Jean Hanson all have to falsely contradict their testimony? Why would they do that?

Three, how many other people did George Stephanopoulos call to attempt to get Jay Stephens fired?

All of these questions need to be thoroughly investigated and answered by the independent counsel. There is so much that smells about what has gone on between the RTC, Mr. Altman, Treasury, and the White House that a full and thorough investigation needs to be conducted, not only by the independent counsel but by the committees of Jurisdiction in this House and in the other body, and possibly hiring other people to conduct this investigation.

The House, the Senate, and the independent counsel need to thoroughly investigate this. If there is lying, if people have committed perjury before the House and Senate Banking Committees, they need to be brought to justice. We need to follow this all the way to its final conclusion. There are all kinds of questions about shredded documents involving Whitewater and Madison that go all the way to the top.

We need to get to the bottom of it for the benefit of the American people. We are talking about $47 million of taxpayers' money that has been squandered or stolen. We need to get to the bottom of it, no matter where it leads us.

The SPEAKER pro tempore (Mr. QUINN). Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 60 minutes.

[Mr. WELDON of Pennsylvania addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT) for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WATT of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. GUTIERREZ, today, for 5 minutes.
Ms. KAPTUR, today, for 5 minutes.
Mr. SKAGGS, today, for 5 minutes.
Mr. HILLIARD, today, for 5 minutes.
Mr. LAFALCE, today, for 5 minutes.
Mr. HOYER, today, for 5 minutes.
Mr. GENE GREEN of Texas, today, for 5 minutes.
Mrs. CLAYTON, today, for 5 minutes.
Mr. CLYBURN, today, for 5 minutes.

(The following Member (at the request of Mr. FOX of Pennsylvania) to revise and extend his remarks and include extraneous material:)

Mr. SOLOMON, today, for 5 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WATT of North Carolina) and to include extraneous matter:)

Mr. MANTON.
Mr. HAMILTON in three instances.
Mr. DINGELL in two instances.
Mr. SKELTON.
Mr. WARD.
Mr. MENENDEZ in two instances.
Mr. TRAFICANT.
Mr. STOKES in two instances.
Ms. KAPTUR.
Mr. ENGEL.
Mr. RAHALL.
Mr. ORTON.
Mr. FAZIO.

(The following Members (at the request of Mr. FOX of Pennsylvania) and to include extraneous matter:)

Mr. PACKARD.
Mr. SMITH of New Jersey.
Mr. HOUGHTON.
Mr. GINGRICH.
Mr. KOLBE.
Mr. DUNCAN.
Mr. CAMP.

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mr. DE LA GARZA.
Mr. HOYER.
Mr. RICHARDSON.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 41 minutes p.m.), the House adjourned until tomorrow, Thursday, February 9, 1995, 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:

339. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notice that the Navy intends to renew the lease of the *Albert David* (FF 1050), pursuant to 10 U.S.C. 7307(b)(2); to the Committee on National Security.

340. A letter from the Secretary of Health and Human Services, transmitting a copy of the fiscal year 1993 report on the Native Hawaiian Revolving Loan Fund [NHRLF], pursuant to 42 U.S.C. 2991–1; to the Committee on Economic and Educational Opportunities.

341. A letter from the Secretary of Labor, transmitting a report on the enforcement activities of the Directorate of Civil Rights concerning the nondiscrimination and equal opportunity provisions of the JTP act, pursuant to Public Law 97–300, section 167(e); to the Committee on Economic and Educational Opportunities.

342. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–382, ''Maurice T. Turner, Jr., Education and Training Center Designation Act of 1994,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

343. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–383, ''Privatization of Government Services Task Force Establishment Act of 1994,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

344. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–385, ''Anti-Sexual Abuse Act of 1994,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

345. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–386, ''Probate Reform Act of 1994,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

346. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–387, ''Clean Air Compliance Fee Act of 1994,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

347. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–388, ''District of Columbia Housing Authority Act of 1994,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

348. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–390, ''Washington Metropolitan Area Transit Authority Compact Amendment Act of 1994,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

349. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–391, ''Closing of a Public Alley in Square 750, S.O. 94–123, Act of 1994,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

350. A letter from the Acting Inspector General, Federal Communications Commission, transmitting the annual report regarding an evaluation of the compliance by the FCC with, and the effectiveness of, the requirements imposed by 31 U.S.C. 1352 on the FCC and on persons requesting and receiving

Federal contracts from the FCC using appropriated funds, pursuant to Public Law 101–121, section 319(a)(1) (103 Stat. 753); to the Committee on Government Reform and Oversight.

351. A letter from the Secretary of Veterans Affairs, transmitting a report on contract care and services furnished to eligible veterans, pursuant to Public Law 100–322, section 112(a); to the Committee on Veterans' Affairs.

352. A letter from the Chairman, Advisory Council on Unemployment Compensation, transmitting their second annual report, pursuant to Public Law 102–164, section 303 (105 Stat. 1060); to the Committee on Ways and Means.

353. A letter from the Director, Office of Civilian Radioactive Waste Management, transmitting the 10th annual report on the activities and expenditures of the Office of Civilian Radioactive Waste Management, pursuant to 42 U.S.C. 10224(c); jointly, to the Committees on Commerce and Resources.

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:

Mr. MCCOLLUM: Committee on the Judiciary. H.R. 729. A bill to control crime by a more effective death penalty; with an amendment (Rept. 104–23). Referred to the Committee of the Whole House on the State of the Union.

Mr. MCCOLLUM: Committee on the Judiciary. H.R. 728. A bill to control crime by providing law enforcement block grants; with an amendment (Rept. 104–24). Referred to the Committee of the Whole House on the State of the Union.

Mr. QUILLEN: Committee on Rules. House Resolution 63. A resolution providing for the consideration of H.R. 667, The Violent Criminal Incarceration Act (Rept. 104–25). 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. DINGELL (for himself, Mr. CONDIT, Mr. MOORHEAD, and Mr. OXLEY):

H.R. 857. A bill to require the disclosure of service and other charges on tickets, and for other purposes; to the Committee on Commerce.

By Mr. HOYER (for himself, Mrs. MORELLA, Mr. BOEHLERT, Mr. FILNER, Mr. MORAN, Mr. WYNN, Mr. FAZIO of California, Mr. GILMAN, Mr. CUNNINGHAM, Mr. HUNTER, Mr. LANTOS, and Mr. LEWIS of California):

H.R. 858. A bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. GUNDERSON:

H.R. 859. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare Program of emergency care and related services furnished by rural emergency access care hospitals; 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. DORNAN:

H.R. 860. A bill to terminate the Office of the Surgeon General of the Public Health Service; to the Committee on Commerce.

By Mr. CUNNINGHAM (for himself and Mr. HUNTER):

H.R. 861. A bill to amend title 10, United States Code, and title XVIII of the Social Security Act to permit the reimbursement of expenses incurred by a medical facility of the uniformed services or the Department of Veterans Affairs in providing health care to persons eligible for care under medicare; to the Committee on National Security, and in addition to the Committees on Commerce, and 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. DORNAN (for himself, Mr. DOOLITTLE, Mr. BARTLETT of Maryland, Mr. BURTON of Indiana, and Mr. MANZULLO):

H.R. 862. A bill to prohibit the use of Federal funds to promote homosexuality; to the Committee on Government Reform and Oversight.

By Mr. HAMILTON:

H.R. 863. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to States of surplus personal property for donation to nonprofit providers of necessaries to impoverished families and individuals; to the Committee on Reform and Oversight.

By Mr. HOUGHTON (for himself, Mr. PAYNE of Virginia, Mrs. JOHNSON of Connecticut, Mr. MCCRERY, Mr. COYNE, Mr. BREWSTER, Mr. WELDON of Pennsylvania, and Mr. ENGLISH of Pennsylvania):

H.R. 864. A bill to amend the Internal Revenue Code of 1986 to provide an election to exclude from the gross estate of a decedent the value of certain land subject to a qualified conservation easement, and to make technical changes to alternative valuation rules; to the Committee on Ways and Means.

By Mr. ORTON:

H.R. 865. A bill to amend part A of title IV of the Social Security Act to offer States the option of replacing the Job Opportunities and Basic Skills Training [JOBS] Program with a program that would assist all recipients of aid to families with dependent children in achieving self-sufficiency, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Agriculture, Commerce, and Economic and Educational Opportunities, 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. RAHALL:

H.R. 866. A bill to make a technical correction to section 601 of the Federal Aviation Administration Act; to the Committee on Transportation and Infrastructure.

By Mr. SANDERS (for himself, Ms. KAPTUR, Mr. DEFAZIO, Ms. DANNER, Mr. TAYLOR of Mississippi, Mr. KLINK, Mr. TRAFICANT, Mr. ROHRABACHER, and Mr. EVANS):

H.R. 867. A bill to amend title 31, United States Code, to provide that certain budget authority and credit authority provided to the exchange stabilization fund shall be effective only to the extent provided in appropriation acts; to the Committee on Banking and Financial Services.

By Mrs. THURMAN:

H.R. 868. A bill to amend the Fair Labor Standards Act of 1938 to provide an exemption from that act for inmates of penal or other correctional institutions who participate in certain programs; to the Committee on Economic and Educational Opportunities.

By Mr. TRAFICANT:

H.R. 869. A bill to designate the Federal building and U.S. courthouse located at 125 Market Street in Youngstown, OH, as the ''Thomas D. Lambros Federal Building and U.S. Courthouse''; to the Committee on Transportation and Infrastructure.

By Mr. WILLIAMS (for himself and Mr. BONIOR):

H.R. 870. A bill to resolve the current dispute involving major league baseball, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. FRANK of Massachusetts:

H.J. Res. 68. Joint resolution proposed an amendment to the Constitution of the United States to repeal the 22d amendment relating to Presidential term limitations; to the Committee on the Judiciary.

By Mr. COMBEST (for himself and Mr. DICKS):

H. Res. 64. Resolution providing amounts for the expenses of the Permanent Select Committee on Intelligence in the 104th Congress; to the Committee on House Oversight.

By Mr. GINGRICH:

H. Res. 65. Resolution naming certain rooms in the House of Representatives wing of the Capitol in honor of former Representative Robert H. Michel; to the Committee on House Oversight.

By Mrs. SMITH of Washington (for herself, Mr. BROWNBACK, Mr. FOX, Mr. CHRYSLER, Mr. WELDON of Florida, Mr. HOSTETTLER, and Mr. METCALF):

H. Res. 66. Resolution to amend the Rules of the House of Representatives to ban gifts, and for other purposes; to the Committee on Standards of Official Conduct, and in addition to the Committee on Rules, 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.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ROTH introduced a bill (H.R. 871) for the relief of Eugene Hasenfus; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 11: Mr. SOUDER.

H.R. 26: Mr. WELDON of Pennsylvania, Mr. BARTON of Texas, Mr. HOSTETTLER, Mr. HANSEN, Mr. CHRYSLER, Mr. HEFNER, Mr. CLEMENT, and Mr. PAXON.

H.R. 28: Mr. CALVERT.

H.R. 47: Mr. CALVERT and Mr. KIM.

H.R. 70: Mr. BOEHNER, Mrs. SEASTRAND, Mr. KLUG, and Mr. ROYCE.

H.R. 76: Ms. SLAUGHTER.

H.R. 95: Ms. LOFGREN, Mr. MARTINEZ, Mr. MARKEY, Mr. ACKERMAN, Mr. HOYER, Ms. JACKSON-LEE, and Mr. FOGLIETTA.

H.R. 104: Mr. BALLENGER and Mr. NETHERCUTT.

H.R. 112: Mr. COOLEY, Mr. ACKERMAN, Mr. NEY, and Ms. SLAUGHTER.

H.R. 159: Mr. RAHALL, Mr. ROHRABACHER, Mr. STUMP, Mr. KING, Mr. BLUTE, Mr. SENSENBRENNER, and Mr. ACKERMAN.

H.R. 201: Mr. FOX, Mr. SMITH of New Jersey, Mr. GENE GREEN of Texas, Mr. PETRI, Mr. HUNTER, Mr. BEREUTER, and Ms. PRYCE.

H.R. 281: Mr. WALSH.

H.R. 259: Mr. HASTINGS of Washington.

H.R. 325: Mr. LIPINSKI, Mr. SCHAEFER, Mr. EVERETT, Mr. ACKERMAN, and Mr. GOODLATTE.

H.R. 328: Ms. MOLINARI.

H.R. 357: Mr. HILLIARD, Mr. YATES, Mr. MEEHAN, Mr. FATTAH, Mr. GUTIERREZ, Mr. KENNEDY of Rhode Island, Mr. BEILENSON, Mr. WAXMAN, Mr. FRANK of Massachusetts, Ms. SLAUGHTER, Mr. MARKEY, Mr. HORN, and Mr. SCHUMER.

H.R. 367: Mr. FRAZER, Mr. LAFALCE, Mr. MARTINEZ, Mr. MINETA, Mr. NADLER, Mr. SANDERS, Mrs. SCHROEDER, Ms. VELAZQUEZ, Mr. VENTO, and Ms. WOOLSEY.

H.R. 394: Mr. MCDERMOTT and Mr. EMERSON.

H.R. 404: Mr. CALVERT.

H.R. 436: Mr. HASTERT, Mr. HOSTETTLER, Mr. POSHARD, Mr. LATHAM, Mr. FLANAGAN, and Mr. ZELIFF.

H.R. 450: Mr. PARKER and Mr. MONTGOMERY.

H.R. 452: Mr. SANDERS.

H.R. 463: Mr. TANNER.

H.R. 488: Mr. ENGEL.

H.R. 520: Mr. BARRETT of Nebraska.

H.R. 556: Mr. FROST, Mr. BRYANT of Texas, Mr. TORRES, Mrs. SCHROEDER, Mr. GENE GREEN of Texas, Mr. GONZALEZ, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. CHAPMAN.

H.R. 557: Mr. FROST, Mr. BRYANT of Texas, Mr. TORRES, Mrs. SCHROEDER, Mr. GENE GREEN of Texas, Mr. GONZALEZ, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. CHAPMAN.

H.R. 558: Mr. STENHOLM.

H.R. 571: Mr. THOMAS, Mr. HAYES, Mr. UNDERWOOD, Mr. CONDIT, Mr. ORTON, Mrs. SEASTRAND, Mr. CHRYSLER, Mr. TORRICELLI, Mr. EMERSON, Mr. DOOLEY, Mr. COBURN, Mr. BACHUS, Mr. RADANOVICH, Mr. LUCAS, Mr. RIGGS, Mrs. VUCANOVICH, and Mr. CHRISTENSEN.

H.R. 579: Mr. ROHRABACHER.

H.R. 612: Mr. BARRETT of Wisconsin, Mr. FOGLIETTA, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. GENE GREEN of Texas.

H.R. 645: Mr. FLAKE, Mr. GENE GREEN of Texas, Mr. PETE GEREN of Texas, Mr. TORRES, and Mr. WARD.

H.R. 662: Mr. COLLINS of Georgia.

H.R. 663: Mr. BARR and Mr. HASTINGS of Washington.

H.R. 697: Mr. HASTINGS of Washington, Mr. SOLOMON, Mr. ROYCE, Mr. BUYER, Mr. THORNBERRY, Mr. WALSH, Mr. SMITH of Texas, Mr. NETHERCUTT, Mr. LIVINGSTON, and Mr. SHADEGG.

H.R. 707: Mr. CALVERT and Mr. FIELDS of Texas.

H.R. 739: Mr. SAM JOHNSON.

H.R. 810: Mrs. MEYERS of Kansas.

H.J. Res. 3: Mrs. MYRICK.

H.J. Res. 24: Mr. GOODLATTE.

H. Con. Res. 12: Mr. SMITH of New Jersey.

H. Res. 40: Mr. VENTO, Mr. NADLER, Ms. HARMAN, and Mr. POSHARD.

H. Res. 54: Ms. DANNER and Mrs. THURMAN.

H. Res. 57: Mr. ROHRABACHER and Mr. BURTON of Indiana.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 667

OFFERED BY: MR. BERMAN

AMENDMENT NO. 10: Page 9, after line 6, add the following:

(c) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of this Act, of the funds made available under subsection (a) the following amounts shall be available only to carry out section 242(j) of the Immigration and Nationality Act:

(1) $330,000,000 for fiscal year 1996.
(2) $310,000,000 for fiscal year 1997.
(3) $305,000,000 for fiscal year 1998.
(4) $320,000,000 for fiscal year 1999.
(5) $340,000,000 for fiscal year 2000.

H.R. 667

OFFERED BY: MR. BERMAN

AMENDMENT NO. 11: Page 8, strike lines 7 through 11 and insert the following:

''(1) $667,500,000 for fiscal year 1996;
''(2) $1,020,000,000 for fiscal year 1997;
''(3) $2,222,000,000 for fiscal year 1998;
''(4) $2,340,000,000 for fiscal year 1999; and
''(5) $2,413,100,000 for fiscal year 2000.''.

At the end insert the following new title:

TITLE V—COMPENSATION FOR INCARCERATION OF UNDOCUMENTED CRIMINAL ALIENS.

SEC. 501. COMPENSATION FOR INCARCERATION OF UNDOCUMENTED CRIMINAL ALIENS.

(a) FUNDING.—Section 242(j) of the Immigration and Nationality Act (8 U.S.C. 1252(J)) is amended by striking paragraph (5) and inserting the following:

''(5) The Attorney General shall pay to each State and political subdivision of a State which is eligible for payments under this subsection the amounts to which they are entitled under paragraph (1)(A) in such amounts as in the aggregate do not exceed—

''(A) $630,000,000 for fiscal year 1996;
''(B) $640,000,000 for fiscal year 1997;
''(C) $655,000,000 for fiscal year 1998;
''(D) $670,000,000 for fiscal year 1999; and
''(E) $680,000,000 for fiscal year 2000.

''(6) RATABLE REDUCTION RULE.—If the sums available under paragraph (5) for any fiscal year for making payments under this subsection are not sufficient to pay in full the total amounts which all States and subdivisions of States are entitled to receive under this subsection for such fiscal year, the amount which each State and political subdivision of a State is entitled to receive under this subsection for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.''.

(b) TERMINATION OF LIMITATION.—Section 20301(c) of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking ''2004'' and inserting ''2000''.

H.R. 667

OFFERED BY: MR. BERMAN

AMENDMENT NO. 12. Page 8, strike lines 7 through 11 and insert the following:

''(1) $667,500,000 for fiscal year 1996;
''(2) $1,020,000,000 for fiscal year 1997;
''(3) $2,222,000,000 for fiscal year 1998;
''(4) $2,340,000,000 for fiscal year 1999; and
''(5) $2,413,100,000 for fiscal year 2000.''.

Page 10, after line 10, insert the following new subsection:

(c) COMPENSATION FOR INCARCERATION OF UNDOCUMENTED CRIMINAL ALIENS.—Section 242(j)(5) of the Immigration and Nationality Act (8 U.S.C. 1252(j)) is amended by striking all after subparagraph (A) and inserting the following:

''(B) $630,000,000 for fiscal year 1996;
''(C) $640,000,000 for fiscal year 1997;
''(D) $655,000,000 for fiscal year 1998;
''(E) $670,000,000 for fiscal year 1999; and
''(F) $680,000,000 for fiscal year 2000.''.

H.R. 667

OFFERED BY: MR. BERMAN

AMENDMENT NO. 13. Page 2, strike lines 8 and 9 and insert the following:

''TITLE V—TRUTH IN SENTENCING AND CRIMINAL ALIEN GRANTS

Page 8, strike line 5 and all that follows through line 6 on page 9 and insert the following:

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this title and section 242(j) of the Immigration and Nationality Act—

''(1) $997,500,000 for fiscal year 1996;
''(2) $1,660,000,000 for fiscal year 1997;
''(3) $2,877,000,000 for fiscal year 1998;
''(4) $3,010,000,000 for fiscal year 1999; and
''(5) $3,093,000,000 for fiscal year 2000.

''(b) LIMITATION OF FUNDS.—

''(1) USES OF FUNDS.—Subject to subsection (c), funds here after made available under this title may be used to carry out the purposes described in section 501(a).

''(2) NONSUPPLANTING REQUIREMENT.—Funds made available under this section to carry out sections 502 and 503 of this title shall not be used to supplant State funds, but shall be used to increase the amounts of funds that would, in the absence of Federal funds, be made available from State sources.

''(3) ADMINISTRATIVE COSTS.—Not more than 3 percent of the funds available under this section to carry out sections 502 and 503 of this title may be used for administrative costs.

''(4) MATCHING FUNDS.—The Federal share of a grant received under this title to carry out sections 502 and 503 may not exceed 75 percent of the costs of a proposal as described in an application approved under this title.

''(c) ALIEN INCARCERATION.—Of the funds appropriated under subsection (a) for each fiscal year, the Attorney General shall first reserve $650,000,000 which shall be available only to carry out section 242(j) of the Immigration and Nationality Act.

H.R. 667 OFFERED BY: MR. BERMAN

AMENDMENT NO. 14: Title V should be amended to read—

''TITLE V—TRUTH IN SENTENCING AND CRIMINAL ALIEN GRANTS''

Amend Section 507 to read as folllows:

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this title and Section 242(j) of the Immigration and Nationality Act—

''(1) $232,000,000 for fiscal year 1995;
''(2) $997,500,000 for fiscal year 1996;
''(3) $1,660,000,000 for fiscal year 1997;
''(4) $2,877,000,000 for fiscal year 1998;
''(5) $3,010,000,000 for fiscal year 1999;
''(6) $3,093,000,000 for fiscal year 2000;

''(b) LIMITATION ON FUNDS.—

''(1) USES OF FUNDS.—Funds made available under this title may be used to carry out the purposes described in Section 501(a).

''(2) NONSUPPLANTING REQUIREMENT.—Funds made available under this section to carry out sections 502 and 503 of this title shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

''(3) ADMINISTRATIVE COSTS.—Not more than three percent of the funds available under this section to carry out sections 502 and 503 of this title may be used for administrative costs.

''(4) MATCHING FUNDS.—The Federal share of a grant received under this title to carry out sections 502 and 503 may not exceed 75 percent of the costs of a proposal as described in an application approved under this title.

''(c) ALIEN INCARCERATION.—

''(1) USES OF FUNDS.—Of the funds made available under this title, no less than $650 million shall be made available each year to carry out Section 242(j) of the Immigration and Nationality Act (8 U.S.C. 1252).

''(2) ALLOCATION.—No funds made available under this title shall be used to carry out sections 502 and 503 until each state that has applied for funds under Section 242(j) has received such funds.''

H.R. 667

OFFERED BY: MR. BURTON OF INDIANA

AMENDMENT NO. 15: Page 6, line 14, after ''general'' insert ''including a requirement that any funds used to carry out the programs under section 501(a) shall represent the best value for the state governments at the lowest possible cost and employ the best available technology.

H.R. 667

OFFERED BY: MR. CANADY OF FLORIDA

AMENDMENT NO. 16: Page 18, line 11, after ''agreements'' insert ''(except a settlement agreement the breach of which is not subject to any court enforcement other than reinstatement of the civil proceeding which such agreement settled)''.

H.R. 667

OFFERED BY: MR. CANADY OF FLORIDA

AMENDMENT NO. 17: Page 1, after line 22, insert the following:

''Such grants may also be used to build, expand, and operate secure youth correctional facilities.''

Page 6, after line 2, insert the following (and redesignate any subsequent subsections accordingly):

''(b) JUVENILE JUSTICE INCENTIVE.—Beginning in fiscal year 1998, 15 percent of the funds that would otherwise be available to a State under section 502 or 503 shall be withheld from any State which does not have an eligible system of consequential sanctions for juvenile offenders.

Page 10, line 7, delete ''and'' at the end of the line.

Page 10, at the end of line 10, strike the period and insert '';'', and add the following:

''(4) the term 'an eligible system of consequential sanctions for juvenile offenders' means that the State or States organized as a regional compact, as the case may be—

''(A)(i) have established or are in the process of establishing a system of sanctions for the State's juvenile justice system in which the State bases dispositions for juveniles on a scale of increasingly severe sanctions for the commission of a repeat delinquent act, particularly if the subsequent delinquent act committed by such juvenile is of similar or greater seriousness or if a court dispositional order for a delinquent act is violated; and

''(ii) such dispositions should, to the extent practicable, require the juvenile delinquent to compensate victims for losses and compensate the juvenile justice authorities for supervision costs;

''(B) impose a sanction on each juvenile adjudicated delinquent;

''(C) require that a State court concur in allowing a juvenile to be sent to a diversionary program in lieu of juvenile court proceedings;

''(D) have established and maintained an effective system that requires the prosecution of at least those juveniles who are 14 years of age and older as adults, rather than in juvenile proceedings, for conduct constituting—

''(i) murder or attempted murder;

''(ii) robbery while armed with a deadly weapon;

''(iii) battery while armed with a deadly weapon;

''(iv) forcible rape;

''(v) any other crime the State determines appropriate; and

''(vi) the fourth or subsequent occasion on which such juveniles engage in an activity for which adults could be imprisoned for a term exceeding 1 year;

unless, on a case-by-case basis, the transfer of such juveniles for disposition in the juvenile justice system is determined under State law to be in the interest of justice;

''(E) require that whenever a juvenile is adjudicated in a juvenile proceeding to have engaged in the conduct constituting an offense described in subparagraph (D) that—

''(i) a record is kept relating to that adjudication which is—

''(I) equivalent to the record that would be kept of an adult conviction for that offense;

''(II) retained for a period of time that is equal to the period of time records are kept for adult convictions; and

''(III) made available to law enforcement officials to the same extent that a record of an adult conviction would be made available;

''(ii) the juvenile is fingerprinted and photographed, and the fingerprints and photograph are sent to the Federal Bureau of Investigation; and

''(iii) the court in which the adjudication takes place transmits to the Federal Bureau of Investigation the information concerning the adjudication, including the name and birth date of the juvenile, date of adjudication, and disposition.

''(F) where practicable and appropriate, require parents to participate in meeting the dispositional requirements imposed on the juvenile by the court;

''(G) have consulted with any units of local government responsible for secure youth correctional facilities in setting priorities for construction, development, expansion and modification, operation or improvement of juvenile facilities, and to the extent practicable, ensure that the needs of entities currently administering juvenile facilities are addressed; and

''(H) have in place or are putting in place systems to provide objective evaluations of State and local juvenile justice systems to determine such systems' effectiveness in protecting the community, reducing recidivism, and ensuring compliance with dispositions.''.

H.R. 667

OFFERED BY: MR. CHAPMAN

AMENDMENT NO. 18: Page 2, after line 3, insert the following:

SEC. 2. CONDITION FOR GRANTS.

(a) STATE COMPLIANCE.—The provisions of title V of the Violent Crime Control and Law Enforcement Act of 1994, as amended by this Act, shall not take effect until 50 percent or more of the States have met the requirements of 503(b) of such Act.

(b) REPORT.—Beginning in fiscal year 1996, the Attorney General shall submit a report to the Congress not later than February 1 of each fiscal year regarding the number of States that have met the requirements of section 503(b) of the Violent Crime Control and Law Enforcement Act of 1994, as amended by this Act.

(c) EFFECTIVE DATE.—Begininng on the first day of the first fiscal year after the Attorney General has filed a report that certifies that 50 percent or more of the States have met the requirements of section 503(b) of the Violent Crime Control and Law Enforcement Act of 1994, as amended by this Act, title V of such Act shall become effective.

(d) PRISONS.—Until the requirements of this section are met, title II of the Violent Crime Control and Law Enforcement Act of 1994 shall remain in effect as such title was in effect on the day preceding the date of the enactment of this Act.

H.R. 667

OFFERED BY: MR. CHAPMAN

AMENDMENT NO. 19: Page 2, lines 24 and 25, strike ''either a general grant'' and insert ''general grants''.

Page 2, line 25, strike ''or'' and insert ''and''.

H.R. 667

OFFERED BY: MR. CHAPMAN

AMENDMENT NO. 20: Page 2, lines 24 and 25, strike ''either a general grant'' and insert ''general grants''.

Page 2, line 25, strike ''or'' and insert ''and''.

Page 6, line 6, strike ''title, if the State'' and insert ''title if,''

Page 6, line 7, strike ''title—'' and all that follows down through ''the'' on line 9, and insert ''title, the''.

H.R. 667

OFFERED BY: MR. CHAPMAN

AMENDMENT NO. 21. Page 7, line 8, strike ''or compact,'' and all that follows down through ''States'' on line 12, and insert the following: ''in the ratio that the number of part I violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of part I violent crimes reported by all States to the Federal Bureau of Investigation for 1993''.

H.R. 667

OFFERED BY: MR. DOGGETT

AMENDMENT NO. 22. Page 5, after line 2, add the following (and redesignate any subsequent sections accordingly):

''SEC. 504. GRANTS FOR THE CONFINEMENT OF VIOLENT YOUTH OFFENDERS.

''(a) IN GENERAL.—Notwithstanding the provisions of section 501(a) and 502(a), the Attorney General is authorized to provide grants to a State or States organized as a regional compact, and to a unit of local government or to a consortium of units of local government to build, expand, and operate temporary or permanent correctional facilities for youth offenders and violent youth offenders, including secure correctional facilities, boot camps, and detention centers. Funds received under this section may also be used to convert military bases to correctional facilities for youth offenders.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an applicant shall submit an application to the Attorney General which—

''(1) provides assurances that the applicant has increased, since 1993, mandatory lengths of stay for youth offenders;

''(2) provides assurances that the applicant has implemented policies that recognize the rights of crime victims;

''(3) provides evidence of a comprehensive correctional plan for youth offenders;

''(4) provides assurances that funds received under this section will be used to supplement not supplant other Federal, State or local funds, as the case may be, that would otherwise be available in the absence of such Federal funds;

''(5) provides documentation, if applicable, of a multi-State compact or local consortium agreement; and

''(6) provides a statement regarding eligibility criteria for participation in alternative correctional facilities such as boot camps.

''(c) DEFINITIONS.—For purposes of this section—

''(1) 'youthful offender' means an adjudicated juvenile delinquent and juveniles prosecuted as adults; and

''(2) 'unit of local government' has the same meaning given such term in section 901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

''(d) ALLOCATION OF FUNDS.—25 percent of the funds made available to carry out section 502(a) for each of fiscal years 1996 through 2000 shall be made available to carry out the purposes of this section.''.

Page 2, line 26, insert ''or discretionary grants for youth offenders under section 504'' before the period.

Page 7, line 15, insert '', a unit of local government or a consortium of units of local government'' after ''compact''.

Page 7, line 19, insert ''or unit of local government or a consortium of units of local government'' after ''State''.

Page 8, line 15, insert ''and 504(a)'' before the period.

H.R. 667

OFFERED BY: MR. SCHUMER

AMENDMENT NO. 23. Page 4, after line 22, insert the following:

''(c) TRANSFER OF UNUSED FUNDS.—On September 30 of each of fiscal years 1996, 1997, 1998, 1999, and 2000, the Attorney General shall transfer and make available any unexpended funds under this section to carry out section 502.

Page 8, strike lines 1 through 4.

H.R. 667

OFFERED BY: MR. SCHUMER

AMENDMENT NO. 24. Page 2, strike line 4 and all that follows through the matter preceding line 1, page 12, and insert the following:

TITLE I—PRISON BLOCK GRANT PROGRAM

SEC. 101. LOCAL CONTROL PRISON GRANT PROGRAM.

Subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

''Subtitle A—Prison Block Grants

''SEC. 201. PAYMENTS TO STATE GOVERNMENTS.

''(a) PAYMENT AND USE.—

''(1) PAYMENT.—The Attorney General shall pay to each State which qualifies for a payment under this title an amount equal to the sum of the amount allocated to such State under this title for each payment period from amounts appropriated to carry out this title.

''(2) USE.—Amounts paid to a State under this section shall be used by the State for confinement of persons convicted of serious violent felonies, including but not limited to, one or more of the following purposes:

''(A)(i) Building, expanding, operating, and maintaining space in correctional facilities in order to increase the prison bed capacity in such facilities for the confinement of persons convicted of a serious violent felony.

''(ii) Building, expanding, operating, and maintaining temporary or permanent correctional facilities, including boot camps, and other alternative correctional facilities, including facilities on military bases, for the confinement of convicted nonviolent offenders and criminal aliens for the purpose of freeing suitable existing space for the confinement of persons convicted of a serious violent felony.

''(iii) Contributing to funds administered by a regional compact organized by two or more States to carry out any of the foregoing purposes.

''(b) TIMING OF PAYMENTS.—The Attorney General shall pay to each State that has submitted an application under this title not later than—

''(1) 90 days after the date that the amount is available, or

''(2) the first day of the payment period if the State has provided the Attorney General with the assurances required by section 203(d),

whichever is later.

''(c) ADJUSTMENTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the Attorney General shall adjust a payment under this title to a State to the extent that a prior payment to the State was more or less than the amount required to be paid.

''(2) CONSIDERATIONS.—The Attorney General may increase or decrease under this subsection a payment to a State only if the Attorney General determines the need for the increase or decrease, or if the State requests the increase or decrease, not later than one year after the end of the payment period for which a payment was made.

''(d) RESERVATION FOR ADJUSTMENT.—The Attorney General may reserve a partnership of not more than 2 percent of the amount under this section for a payment period for all States, if the Attorney General considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the States.

''(e) REPAYMENT OF UNEXPENDED AMOUNTS.—

''(1) REPAYMENT REQUIRED.—A State shall repay to the Attorney General, by not later than 27 months after receipt of funds from the Attorney General, any amount that is—

''(A) paid to the State from amounts appropriated under the authority of this section; and

''(B) not expended by the unit within 2 years after receipt of such funds from the Attorney General.

''(2) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Attorney General shall reduce payment in future payment periods accordingly.

''(3) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Attorney General as repayments under this subsection shall be deposited in a designated fund for future payments to States.

''(f) NONSUPPLANTING REQUIREMENT.—Funds made available under this title to States shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of funds under this title, be made available from State sources.

''SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title—

''(1) $232,000,000 for fiscal year 1995;

''(2) $997,500,000 for fiscal year 1996;

''(3) $1,330,000,000 for fiscal year 1997;

''(4) $2,527,000,000 for fiscal year 1998;

''(5) $2,660,000,000 for fiscal year 1999; and

''(6) $2,753,100,000 for fiscal year 2000.

''(b) ADMINISTRATIVE COSTS.—Not more than 2.5 percent of the amount authorized to be appropriated under subsection (a) for each of the fiscal years 1996 through 2000 shall be available to the Attorney General for administrative costs to carry out the purposes of this title. Such sums are to remain available until expended.

''(c) AVAILABILITY.—The amounts authorized to be appropriated under subsection (a) shall remain available until expended.

''SEC. 203. QUALIFICATION FOR PAYMENT.

''(a) IN GENERAL.—The Attorney General shall issue regulations establishing procedures under which a State is required to give notice to the Attorney General regarding the proposed use of assistance under this title.

''(b) GENERAL REQUIREMENTS FOR QUALIFICATION.—A State qualifies for a payment under this title for a payment period only if the State submits an application to the Attorney General and establishes, to the satisfaction of the Attorney General, that—

''(1) the State will establish a trust fund in which the State will deposit all payments received under this title;

''(2) the State will use amounts in the trust fund (including interest) during a period not to exceed 2 years from the date the first grant payment is made to the State;

''(3) the State will expend the payments received in accordance with the laws and procedures that are applicable to the expenditure of revenues of the State;

''(4) the State will use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Attorney General after consultation with the Comptroller General and as applicable, amounts received under this title shall be audited in compliance with the Single Audit Act of 1984;

''(5) after reasonable notice form the Attorney General or the Comptroller General to the State, the State will make available to the Attorney General and the Comptroller General, with the right to inspect, records that the Attorney General reasonably requires to review compliance with this title or that the Comptroller General reasonably requires to review compliance and operation;

''(6) a designated official of the State shall make reports the Attorney General reasonably requires, in addition to the annual reports required under this title; and

''(7) the State will spend the funds only for the purposes authorized in section 201(a)(2).

''(c) SANCTIONS FOR NONCOMPLIANCE.—

''(1) IN GENERAL.—If the Attorney General determines that a State has not complied substantially with the requirements or regulations prescribed under subsection (b), the Attorney General shall notify the State that if the State does not take corrective action within 60 days of such notice, the Attorney General will withhold additional payments to the State for the current and future payment period until the Attorney General is satisfied that the State—

''(A) has taken the appropriate corrective action; and

''(B) will comply with the requirements and regulations prescribed under subsection (b).

''SEC. 204. ALLOCATION AND DISTRIBUTION OF FUNDS.

''(a) STATE DISTRIBUTION.—Except as provided in section 203(c), of the total amounts appropriated for this title for each payment period, the Attorney General shall allocate for States—

''(1) 0.25 percent to each State; and

''(2) of the total amounts of funds remaining after allocation under paragraph (1), an amount that is equal to the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

''(b) UNAVAILABILITY OF INFORMATION.—For purposes of this section, if the data regarding part 1 violent crimes in any State for 1993 is unavailable or substantially inaccurate, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for 1993 for such State for the purposes of allocation of any funds under this title.

''SEC. 205. UTILIZATION OF PRIVATE SECTOR.

''Funds or a portion of funds allocated under this title may be utilized to contract with private, nonprofit entities or community-based organizations to carry out the purposes specified under section 201(a)(2).

''SEC. 206. PUBLIC PARTICIPATION.

''(a) IN GENERAL.—A State expending payments under this title shall hold at least one public hearing on the proposed use of the payment from the Attorney General.

''(b) VIEWS.—At the hearing, persons, including elected officials of units of local government within such State, shall be given an opportunity to provide written and oral views to the State and to ask questions about the entire budget and the relation of the payment from the Attorney General to the entire budget.

''(c) TIME AND PLACE.—The State shall hold the hearing at a time and place that allows and encourages public attendance and participation.

''SEC. 207. ADMINISTRATIVE PROVISIONS.

''For the purposes of this title:

''(1) The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that American Samoa, Guam, and the Northern Mariana Islands shall be considered as one State and that, for purposes of section 104(a), 33 percent of the amounts allocated shall be allocated to American Samoa, 50 percent to Guam, and 17 percent to the Northern Mariana Islands.

''(2) The term 'payment period' means each 1-year period beginning on October 1 of any year in which a grant under this title is awarded.

''(3) The term 'part 1 violent crimes' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.''.

H.R. 667

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 25: In the matter proposed to be added by section 101 of the bill by section 503(b)(2) of the Violent Crime Control and Law Enforcement Act of 1994, insert ''victims of the defendant or the family of such victims, the local media, and the convicting court'' after ''notify''.

H.R. 667

OFFERED BY: MR. VOLKMER

AMENDMENT NO. 26: Page 2, line 10, Strike, and all that follows through Page 7, line 12.

Page 9, line 7, Strike and all that follows through Page 10, line 10.

Page 2, line 10, insert the following:

''SEC. 501. GRANTS AUTHORIZED.

(a) GRANT AUTHORIZATION.—The Attorney General shall make grants to individual States to construct, expand, and improve prisons and jails.

(b) AMOUNTS AUTHORIZED.—Grants totalling $3,000,000,000 shall be made to each State not later than October 30, 1995, and grants to each State totalling $3,000,000,000 shall be made annually thereafter in each of the years from fiscal year 1996 through fiscal year 1998.

(c) GRANT ALLOCATION.—All such grants shall be made without conditions imposed by the Federal Government, not withstanding any other provision of Federal law, except to comply with the provisions of this title and that the use of such funds shall be exclusively for the construction of prisons and jails. States shall be encouraged to allocate appropriate portions of their grants to local governments within their jurisdictions for the construction of jails.

(d) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out this title $3,000,000,000 for each of fiscal years 1995, 1996, 1997, and 1998. All such moneys shall be appropriated from the Violent Crime Reduction Trust Fund.

(e) DISTRIBUTION OF FUNDS IN FISCAL YEAR 1995.—Of the total amount of funds appropriated under this title in fiscal years 1995, 1996, 1997 and 1998 there shall be allocated to each State an amount which bears the same ratio to the amount of funds appropriated pursuant to this title as the number of part I violent crimes reported by the States to the Federal Bureau of Investigation for the preceding year which appropriated bears to the number of part I violent crimes reported by all States to the Federal Bureau of Investigation for such preceding year.

SEC. 502. LIMITATIONS OF FUNDS.

(a) NONSUPPLANTING REQUIREMENT.—Funds made available under the title shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from States sources.

(b) ADMINISTRATIVE COSTS.—Not more than 3 percent of the funds available under the title may be used for administrative costs.

(c) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under this title shall be 75 percent of the total costs of the program as described in application.

(d) CARRY OVER OF APPROPRIATIONS.—Any funds appropriated but not expended as provided by this section during any fiscal year shall be carried over and will be made available until expended.

SEC. 503. DEFINITIONS.

For purposes of this title—

(1) the term 'violent crime' means—

(A) a felony offense that has as an element the use, attempted use, or threatened use of physical force against the person of another, or

(B) any other offense that is a felony and that, by its nature, involves substantial risk that physical force against the person of another may be used in the course of committing the offense;

(2) the term 'serious drug offender' has the same meaning as that is used in section 924(e)(2)(A) of title 19, United States Code;

(3) the term 'State' means any of the United States and the District of Columbia;

(4) the term 'convicted' means convicted and sentenced to a term in a State corrections institution or a period of formal probation; and

(5) the term 'part I violent crimes' means murder, rape, robbery, and aggravated assault as those offenses are reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

And renumber ''SEC. 506'' as ''SEC. 504'' and ''SEC. 507'' as ''SEC. 505''.

H.R. 667

OFFERED BY: MR. WELLER

AMENDMENT NO. 27: On page 6, after line 20, insert the following new subsection (c):

''(c) FUNDS FOR JUVENILE OFFENDERS.—If a State which otherwise meets the requirements of the section certifies to the Attorney General that exigent circumstances exist which require that the State expend funds to confine juvenile offenders, the State may use funds received under this title to build, expand, and operate juvenile correctional facilities or pretrial detention facilities for such offenders.

H.R. 667

OFFERED BY: MR. WYDEN

AMENDMENT NO. 28: Page 1, after line 22, insert the following:

''Such grants may also be used to build, expand, and operate secure youth correctional facilities.''

Page 6, after line 2, insert the following (and redesignate any subsequent subsections accordingly):

''(b) JUVENILE JUSTICE INCENTIVE.—Beginning in fiscal year 1998, 15 percent of the funds that would otherwise be available to a State under section 502 or 503 shall be withheld from any State which does not have an eligible system of consequential sanctions for juvenile offenders.

Page 10, line 7, delete ''and'' at the end of the line.

Page 10, at the end of line 10, strike the period and insert '';'', and add the following:

''(4) the term 'an eligible system of consequential sanctions for juvenile offenders' means that the State or States organized as a regional compact, as the case may be—

''(A)(i) have established or are in the process of establishing a system of sanctions for the State's juvenile justice system in which the State bases dispositions for juveniles on a scale of increasingly severe sanctions for the commission of a repeat delinquent act, particularly if the subsequent delinquent act committed by such juvenile is of similar or greater seriousness or if a court dispositional order for a delinquent act is violated; and

''(ii) such dispositions should, to the extent practicable, require the juvenile delinquent to compensate victims for losses and compensate the juvenile justice authorities for supervision costs;

''(B) impose a sanction on each juvenile adjudicated delinquent;

''(C) require that a State court concur in allowing a juvenile to be sent to a diversionary program in lieu of juvenile court proceedings;

''(D) have established and maintained an effective system that requires the prosecution of at least those juveniles who are 14 years of age and older as adults, rather than in juvenile proceedings, for conduct constituting—

''(i) murder or attempted murder;

''(ii) robbery while armed with a deadly weapon;

''(iii) battery while armed with a deadly weapon;

''(iv) forcible rape;

''(v) any other crime the State determines appropriate; and

''(iv) the fourth or subsequent occasion on which such juveniles engage in an activity for which adults could imprisoned for a term exceeding 1 year;

unless, on a case-by-case basis, the transfer of such juveniles for disposition in the juvenile justice system is determined under State law to be in the interest of justice;

''(E) require that whenever a juvenile is adjudicated in a juvenile proceeding to have engaged in the conduct constituting an offense described in subparagraph (D) that—

''(i) a record is kept relating to that adjudication which is—

''(I) equivalent to the record that would be kept of an adult convictin for that offense;

''(II) retained for a period of time that is equal to the period of time records are kept for adult convictins; and

''(III) made available to law enforcement officials to the same extent that a record of an adult conviction would be made available;

''(ii) the juvenile is fingerprinted and photographed, and the fingerprints and photograph are sent to the Federal Bureau of Investigation; and

''(iii) the court in which the adjudication takes place transmits to the Federal Bureau of Investigation the information concerning the adjudication, including the name and birth date of the juvenile, date of adjudication, and disposition.

''(F) where practicable and appropriate, require parents to participate in meeting the dispositional requirements imposed on the juvenile by the court;

''(G) have consulted with any units of local government responsible for secure youth correctional facilities in setting priorities for construction, development, expansion and modification, operation or improvement of juvenile facilities, and to the extent practicable, ensure that the needs of entities currently administering juvenile facilities are addressed; and

''(H) have in place or are putting in place systems to provide objective evaluations of State and local juvenile justice systems to determine such systems' effectiveness in protecting the community, reducing recidivism, and ensuring compliance with dispositions.''.

H.R. 667

OFFERED BY: MR. WYNN

AMENDMENT NO. 29: Page 9, after line 6 insert the following:

''(6) DEFICIT REDUCTION.—Notwithstanding any other provision of this title, any funds that are not distributed pursuant to this title to carry out section 503 shall, in the fiscal year following the fiscal year that such funds were made available, revert to the Department of Treasury to reduce the deficit.''.

H.R. 667

OFFERED BY: MR. ZIMMER

AMENDMENT NO. 30: Add at the end the following new title:

TITLE —PRISON CONDITIONS

SEC. . PRISON CONDITIONS.

(a) IN GENERAL.—The Attorney General shall by rule establish standards regarding conditions in the Federal prison system that provide prisoners the least amount of amenities and personal comforts consentent with Constitutional requirements and good order and discipline in the Federal Prison system.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to establish or recognize any minimum rights or standards for prisoners.

SEC. . ANNUAL REPORT.

The director of the Bureau of Prisons shall submit to Congress on or before December 31 of each year, beginning on December 31, 1995 a report setting forth the amount spent at each Federal correctional facility under the jurisdiction of the Bureau of Prisons for each of the following items:

(1) The minimal Requirements necessary to maintain Custody and security of prisoners.

(2) Basic nutritional needs.

(3) Essential medical services.

(4) Amenities and programs beyond the scope of the items referred to in paragraphs (1) through (3), including but not limited to—

(A) recreational programs and facilities;

(B) vocational and education programs; and

(C) counseling services, together with the rationale for spending on each category and empirical data, if any, supporting such rationale.

H.R. 728

OFFERED BY: MS. JACKSON LEE

AMENDMENT NO. 2: Page 6, after line 10, insert the following:

(g) APPORTIONMENT REQUIREMENT.—''Funds made available under this title to units of local government shall be equitably apportioned between the categories of programs set forth in sections (2) (A–C), above. Under no circumstance should 100% of any allocation be expended on only one category of programs listed above.''

H.R. 728

OFFERRED BY: MS. JACKSON LEE

AMENDMENT NO. 3: Page 4, after line 5, insert the following:

''(D) Establishing the programs described in the following subtitles of title III of the Violent Crime Control and Law Enforcement Act of 1994 (as such title and the amendments made by such title were in effect on the day preceding the date of the enactment of this Act):

''(i) Assistance for Delinquent and At-Risk Youth under subtitle G.

''(ii) Urban Recreation and At-Risk Youth under subtitle O which made amendments to the Urban Park and Recreation Recovery Act of 1978.

''(iii) Gang Resistance and Education Training under subtitle X.''

Page 6, after line 24, insert the following (and redesignate any subsequent subsections accordingly):

''(c) PREVENTION SET-ASIDE FOR YOUTH.—Of the amounts to be appropriated under subsection (a), the Attorney General shall allocate $100,000,000 of such funds for each of fiscal years 1996 through 2000 to carry out the purposes of subparagraph (D) of section 101(a)(2).

H.R. 729

OFFERED BY: MR. FIELDS OF LOUISIANA

AMENDMENT NO. 2: In the matter proposed to be inserted in section 3593(e) of title 18, United States Code, by section 201, insert ''or a sentence of life imprisonment without the possibility of release'' after ''shall recommend a sentence of death''.

Strike subsection (b) of section 201 and eliminate the subsection designation and heading of subsection (a).

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Senate

(Legislative day of Monday, January 30, 1995)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rabbi Joshua O. Haberman, of the Washington Hebrew Congregation.

PRAYER

The guest Chaplain, the Rabbi Joshua O. Haberman, offered the following prayer:

Let us pray:

Creator of all the world: Thou who has set limits to the forces of nature to keep all things in balance, help us to cope with the forces of human nature. Help us distinguish the line between right and wrong; between the interest of some and the welfare of many; between instant gain and the larger, lasting good of future years.

Lead us by Thy justice to enact just laws and by Thy mercy to lift up the fallen.

We thank Thee for all men and women who are faithful to their public trust. May they keep America free, strong, and righteous. May the Lord grant strength unto His people. May the Lord bless His people with peace. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. GORTON. Mr. President, this morning the time for the two leaders has been reserved, and there will now be a period for the transaction of morning business until the hour of 9:30 a.m., with Senators permitted to speak for up to 5 minutes each, and with Senator LAUTENBERG to speak for up to 15 minutes.

At the hour of 9:30, the Senate will resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment and the pending amendments thereto.

Under the order entered last night, debate between the hours of 9:30 and 11:30 will be equally divided between the two leaders or their designees. At the hour of 11:30 a.m., Senator DASCHLE will be recognized for 15 minutes, to be followed by Senator DOLE for 15 minutes. At 12 noon today, the majority leader will make a motion to table the Daschle motion to recommit, so all Senators should be aware that there will be a rollcall vote at noon today.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. COVERDELL). Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business.

THE BALANCED BUDGET AMENDMENT

Mr. PELL. Mr. President, the balanced budget amendment is certainly an appealing idea. I can understand why many believe that it is a necessary procedural reform to ensure fiscal responsibility. I voted for the concept in 1986 when there seemed to be a lack of shared political will, between Congress and the Executive, to impose discipline.

Last year, it seemed to me that the atmosphere had improved dramatically, and I opposed the balanced budget amendment because of the substantial and significant strides which the Clinton administration was then making, and continued to make, to curb expenditures and reduce the deficit.

Now, things appear even more promising for the imposition of fiscal restraint. The new congressional majority has made it a primary objective, and the President remains committed to the idea of smaller and leaner government, although I might add parenthetically that I wish his 1996 budget would have gone a bit further than it does in this direction.

But I am not yet convinced that this apparent convergence of political will power should result in a constitutional amendment that dictates procedure for all time to come.

For one thing, I, like many of my colleagues want to see where it will lead in the immediate future. I want to know the full consequences of a 7-year plan to bring revenues and expenditures into balance.

In particular, I want to know the impact on programs in which I have a deep and abiding interest as a legislator—education programs, foreign aid, support for the United Nations, and support for the arts and humanities.

And I especially need to know if the cumulative loss of Federal aid to the State of Rhode Island over the 7-year period ending in 2002 could indeed be nearly $1.8 billion as has been predicated, and, if so, how will my small State adjust to such a massive change.

For all of these reasons I joined in cosponsoring the right-to-know amendment offered by our distinguished minority leader, Senator DASCHLE. We not only have a right to know, we have a responsibility to ask.

But even if we succeed in getting all the right answers I still am not sure

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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the case will be made for amending the Constitution.

I am troubled by the reservations which have been expressed—economic, fiscal, and constitutional—as we look more closely beneath the attractive surface of the proposed amendment.

I wonder about the economic impact of rapid withdrawal of some $1.6 trillion in Federal spending in the arbitrary timeframe of the next 7 years. Some have warned that the resulting fiscal drag could virtually wreck the economy, especially if it should coincide with high interest rates or a recession.

I wonder too about the rigid annual requirement for balance in each fiscal year. Some have called it ritualistic in its disregard for the more random vagaries of economic cycles, precluding the timely operation of automatic stabilizers such as unemployment insurance during downswings when tax receipts may be on the decline.

And on the other side of the ledger, I wonder if the ritual requirement to balance might deter the accumulation of budget surpluses in good years, since the pending amendment might tend to promote unreasoning tax slashes when such opportunities arise.

I wonder if this constitutional amendment will be any more immune to evasion and accounting chicanery than other attempts to put the political process in a straightjacket. I think of the experience of my own State of Rhode Island where, in order to comply with a constitutional mandate and to take advantage of independent financing authority, various categories of expenditures simply have been moved off budget to a number of commissions and authorities.

And finally, Mr. President, I wonder about the wisdom of using our Constitution for the purpose of imposing accounting rules. Will this amendment still be relevant a century from now in the light of now-unforeseen developments in technology, medical science, space exploration, demographic changes, and all intervening natural disasters and climatic variations?

From the perspective of 2095, it may appear rather anomalous that the U.S. Senate spent much of the month of February 1995 trying to mandate for all time that our books should be balanced, down to the last dollar and cent, at the end of each 12-month period.

Having said that, Mr. President, I would only add that if this amendment is not approved, there will be a great burden on us all to get to work with a minimum of recrimination to produce the general result which would have been mandated; namely, a progressive reduction in Government spending and a corresponding alleviation of debt, hopefully at a more measured pace and without resort to troublesome arbitrary time constraints. I pledge my support to the effort.

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

The PRESIDING OFFICER. Does the Senator from Rhode Island withhold his request?

Mr. PELL. Mr. President, I withhold my request.

Mr. BREAUX. Mr. President, are we still in morning business?

The PRESIDING OFFICER. The Senate is conducting morning business until 9:30.

URGE ADOPTION OF RIGHT-TO-KNOW AMENDMENT

Mr. BREAUX. Mr. President, I thank the Chair.

I would like to use just a couple of minutes in morning business to comment on a very important vote that the Senate will engage in, sometime around noon today. That is on the motion which I guess will be made to table the right-to-know amendment or to send it back to committee, and why I think it is very important that this body adopt a right-to-know amendment so that the people back in the respective States, when their legislators have to vote on this very important balanced budget amendment, will know what they are voting on.

I support a balanced budget amendment. I have supported it in the past. I have voted for it in the past. I hope to be able to vote for it again.

The thing that really concerns me is that we would expect that someone who proposes a balanced budget amendment, like our colleagues on the other side of the aisle, one would expect if they propose this, they would have an idea about how they will do it; that they have a plan that allows them to get, in the year 2002, to a balanced budget. Surely, they are not just proposing a balanced budget amendment without any plan, or without any idea as to how they are going to get there.

I have not seen the plan. That is what I think the American people are entitled to. Is there a secret plan on how to balance the budget that they do not want to share with the American people, that they do not want to share with the Governors of the respective States who will have to live by it, as well as us? Is there a secret plan they do not want to tell the members of the legislatures about, because if they see it, it may be so devastating they will not vote for it? Is there a secret plan to reach the year 2002 that cuts Social Security, slashes spending on Medicare, health programs for the elderly? Is there a secret plan, for instance, which wipes out State highway programs?

I do not know. I do not think anybody knows. Surely those who propose a balanced budget must have in their heads an idea of how to get there. The only thing that we are suggesting is that before we send the balanced budget amendment to the States and say, ''Vote on it,'' that we share with them the secret plan. If there is a plan that proposes how we get there, let Members see it.

What is wrong with it? If the balanced budget amendment is a good thing, and I think it is, certainly how we get to that balanced budget is something that is equally important. It may be that there is a golden secret plan that does not cut defense, that does not have any tax increases, that does not cut Social Security, that does not cut Medicare, that does not cut highway programs, and yet gets to a balanced budget by the year 2002. If there is such a plan, let me see it. Let me show it to the States so that when they vote on it they will know exactly what they are voting on.

I think the bottom line, Mr. President and my colleagues, is that the American people not only have a right to know, but in the real world, they have a need to know. I want my legislators in Louisiana, when they vote on this balanced budget, to say, ''Now we know how it will be achieved. Here is what we have to do as a State in order to make it work.''

This is a partnership, I say to my colleagues. We are not doing this by ourselves. This is a partnership arrangement between the Congress, the Federal Government, and the States. We all will have to share in it. Maybe States will have to increase taxes. It might be they will have to slash State programs that the Federal Government cannot assist, as in the past, with many of these programs. But the bottom line is that the only protection the American people have is the right to know what we are talking about.

I will say, once again, that surely the people who have proposed a balanced budget have a plan. It should not be a secret plan, it should be a public plan. The only thing that we are asking is that it should be made part of this effort so that when the States are called upon to act on this, they will be able to do it intelligently, and not have to do it in the dark.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that ''Reagan ran up the Federal debt'' or that ''Bush ran it up, bear in mind that the Founding Fathers made it very clear that it is the constitutional duty of Congress to control Federal spending.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,806,972,690,433.20 as of the close of business Tuesday, February 7. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $18,247.10.

SUSSEX COUNTY, DE: NO. 1 IN COUNTRY

Mr. BIDEN. Mr. President, I am very proud to come to the Senate floor today to announce that the 1992 Census of Agriculture has named Sussex County, the southern most county in the beautiful State of Delaware, as the No. 1 poultry producing county in the United States. As my hometown newspaper, the Wilmington News Journal, so eloquently stated it: ''Sussex County still rules the roost as the chicken-growin'est county in the nation.''

Of course, being the No. 1 producer is nothing new for Sussex County—the county has officially remained the No. 1 producer since 1982. In fact, Sussex County has been the unofficial leading poultry producer since the industry got its start in Ocean View, DE, in 1923.

It all started with Mrs. Wilmer Steele when she placed an order for 50 chicks, intended for egg production, and ended up with 500. She decided to raise rather than return the extra chicks, and when they were big enough she sold approximately 400 of them to a local buyer. Three years later, she and her husband were raising 25,000 young chickens and selling them to the local population who were discovering the versatility of chicken meat. America is eating about 10 times as much chicken today as we were in 1925, numbers attributable to the fact that chicken is high in protein, low in fat, tasty, and very affordable.

Mr. President, we are doing everything we can in Delaware to maintain the productivity of the poultry industry nationwide. Today there is a disease, harmless to humans but deadly for chickens, affecting the productivity of Delaware poultry industry flocks. Avian diseases such as this affect flocks across the country on a regular basis. In an effort to prevent the economic damage done by these outbreaks, the University of Delaware, in cooperation with the Federal Government and private industry, is building a poultry research facility that will help the poultry industry solve this type of disease problem.

I have worked very closely with the poultry industry people in my State to get this facility up and running. The Delmarva poultry industry has an outstanding record of commitment to research and development in avian diseases and I am hopeful that the remainder of the funds needed to finish this project can be secured this year. The growers who are responsible for keeping Sussex County and the Delmarva Peninsula in the ranks of the top producers know the importance of this facility to the national production of poultry.

Mr. President, I would like to congratulate Sussex County for, once again, achieving No. 1 producer status and for providing the American public with healthy and affordable nutrition.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, under the previous order, the period for morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of House Joint Resolution 1, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States.

The Senate resumed consideration of the joint resolution.

Pending:

Daschle motion to commit the resolution, with instructions to report back forthwith, with Daschle amendment No. 231, to require a budget plan before the amendment takes effect.

Dole amendment No. 232 (to instructions to commit), to establish that if Congress has not passed a balanced budget amendment to the Constitution by May 1, 1995, within 60 days thereafter, the President shall transmit to Congress a detailed plan to balance the budget by the year 2002.

Dole amendment No. 233 (to amendment No. 232), in the nature of a substitute.

The PRESIDING OFFICER. The time between 9:30 a.m. and 11:30 a.m. shall be equally divided between the two leaders or their designees. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. Mr. President, I will manage the time on this side until the minority leader appears. I yield to myself such time as I may consume.

Mr. President, this is not an insignificant or an unimportant issue. The Senate is debating the issue of whether to change the U.S. Constitution and, if so, how to change it.

The reason we are at this point today is because the country has had fiscal policy problems of a very significant nature. We have had very significant yearly budget deficits, and we are now bearing a very large Federal debt.

And the question is: What can or should be done about that? I guess most people here would not mind very much if we had a very large Federal deficit if it resulted from our having to fight a war to protect our liberty and freedom. I do not think anyone would complain much about floating bonds and going into debt to protect this country and to protect freedom and liberty. We would understand that.

I do not suppose anybody would complain very much about a Federal deficit if we spent several hundred billion dollars that we did not have and we cured cancer just like that. It would be well worth the price. I do not imagine anyone would complain very much of having borrowed to do that.

But that is not what we are doing today. We have operating budget deficits year after year after year that represent a very significant imbalance between the amount of money we take in and the amount of money needed to routinely run the Government and do the things that this Government does, including all of the transfer payments and all of the programs. And that is the problem. It is not a new problem.

I understand that in this Chamber when you look at the division of the Chamber, some will stand up and decide to boast, ''Gee, we're the conservatives, we're the ones who want to help the taxpayer and save the money and save the country, and you all, you're the liberals, you're the ones who want to tax and spend.''

Total baloney, total nonsense. There is not a plugged nickel's worth of difference between the appetite for spending the taxpayers' money on that side of the aisle as opposed to this side of the aisle. That side of the aisle wants to spend it on military; we want to spend it on milk for hungry kids. The fact is, you look at the record in 15 years and I guarantee you will discover not any significant difference at all in terms of the appetite about how much money the two sides want to spend. Oh, they have different priorities, no question about that. They want to spend it on different things. But they all have the appetite for spending.

But we do not have an appetite to raise the money for that which we spend. So the question is, what do we do about that? The answer is, we cannot spend that which we do not have. We have to cut back. We have to deal with that honestly. We have to make tough choices, and that is why we come to this juncture.

Tough choices are choices that often persuade Members of this body and the other body in our legislative branch to gnash their teeth and sweat profusely and wring their hands and worry and not sleep because they are tough votes, they are awful choices. People think that somebody is going to be angry, maybe I will lose my job. If that is the attitude, one ought not serve here. These are not tough choices. These are issues you look at and decide what is right for this country, what makes sense, what must we do to fix what is wrong.

Every day that I serve in this Senate, I am proud of that service, and some days I rue the fact that there are many who decide that public service is unworthy and Government somehow is corrupt and evil and bad and cast those kinds of aspersions. I am proud of my service here. I think public service is a wonderful undertaking.

Mine comes, I suppose, from a family history and background. I was reading last evening something my brother, who is a journalist, had written about my ancestors. One of them was a great-grandmother named Carolyn and a great-grandfather named Otto. They got married in Oslo, Norway, and moved to Minnesota. They had eight children. Then Otto died, and Carolyn,

living in Minnesota with eight children and a husband who just died, apparently contemplated what to do in life.

What Carolyn did was respond to something that the Federal Government did. The Federal Government said to the people, ''If you are willing to move into a homestead out on the Great Plains, we will give you a quarter section of land. If you want to go out and claim it, go farm it, go live on it, we will give you a quarter section of land.''

So Carolyn with all these children, a husband just died, moved to North Dakota, Cherry Butte Township, ND, and pitched a tent on the prairie with her kids. This strong Norwegian woman homesteaded a quarter section of land and built herself a house and built herself a farm, raised a family and had a son who had a son who had me. And here I am.

I think of the strength of someone like Carolyn, and all of us have these folks in our background. Tough choices? I suppose that is a tough choice, losing your husband and deciding to move to pitch a tent on the winter prairies of North Dakota with your children to try to start and build a farm and make a go of it. That is a tough choice. These are not tough choices.

When we decide that we do not have the strength and we do not have the will to do the fundamental things that are necessary to protect and preserve and nurture this country's future, then something is wrong with all of us.

So I come to the floor today to say on this question there ought not be a serious question about whether we do something about this crippling budget deficit. That question ought not be asked anymore. Anybody who is still asking that question deserves to go out the other side of that door.

The question is what and how, and that is what the amendment is about today. The amendment we are going to vote on in a couple of hours does not say we do not want to balance the budget. It does not say we should not have a constitutional amendment to balance the budget. I have voted for a constitutional amendment to balance the budget in the past. I did not come here thinking we ought to do that, but I was persuaded over the years by Republicans and Democrats, yes, conservatives and liberals, who ratcheted up year after year deficit after deficit. I have been persuaded that any additional discipline, any additional incentive that requires balance is something I would support.

But we come today to vote on a constitutional amendment to balance the budget, and the question many of us ask is, is this just one more empty promise? Because, if it is, the pail is full of those, and the American people can hardly lift it anymore. Or does this have some strength and some meat? Is this honest? Is this going to lead to a plan that actually balances the budget?

Why do we ask? We ask because those who propose this, those who say let us change the Constitution, let us improve on the work of Washington and Madison and Franklin and Jefferson and others who contributed to the Constitution, they say: ''We want to do a couple things. We recognize there is a big deficit in this country, but we want to do a couple things. One, we want to cut the income by cutting taxes and, two, we want to increase defense spending.''

It is logical for those who took simple arithmetic that if you are going to increase the biggest area of public spending and decrease your revenue, one might be willing, and probably required, to ask then how are you going to get to a balanced budget? What is your plan? Or is this another empty vessel, one more broken promise? Is this just politics?

We have offered an amendment that is called the right-to-know amendment, and we are just saying that in this country, if this is not an empty promise, if this is not an empty vessel, then somebody must have a plan that says we can cut taxes and increase defense spending and by the year 2002 find a balanced budget out there.

I hope we can find a balanced budget by the year 2002, and I plan to be part of the solution to do that. I may vote for this constitutional amendment to balance the budget, but I do not understand why anyone in this Chamber would vote against this amendment called the right-to-know amendment.

One prominent Member of Congress says, ''Well, if the American people understood what this means, it would make their knees buckle.'' Does he know something that I do not know? Does he know what the plan is? Is there a mystery plan there someplace that he is aware of that is going to make people's knees buckle? If so, I wonder if he shared it with the Presiding Officer. He has not shared it with me. I suspect he has not shared it with you.

The question is, I guess, is there a plan out there someplace? Is there a mystery plan floating around that is going to make people's knees buckle? If so, let us hear it, let us have it, let us debate it, let us discuss it.

I remember a television commercial—one of my favorites—about chicken. The television commercial was a customer that came up to the counter and wanted to know what was in these chicken nuggets. The person at the counter said, ''Well, its chicken.''

''Well, what kind of chicken?''

''Chicken parts,'' they said.

''Well, what kinds of chicken parts?''

And the person behind the counter said, ''Different parts.''

I wonder what is in a plan in the minds of those who propose to balance the budget, mystery meat of some type?

Could they share it with us, maybe? How do you get from here to there? Does anybody who took arithmetic understand you cannot increase your biggest area of spending, cut your revenue, and get from here to there?

I do not understand what they are telling us. So we are saying if this is more than an empty promise, let us fill it up a bit. Let us say to the American people here is what we are going to do, and here is how we are going to do it.

If we are not willing to do that, what we are saying is this is business as usual. This is not about policy. This is not about substance. This is about politics. And if this is about politics, then this is not about balancing the budget. This is not about doing what we ought to do for this country's future.

So when we discuss the document that begins with ''We the People,'' and we decide we want to change a few words here and there, we are going to try and sort of monkey around a little bit because we have had a lot of people over a long period of years who have not had the courage to say you can only spend what you take in, when we discuss that and decide that, I wonder if we cannot begin to discuss what that would mean in practical terms for the American people.

We are going to have a task here that is pretty ominous, actually. But I for one think it is a task we must undertake.

Last evening, I was looking through this sheet, which does not mean much to anybody. It is a sheet by the Congressional Budget Office that plots out for 10 years what our spending and taxing and deficits will be. What this sheet says, to the extent that you can forecast out 10 years—it is kind of like forecasting the weather in North Dakota, a little uncertain. But what this says is at the current rate, with the current plan, we are talking about the potential of adding $4.3 trillion to the Federal debt—$4.3 trillion. If anybody thinks that we do not have a problem, just look at all the projections and understand we do not have any alternative. We have to deal with this. However, we cannot deal with it just as a political issue. We have to deal with it in a real way.

Now, we are going to have an amendment following this one on Social Security. I do not want five reasons that someone would vote against either the right-to-know amendment or the Social Security amendment. I would just like one decent reason, just one. There is only one reason someone would vote against a right-to-know amendment, I suppose, and that is because they have no plan and you cannot get there from here. You cannot be saying I wish to increase spending, and I want to cut revenue, and I wish to balance the budget.

So we have a right to know. The American people have a right to know. How can you know something that cannot be accomplished? I guess that is why we do not have a plan. But if this is honest, if it is real, if it is not just an empty promise, then why would someone vote against this right-to-know amendment? Why? And the next

amendment, the Social Security amendment, saying we take Social Security out of paychecks in a dedicated tax and put it in a trust fund. We say we promise, in a promise between the people who work and the people who retire in a binding contract, we promise to maintain a trust fund as a solemn obligation. We promise that it will be used for Social Security.

Why—just one reason, not five—would anyone vote against an amendment that says you cannot use Social Security trust funds, you cannot raid Social Security trust funds to balance the budget? It has not added 1 cent to the budget deficit. In fact, it is running a surplus. To the extent that we now have national savings extracted from that system, we need them when the baby boomers retire. So I am not asking for five reasons, just one decent reason someone would vote against either of these amendments.

Now, we will in the coming hours this morning continue to discuss what all of this means in terms of balancing the budget and plans and the ultimate vote on the constitutional amendment. And I would like, if I can—I know that we are in a situation where we do not have very thoughtful or very interesting debates, unfortunately. I think it would be more fun if we all talked to each other on the floor and figured out what we are doing. Is it political for you and me? Is it policy?

The Senator from Utah is here, and I have listened to him at great length, and I would like to engage in a dialog with him if we could for a couple of minutes.

We propose that if we say as a body, maybe with my vote, that we should change the Constitution, it is a big step. If we say that and we should therefore balance the budget by the year 2002, we say we have an obligation to the American people, to the State legislatures, to everyone out there to decide to give them some skeleton of a plan. Here is the way it is going to happen in 7 years.

Now, some say, well, it cannot be done in 7 years. We have a 5-year budget. Well, why not give us five-sevenths of the plan? Just give us a part of it. We will take a fraction.

I would ask the Senator, if I could, without losing my right to the floor, what prevents some in this Chamber from believing the American people have a right to know?

Mr. HATCH. That is a good question. I do not think anybody knows except for one thing. We have had over 10 plans offered by colleagues on both sides of the aisle, some together as bipartisan plans that would lead us to a balanced budget by the year 2002.

The problem is not 1 of those 10 plans has 51 votes. And we have worked on trying to come up with some way of satisfying everybody from a balanced budget standpoint for the whole 19 years I have been here, and we have not been able to do that.

Our contention is that we will never do that unless we pass the balanced budget amendment and put a fiscal mechanism in place so that literally we can balance the budget.

I just cite to the distinguished Senator a very interesting article that appeared in the Washington Times just this morning. It is entitled ''Social Security and the balanced budget.''

Now, the thrust of it is to criticize those who believe that you should exclude Social Security out of the balanced budget amendment; in other words, write a statute into the balanced budget amendment. But it does make a very interesting point here. This is by David Keating.

During the Vietnam war, an American officer was quoted saying we had to destroy the village in order to save it. Now the U.S. Senate may apply similar logic when it votes on a proposal to add a huge loophole to the Balanced Budget Amendment, supposedly to save Social Security.

Mr. DORGAN. All right, I get the drift.

Mr. HATCH. But the point I wanted to make—let me just take a second here. There was a point on this——

Mr. DORGAN. But I understand the point the Senator has made, and I do not want to——

Mr. HATCH. Let me conclude with just one more sentence to answer the Senator's question.

The fact is we have never been able to do it up to now, and there is no way that we should hold the amendment hostage, assuming we pass it by a two-thirds vote and send it to the States, there is no reason why we should hold it hostage until we take another 18 years to try to get together on a balanced budget without the balanced budget amendment being in place.

Mr. DORGAN. Mr. President, I understand the point the Senator from Utah makes. It is an interesting point. The reason I ask the question is this. The Senator's party controls the Senate. We understand that. I mean I was up election night and saw the results. I did not smile as broadly as the Senator did perhaps, but the fact is that is the way the system works.

Mr. HATCH. It is all relative.

Mr. DORGAN. Republicans control the Senate. Now, when we controlled the Senate, we passed a deficit reduction bill in 1993. It was a hard bill, in many respects, to get votes for. But we rounded up votes for it and, with 51 votes, passed a bill that, the statistics now demonstrate, cut the budget deficit by somewhere around $600 billion.

We did not even get one accidental vote on the other side of the aisle. You think somebody would just make a mistake over there. But I tell you, it took every single vote that we could muster on this side of the aisle to do what was necessary. This is heavy lifting. The political vote, the easy vote is to vote ''no'' and walk away. But we did not. We did it. We voted to cut the deficit in a significant way, and I went home and took a lot of heat, and I was proud to stand up and say I am not part of the problem, I am part of the solution. Even if it is controversial, even if some of you do not like it, I am going to cast my vote to try to fix what is wrong in this country.

The reason I make that point is this. You say that, well, you know, the reason we are not able to give you a plan is we do not think there is a plan out there that can get 51 votes.

Look, part of the responsibility of leadership when you run this Chamber is to come up with those votes—and I may join you on those votes. But at the very least, especially because of recent experience we have had where we could not even get one vote on that side of the aisle to do the heavy lifting, I think in this circumstance when you say let us change the Constitution, then you have a special obligation to provide the leadership to get the votes for a plan to say to the American people, here is what we stand for. It is not just words to change what Ben Franklin and Madison and others did. It is not just words. Here is what we stand for. Here is our plan. And here is what we are willing to vote for.

Mr. HATCH. Will the Senator yield on that?

Mr. DORGAN. I will be happy to yield.

Mr. HATCH. I respect the Senator and his Democratic colleagues for standing up and doing what they thought was right. We did not think it was right because we did not want to increase the taxes the way they did—or you did, the highest tax increase in history.

Mr. FORD. No, no.

Mr. HATCH. I know there are those who want to say the dollar is worth less and, therefore, Reagan's was the highest—therefore, they are both high. Both occurred because of people who felt the same way as people who voted last time.

But under the Daschle amendment, what it would do is it would hold things up. This is the one time in history where we have a chance of passing a balanced budget amendment, sending it to the States, letting the States make the determination whether they are going to ratify it, three-quarters of them, or 38 States, and make it part of the Constitution.

The Daschle amendment would basically hold that up until we come up with a balanced budget approach that passes 535 Members of Congress.

Mr. FORD. No.

Mr. HATCH. We think that is not the way to go. We believe we have to pass the balanced budget amendment, get it out to the States, and I assure my colleague, Republicans and Democrats will get together and we will have to come up with that glidepath in the year 2002. I think we will have to get a majority of both Houses to do it. That is the only way we are going to get there.

And my point about the last 19 years is that we have never been able to do it

in that time. I want to have the mechanism, the procedural route by which we can get there.

Mr. DORGAN. I understand that and I appreciate the point the Senator is making. I understand that is why they are likely to defeat this right-to-know amendment—which is a terrible mistake, incidentally, because the question of whether this is a real promise or a broken promise is really a judgment by the American people about: Is this simply more words and more posturing, more politics, or is there something here that is real?

The interesting point of all this is the American people, I think, are pretty resilient and pretty strong. You go through 200 years of history in this country, and they move right to left but they always come back to the strong center. And they have a good sense of what is right or wrong and a good sense of what ought to be done.

Mr. HATCH. I agree.

Mr. DORGAN. The fact is the American people are a lot more able to tolerate the kinds of medicine that need to be administered these days than most people here give them credit for. But I think they do want to know. They want to know if someone says: ''Look, we have the votes. We want to go off and build star wars. We know that is out of fashion, but it is not out of fashion with us. We want a star wars program. It is $30 billion, $40 billion. We want to build it because we have the muscle.''

Somebody back home will want to know, if you are going to build star wars, does that mean you are going to cut school hot lunch programs? They want to know what all this means, and those are simple issues. What are the priorities?

You can look back 100 years from now in this country and look at this country's budget and you can tell something about what our people were, what we felt was important, what we invested in, what we considered important for the future. You could tell that by what we decided to spend money on.

The American people, I think, given 18 or 20 years of promises—most of them empty—by both parties, given complicity in arranging this deficit by creating a situation where we spend more each year than we take in because we ratchet up all the entitlement programs to inflation and we ratchet down taxes on the other side so you create an imbalance—I think the people would want to say if this is not business as usual, if it is not really business as usual, why, then, are there not, this time, honest answers? Why are there not honest answers to the questions of what will this mean to us?

Mr. HATCH. Will the Senator yield?

Mr. DORGAN. What is this medicine about? I would say to the Senator from Utah, we have limited time. I probably consumed a few more minutes than I should have on my side. I would love to continue this. I hope we can have it when we do not have a time agreement, at some other time, because I would like to talk through some of these things. With that, I would like to——

Mr. HATCH. If the Senator will yield on my time?

Mr. DORGAN. I will be happy to yield on the Senator's time, sure.

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

Mr. HATCH. I think the Senator is making a terrific case for the balanced budget amendment. I know he is a supporter of it. So I commend him for that as well.

He makes the case that we are going to spend billions on star wars, will that take away from school lunches? Right now we just fund both of them because we do not have to live within any procedural or any disciplined constraints.

The balanced budget, if we pass it, then becomes the discipline through which we are going to have to look at defense as well as everything else and we are going to have to somehow or other come to a conclusion among competing programs and make priorities. I think it would force us to do that. Of course, that is the whole argument for a balanced budget amendment, and I think the Senator is making a good case for it.

I guarantee I will work with the distinguished Senator and others to try to get to that consensus, but until we get the discipline in place, we will never get there and we know it and everyone knows it.

Mr. DORGAN. My intention was to make a strong case for the right-to-know amendment, and I hope we will get some votes on the other side of the aisle to pass that. That will make this constitutional amendment an honest amendment, give people some hope that instead of talking about it, we will finally get something done.

Mr. President, I have consumed some time on our side of the aisle. We have a number of other people who want to speak. I know we have been going back and forth.

I yield to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, how much time remains on our side?

The PRESIDING OFFICER (Mr. KEMPTHORNE). The minority has 36 minutes.

Mr. FORD. Mr. President, I ask unanimous consent that the distinguished Senator from Wisconsin, Senator FEINGOLD, have up to 10 minutes and the distinguished Senator from the State of Washington, Senator MURRAY, have up to 5 minutes of our 36 minutes.

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

The Chair recognizes the Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I also rise to support this amendment. I offered a similar version of the right-to-know amendment, the glidepath amendment, in the proceedings in the Senate Judiciary Committee. I thought it was the best discussion we had in the committee after a couple of days of discussion. I thought the discussion on the right-to-know amendment was really the most thoughtful and the one that really crystallized the issue.

In at least two important ways, this is the truth amendment. First, in one sense the amendment is a truth test. If the supporters of this constitutional amendment are serious about balancing the budget, this amendment is the one that really provides that opportunity. The central concern I have had with the proposed balanced budget amendment is that it will actually undercut our efforts to reduce the deficit and balance the budget by just providing political cover for those who are unwilling to make these really tough decisions. Having voted for the balanced budget amendment, I fear Members will feel free to duck the real work of actually identifying and voting for real spending cuts and they will be able to continue to do this ducking of the issue as the States go through the rather laborious process of trying to see if they are going to ratify this thing in the next year or 2 or 7 years.

Of course, supporters of the constitutional amendment deny this assertion. They proclaim loudly they will seek specific cuts and we just have to wait and see what they might be. This amendment to the balanced budget amendment, this right-to-know amendment, provides those who are genuinely interested in ensuring the Congress does its job with the opportunity to demonstrate their commitment to real deficit reduction. It does what the proponents of a balanced budget amendment contend they want to do. This amendment forces Congress to get the job done. It forces Congress to lay out over the next 5 or 6 or 7 years, exactly how we are going to accomplish this.

Except, Mr. President, the good thing about this amendment that cannot be said about the balanced budget amendment is that the right-to-know amendment does not allow delay and evasion. It does not let the 104th Congress off the hook by simply passing an amendment, a balanced budget amendment, that does not lay out a single spending cut. The last Congress made substantial progress in reducing the budget deficits that have been generated by the budget policies of the 1980's. That progress was made because the 103d Congress was willing to lay out and have a very difficult process of discussing specific items to reduce the deficit. It was not easy. It was not always popular. But it was specific and it worked and the economy is sound and ultimately the efforts of the President and the majority at that time have been accepted by the American people.

Now there is a new majority, a new leadership in Congress. As is so often the case when there is a change in the ruling party, that new majority promises great change. On the first bill we considered in this Congress we were told very bluntly there would be no

amendments no matter how reasonable, no matter how necessary, because, in the words of the new majority and in the words of one Senator, it was because this is about who runs this place.

But when is the majority going to show us how they plan to reduce the deficit? In other words, when are they going to show us how they are going to run the place when it comes to balancing the budget? That is part of running the place.

Why is it the new Congress, from which all things are supposedly possible, is apparently incapable of providing us with a plan to reduce the deficit? Mr. President, a majority of those supporters of this proposed amendment who were here in 1993—and I am referring to the balanced budget amendment—refused to support the deficit reduction package that was passed and that has resulted in progress.

I remember the discussion in the Judiciary Committee of the Senator from Wyoming, Senator SIMPSON, who referred to past votes when the Republicans were in the majority, which he called times when the rubber hit the road. He said the Democrats were not there to help.

In 1993, the rubber hit the road here; $500 billion in deficit reduction was proposed and passed, and not one single Republican in either House chose to vote for those specific spending cuts.

That is, unfortunately, the only way this can be accomplished, identifying what has to be cut and actually doing it.

So I understand that nobody necessarily has to assign any particular plan. But if you are going to propose a balanced budget amendment I think you have a special burden to at least show us some plan with regard to how it is going to be accomplished.

Mr. President, I said there were two ways this was a truth amendment. The other is that this is the truth-in-packaging measure. The voters, local government, and the State legislatures that are asked to ratify this amendment are all entitled to know what supporters of the constitutional amendment mean to do before they modify the Constitution of the United States.

Looking at the Presiding Officer, one of leaders in this body of concern with State and local governments, this is exactly the kind of thing that this Senator has talked about—the fact that these folks have a right to know what we are up to out here, and that we do not lay an unreasonable burden on them in the form of the balanced budget amendment.

Unfortunately, though, the supporters of the balanced budget amendment have been very reluctant to provide that kind of information. They maintain that to reveal the whole horrible truth to the Congress and the public would make it impossible to pass the balanced budget amendment.

Mr. President, I find that kind of reasoning to be a gross underestimate of the American people. And it is amazing. It even reveals a little bit of an antidemocratic philosophy, and is a little bit insulting to the American people. This is a critical point. I think, in contrast, supporters of this proposal, instead of giving the information, want to alter one of the greatest testaments to democracy in history, our Constitution, and they want to do it in a way, they freely admit, they say would be opposed by the people if they knew what was proposed. The obvious irony of this is also a form of hypocrisy.

Mr. President, though I oppose the proposed constitutional amendment, I am convinced that the failure of the supporters to provide a specific proposal and glidepath will actually undermine the efforts to have the amendment ratified. Even worse, it may jeopardize the real world, the real effort that is required to reduce the deficit. Without a broad-based consensus, no significant deficit reduction plan would stand. Any plan which would generate the opposition that the proponents so obviously fear would be overturned, and rightly so, in a democracy.

So, Mr. President, we will not achieve the broad-based consensus that we need by dealing dishonestly with the American people. We have made progress on the deficit. I for one believe the American people are ready to sacrifice and do more, if they are treated with respect, with honesty, and with open Government. I have seen this consistently over the last 2 years and when I was running for the Senate. I see it in each of the 72 counties of our State, where I hold a listening session in each county every year. Most recently, I have seen it in the willingness of so many of my constituents. The vast majority of my constituents say to me, ''Don't take a tax cut and give it to the American people.'' They say, ''Just reduce spending to reduce the deficit.'' This is the way the people are talking. They are ready to handle this problem, if we are open about it.

Mr. President, the people of this country are willing to make sacrifices to help clean up the mess that was not of their making. The very least we can do is to deal honestly with them. That is what this amendment does. It provides an honest approach.

To conclude, Mr. President, the Constitution of the United States is still our great national contract. Before we ask people to accept a change in that contract, they are entitled to read the fine print.

So I urge my colleagues on this important vote later today to support the Senator from South Dakota and provide the American people the information they need so they can go forward with some confidence on this issue.

I thank the Chair.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized for up to 5 minutes.

Mrs. MURRAY. Thank you, Mr. President.

Mr. President, there is no more important aspect to this debate than the amendment put forward by my good friend from South Dakota, the minority leader.

Yesterday, the Budget Committee heard very important testimony from Dr. Laura Tyson, the Chair of the President's Council of Economic Advisers. Dr. Tyson explained how risky passing this resolution can be if we do not know exactly what is going to be cut, how much, and when.

She outlined for us how dangerous these drastic, irrational cuts can be to the current economic expansion. She described how our fiscal policy will be ''handcuffed,'' that is her word, not mine, if this resolution becomes part of the Constitution.

I refer our colleagues, Mr. President, to her testimony before the Budget Committee yesterday. And, I ask unanimous consent that the text of an article by Dr. Tyson in yesterday's Washington Post be made a part of the RECORD.

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

IT'S A RECIPE FOR ECONOMIC CHAOS

(By Laura D. Tyson)

Continued progress on reducing the deficit is sound economic policy, but a constitutional amendment requiring annual balance of the federal budget is not. The fallacy in the logic behind the balanced budget amendment begins with the premise that the size of the federal deficit is the result of conscious policy decisions. This is only partly the case. The pace of economic activity also plays an important role in determining the deficit. An economic slowdown automatically depresses tax revenues and increases government spending on such programs as unemployment compensation, food stamps and welfare.

Such temporary increases in the deficit act as ''automatic stabilizers,'' offsetting some of the reduction in the purchasing power of the private sector and cushioning the economy's slide, not be able to moderate the ups and downs of the business cycle on its own as well as it can with the help of the automatic fiscal stabilizers.

First, monetary policy affects the economy indirectly and with notoriously long lags, making it difficult to time the desired effects with precision. By contrast, the automatic stabilizers of fiscal policy swings into action as soon as the economy begins to slow, often well before the Federal Reserve even recognizes the need for compensating action.

Second, the Fed could become handcuffed in the event of a major recession—its scope for action limited by the fact that it can push short-term interest rates no lower than zero, and probably not even that low. By historical standards, the spread between today's short rates of 6 percent and zero leaves uncomfortably little room for maneuver. Between the middle of 1990 and the end of 1992, the Fed reduced the short-term interest rate it controls by a cumulative total of 5¼ percentage points. Even so, the economy sank into a recession from which it has only recently fully recovered—a recession whose severity was moderated by the very automatic stabilizers of fiscal policy the balanced budget amendment would destroy.

Third, the more aggressive actions required of the Fed to limit the increase in the variability of output and employment could actually increase the volatility of financial markets—an ironic possibility, given that many of the amendment's proponents may well believe they are promoting financial stability.

Moreover, they do so quickly and automatically, without the need for lengthy debates about the state of the economy and the appropriate policy response.

By the same token, when the economy strengthens again, the automatic stabilizers work in the other direction: tax revenues rise, spending for unemployment benefits and other social safety net programs fall, and the deficit narrows.

A balanced budget amendment would throw the automatic stabilizers into reverse. Congress would be required to raise tax rates or cut spending programs in the face of a recession to counteract temporary increases in the deficit. Rather than moderating the normal ups and downs of the business cycle, fiscal policy would be required to aggravate them.

A simple example from recent economic history should serve as cautionary tale. In fiscal year 1991, the economy's unanticipated slowdown caused actual government spending for unemployment insurance and related items to exceed the budgeted amount by $6 billion, and actual revenues to fall short of the budgeted amount by some $67 billion. In a balanced-budget world, Congress would have been required to offset the resulting shift of more than $70 billion in the deficit by a combination of tax hikes and spending cuts that by themselves would have sharply worsened the economic downturn—resulting in an additional loss of 1¼ percent of GDP and 750,000 jobs.

The version of the amendment passed by the House has no special ''escape clause'' for recessions—only the general provision that the budget could be in deficit if three-fifths of both the House and Senate agree. This is a far cry from an automatic stabilizer. It is easy to imagine a well-organized minority in either House of Congress holding this provision hostage to its particular political agenda.

In a balanced budget world—with fiscal policy enjoined to destabilize rather than stabilize the economy—all responsibility for counteracting the economic effects of the business cycle would be placed at the doorstep of the Federal Reserve. The Fed could attempt to meet this increased responsibility by pushing interest rates down more aggressively when the economy softens and raising them more vigorously when it strengthens.

Finally, a balanced budget amendment would create an automatic and undesirable link between interest rates and fiscal policy. An unanticipated increase in interest rates would boost federal interest expense and thus the deficit. The balanced budget amendments under consideration would require that such an unanticipated increase in the deficit be offset within the fiscal year!

In other words, independent monetary policy decisions by the Federal Reserve would require immediate and painful budgetary adjustments. Where would they come from? Not from interest payments and not, with such short notice, from entitlement programs. Rather they would have to come from either a tax increase or from cuts or possible shutdowns in discretionary programs whose funds had not yet been obligated. This is not a sensible way to establish budgetary priorities or maintain the health interaction and independence of monetary and fiscal policy.

One of the great discoveries of modern economics is the role that fiscal policy can play in moderating the business cycle. Few if any members of the Senate about to vote on a balanced budget amendment experienced the tragic human costs of the Great Depression, costs made more severe by President Herbert Hoover's well-intentioned but misguided efforts to balance the budget. Unfortunately, the huge deficits inherited from the last decade of fiscal profligacy have rendered discretionary changes in fiscal policy in response to the business cycle all but impossible. Now, many of those responsible for the massive run-up in debt during the 1980s are leading the charge to eliminate the automatic stabilizers as well by voting for a balanced budget amendment.

Instead of undermining the government's ability to moderate the economy's cyclical fluctuations by passing such an amendment, why not simply make the hard choices and cast the courageous votes required to reduce the deficit—the kind of hard choices and courageous votes delivered by members of the 103rd Congress when they passed the administration's $505 billion deficit reduction package?

Mrs. MURRAY. Mr. President, Dr. Tyson, probably more clearly than anyone I have heard in the past few days, explains how dangerous this resolution is and why the American people have a right to know what our budget will look like before we act on this measure.

Mr. President, the staff of the Budget Committee prepared an analysis of the balanced budget amendment which puts the abstract words of this resolution into perspective.

Now, as you know, Mr. President, the proponents of this resolution tell us we must have a balanced budget in the year 2002. But, they refuse to tell us how they will achieve that balance. They will not level with the American people about what they will cut and what they will eliminate. And, Mr. President, the American people have a right to know.

They have a right to know before we pass this amendment how this will affect them.

If we pass this resolution with an exemption for Social Security, defense, and some other sensitive programs and if we still enact all the tax cuts in the Contract With America, and all of that is possible, we will see a 50-percent across-the-board cut in all other programs.

Is this responsible budgeting, Mr. President? Is this rational? Is this common sense? If we put this resolution into action, Mr. President, agricultural programs could take a 50-percent cut. So could highway funds. We could lose half of our education and job training money, and we could lose half of our student loans.

If the Constitution is amended in this way, and Congress actually acts on it, the cleanup of the Hanford Nuclear Reservation is in jeopardy. This is not the way we return security to our Nation, Mr. President. And, it is not how we restore the glimmer of hope to our children's eyes.

The radical cuts this amendment will demand will likely fall squarely on the backs of the most vulnerable in our society—our children, our elderly, our disabled most in need of help.

And, Mr. President, at a time of uncertainty for all of our working families we find this resolution will hurt our workers. The economists at Wharton predict Washington State could lose 209,000 jobs the year after this amendment takes effect. They predict my State will experience a 15-percent drop in total personal income. And, they tell me hardest hit will be the manufacturing sector—especially the aerospace industry—which is already experiencing massive job losses.

Mr. President, it is time to level with the American people. If we are gong to engage in a discussion of balancing the budget, let's get beyond the 10-second sound bites. Let us tell the American people how this budget will affect our lives, and their children's lives. Because, Mr. President, if we are going to change the Constitution of the United States the American people have a right to know exactly how this will affect their lives, their security, and their future.

I retain the balance of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 10 minutes to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. I thank the Senator from Utah for yielding the time.

Mr. President, as I indicated in previous remarks on the floor in this debate on another day, this really is the defining moment. This is the opportunity for us to move on balancing the Federal budget. If we do not do it during this time when we have the opportunity to pass this amendment, it will be the last time. The House has passed it 300 to 132. It is very close here in the Senate. Some would say that we do not have the 67 votes that are required as of now.

Here we are, out here talking about a right to know, so-called. Everyone knows that is a smokescreen. It is dilatory. It is a delay tactic to try to stop us from voting on this amendment or to try to obfuscate the issue so much that no one will understand what the real problems are.

Here is the real problem, Mr. President. This is the President's budget.

It is interesting that the color is green, and it should be because in this budget the President spends one heck of a lot of money. In this budget, the President adds, over 5 years, well over $1 trillion more to the national debt. The annual deficits run over $200 billion a year, on an average, for the next 5 years, adding over $1 trillion to the national debt. That is what it says.

The other side says we need a right to know. Well, what about the President of the United States? Why does he not submit to us at least something that leads toward a balanced budget?

He basically has taken a walk and has presented this budget. It is green. You know, Mr. President, here is the color it should be—red—because it is red ink, more red ink, more red ink, more red ink, business as usual, politics as usual. We stand down here on the floor and we talk and talk and talk, and the debt goes up and up and up, and our children's future is at stake.

That is what this is all about, Mr. President. Let us face it, that is what it is all about. How can the President of the United States, with his party on the floor trying to delay this amendment by using this phony argument of the right to know, keep a straight face in presenting this budget? He ought to replace Jay Leno, for crying out loud. It is hysterical. It is so funny that no one could possibly take the man seriously. How can you say that?

If you want further evidence of what this thing is all about on this amendment—and I say to my colleague, the floor leader from Utah—I remind him because he was very much a participant in this debate a year ago, in February 1994, when we had the amendment up here and we lost it by three or four votes, as the Senator well remembers. The sponsor of this right-to-know amendment by the minority leader of the U.S. Senate was on the floor, and it is interesting to hear what he said because he supported the amendment in that debate and voted for the balanced budget amendment to the Constitution. Here is what he said:

> To remedy our fiscal situation, we must stop spending beyond our means. This will not require the emasculation of important domestic priorities, as some suggest.

He also said:

> We are building a legacy of debt for our children and our grandchildren and hamstringing our ability to address pressing national priorities.

And then he said:

> In this debate on a balanced budget amendment, we are being forced to face the consequences of our inaction. Quite simply, we are building a legacy of debt for our children and our grandchildren and hamstringing our ability to address pressing national priorities.

Here, Mr. President, ironically is what Senator DASCHLE, the minority leader, said on February 28 on the floor of the U.S. Senate about the right to know:

> Congress and the President will have 7 years to address the current deficit and reach a consensus on our Nation's budget priorities. We will have time to find ways to live within our means and still meet existing obligations to our citizens, particularly the elderly.

So you have the sponsor of this amendment on the floor of the Senate 1 year ago in support of the balanced budget amendment and saying pass the amendment and we will lay out the plan and we will work together to lay out a plan to balance the budget. That is 180 degrees in reverse of where we are today with the Senator from South Dakota with his so-called right-to-know amendment.

When are we going to do this? The reason why we need the amendment could never be more obvious than it was when the President submitted that budget, because we will not do it without the amendment. I want to comment for a few moments on this issue of the right to know, because it is kind of fascinating. I hear about the public's right to know as if we have to know every single item, everything we are going to do before we pass the amendment. If Congress wanted to get a balanced budget, they would have done it, Mr. President, and we would not need the amendment. The reason we need the amendment is because they will not do it. That is the reason—because they will not do it.

Do you know what I think? I think the public has a right to know why every child born in America today, even as I speak, is born approximately $18,000 in debt. I think that child has a right to know why that is happening in this country and what we are going to do about it. That is a right to know that I think we ought to have.

Also, I hear on the floor that we are going to make the tough decisions. Give me a break. That is why we need the amendment. We are not making the tough decisions, and the President did not make the tough decisions in this budget. He did not make the tough decisions. He took a walk. That is going to continue to happen until the national debt goes right through the roof. It is already fast approaching, or will be by the turn of the century, over $6 trillion. Where does it stop, at $12, $13, $15, $16, $20, $100 trillion? That is where it is going to go if we do not stop. We just have to do it.

Why would anybody think the American people are going to trust us to make those decisions? Why should they? We have never done it. That is why 80 percent of them have said over and over again that they support an amendment. That is why they said it. That is why they want this amendment. And that is why those who do not want it are using these delay tactics and phony arguments, because they do not want to make the tough decisions.

In order to force us to do what we have been unwilling to do for the past 15 years or longer, we need this amendment.

Do you know what has been really lost in this debate, beyond the right to know? We are forgetting about the American people. They are the losers in this debate. Many of my colleagues say, oh, the Governors are against it, State legislators will not support it; there will be a lot of polls cited next week saying that. The only poll that the Framers of the Constitution ever thought about or knew about, as far as I am concerned, is whether or not 38 States deem this amendment essential and a majority of the House and Senate deem it essential. If they do, we will be bound by the Constitution that all of us swore to uphold to put our fiscal house in order and, by doing so, we will bring some dignity to this body and restore fiscal sanity to this country. That is what it is all about, fiscal sanity and dignity.

How in the world can we call it dignified to roll up trillions of dollars more of debt on our children, basically saying I am not going to worry about it today, I am going to live the good life and do what I have to do, and I am going to pass my debts on to my kids. That is what we are doing with trillions of dollars.

My friends who oppose the amendment speak only of their ability to make the tough choices. ''We will make the tough choices,'' they say. I heard one of my colleagues say how they made the tough choices. In fact, it was said this morning that they made the tough choices in 1993 in the President's budget. He said, ''No Republican voted for this agreement.''

I remind my colleagues that Republicans were not a party to the agreement. We did not have anything to do with negotiating the agreement. We were not invited to participate in it. I do not know what the discussion was like behind closed doors, nor do any of my Republican colleagues know. Do you know what they talked about in those meetings and discussions? They did not talk about cutting spending or balancing the budget. They talked about, should we raise the top tax rate 5, 8, 9 percent? What are we going to raise it to? They talked about raising taxes. They talked about, should we make tax increases retroactive for 6 months, 1 year, year and a half? How long can we go with a millionaires' surtax? Should it be $500,000 or $250,000. That is what was going on. There were no talks in those meetings about spending cuts or about tough decisions.

So that is one of the reasons why I believe my friends fear the constitutional amendment, those who are opposing it, because they know exactly what is going to happen. You will have to cut spending and cut the bloated bureaucracy and eliminate outdated programs, and you will have to make the tough decisions. That is the truth. They are not ready to do it. That is the bottom line.

I will close on this point. I was very much interested in the story in the Washington Post this week regarding Washington, DC. They announced they are $722 million in debt. And Mayor Barry is telling us in the papers that home rule does not work. He is one of the most noted figures in the history of home rule in the District. He is now saying: I have to have the Federal Government take over some of the services, the prison system, and other programs that he says he cannot maintain. He is in debt.

Now, why has the Mayor changed his mind? Why has he changed his tune from the big government mayor that he was for all those years?

It is quite simple. He does not have the tax base any longer to maintain

the bureaucracy that had been created by him and his predecessors. The well is dry. They cannot raise any more taxes.

Indeed, we have the representative from Washington, DC, in the House saying we may want to eliminate income taxes altogether for people who live in the District. They cannot pay any more taxes. They are up to here. That is the problem.

That is not the answer. The answer is not raising more taxes. The answer is cutting spending. That is the issue. So he has given up. So the Mayor says, ''Come in. Take these things from me. I can't deal with it any more. I do not have the tax base.''

That, my friends, is exactly the predicament that we are going to be in in the very, very near future. We are going to go to the well once too often. There is not going to be any more money there. You cannot squeeze any more blood out of this turnip, out of the American people. They do not have it any more. They are fed up. They have had enough. You cannot get any more. And, therefore, the end is in sight. That is what is going to happen. That is where we are going to get to.

And when that point comes, what do we do? Are we are going to turn and say, ''Take these programs''? The answer is no. We all know, when that comes, it is going to be too late and we will have bankruptcy, the equivalent of chapter 1, where we spend a whole bunch more dollars.

That is not what the American people want. The American people want us to be fiscally responsible, to make the tough decisions and pass this amendment so that the Congress and the President, both political parties, Democrats, Republicans, liberals, conservatives, sit down in a room and make the decision to balance the budget. Yes, we will differ on where the priorities are, but we have to do it. Now we do not have to do it. That is why we need the amendment.

So I urge my colleagues to move off this phony debate of right to know and exempting programs and get on to the business of passing this amendment sooner rather than later and stop the dilatory tactics.

Thank you, Mr. President.

I thank the Senator from Utah for yielding to me.

Mr. HATCH. Mr. President, I thank the distinguished Senator from New Hampshire for his excellent statement. It was terrific.

Mr. President, I yield 3 minutes to our courageous colleague from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President and my colleagues in the Senate, I am for the basic aim of this amendment, but I am going to vote against the amendment for two reasons.

One is, while I think we do need to spell out in broad outlines where we are going and how we are going to achieve a balanced budget before it goes to the States, I do not believe this should be in the Constitution. We are talking about a procedural thing that should not be in the Constitution.

Second, to spell out down to $100 million where we are going I think is just totally unrealistic in terms of where we are going to be 7 years from now. So I think it is an unwise amendment.

I would add, if we pass the balanced budget amendment—and my hope is that we will have the wisdom and the courage to do so—I will request—and I hope to be joined by Senator HATCH and others on this—I will request the leaders of both parties to either ask the Budget Committee or a special task force to put together in broad outlines how we can get to a balanced budget in the year 2002.

Now, CBO has outlined some things; the Concord Coalition has outlined some things. There have been other suggestions. But I think a task force that can be appointed immediately after passage and report back to the Senate is the way we should go. I do not believe we should put this kind of an amendment in the Constitution. I think it is just not constitutional in nature.

Second, I think to say where we are going to be 7 years from now in terms of $100 million—and at that point it will be about a $1.8 trillion budget—is just unrealistic. So I will be voting for the motion to table.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank the Senator.

Mr. President, I yield 1 minute to the distinguished Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 1 minute.

Mr. BURNS. Mr. President, I thank my friend from Utah for yielding.

Mr. President, I have been listening to the speeches and debate on this amendment and especially on this issue. I just want to go to the bottom line real quick.

We have to get away from these scare tactics that everything is going to be cut. I have had people come into my office and say, ''We are going to lose our programs. Everything is going to be out because you will not tell us how you are going to do it.''

Let me tell you, this is going to make us all set up a criteria to select those things to be funded that should be funded. How many programs have we got right now that are being funded that have not been authorized by this body or the other body or ever signed into law by the President of the United States? If that is one of those criteria, then we are going to see those folks who want to fund programs that have not been authorized or cannot pass the scrutiny of the Senate or the House and we get them out. We just go ahead and fund them.

A case in point is the National Biological Survey. We appropriate all kinds of money for a program that has never passed this Congress. And if we do not have the criteria on which we fund and what we do not fund, we will never do it, we will never get it under control.

So the scare tactics are all baloney.

I thank my friend from Utah for yielding me the minute. You usually hear a lot of flowery speeches, but that is the bottom line when you go to taking up this issue.

Mr. HATCH. I thank my colleague from Montana for his cogent remarks.

I now yield 15 minutes to our distinguished chairman of the Policy Committee, the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 15 minutes.

Mr. NICKLES. I thank the Chair.

Mr. President, I wish to compliment my colleague from Montana for his remarks. They were brief, but they were right on target.

I also wish to compliment Senator HATCH, Senator CRAIG, and Senator SIMON. I very much appreciate the bipartisanship which we have exhibited in trying to pass this constitutional amendment.

We have all been working for a long, long time to pass a constitutional amendment saying, ''Congress, you cannot spend any more than you take in.'' It is long overdue.

Consider the remarks Thomas Jefferson made in 1798. He said, ''I wish it were possible to obtain a single amendment to our Constitution.'' He further says, ''I mean an additional article, taking from the Federal Government the power of borrowing.'' These are Thomas Jefferson's words and he was correct.

Mr. President, we have a heck of a problem. We are spending a lot more money than we take in and we have been doing it for a long time. We did it for many years under Republican administrations, under Democratic administrations, and under primarily Democrat Congresses. We had a Republican Senate in the interlude. But we have seen Federal spending escalate year after year.

Mr. President, I am going to put a lot of tables into the RECORD which represent the facts, the fact that Federal spending has been exploding.

In 1960, Mr. President, the Federal Government spent less than $100 billion. In 1970, we spent less than $200 billion. In 1980, we spent $591 billion. So, we went from less than $100 billion in 1960, less than $200 billion in 1970, and less than $600 billion in 1980. By 1990, Mr. President, we spent $1.25 trillion.

I am bothered, Mr. President, when the President of the United States claims in his State of the Union Message that he cut spending by $250 billion. The fact is that Federal spending has not been reduced; it has climbed every year. The only way that the President can say we have cut spending is by using the inflated baselines that only the Federal Government would

use. He is not accurate. Federal spending has gone up every single year.

In 1992, Federal spending was $1.382 trillion; in 1994 it was $1.461 trillion; in 1995 it will be $1.531 trillion. The President's budget for next year is over $1.6 trillion—And the spending continues to escalate. By the year 2000, spending exceeds $1.9 trillion. Federal spending continues to climb every year, and it has under every President and every administration.

Revenues have been climbing as well, but not quite as fast. I really think we need some kind of restraint. I happen to think a constitutional amendment is the restraint we need. I wish we did not. Some of my constituents asked me recently, was it really necessary? I said it would not be necessary if we had a strong majority in both the House and the Senate that was willing to make the tough fiscal decisions that would have to be made to balance the budget.

We have not seen that kind of majority. Maybe with the new Congress we will have that kind of opportunity, but history has shown that we have not had it in decades. Most States have a balanced budget requirement. Some may allow exceptions, but most States have something in their constitution that limits the amounts of money that they can spend and/or the amount of money they can borrow.

So, Mr. President, I think it is vitally important we pass a balanced budget amendment. It has to be a bipartisan effort, and I hope we will have bipartisan support to make it happen.

Mr. President, some people have said, ''How do you do it?'' This is the intent of Senator DASCHLE's amendment on the right to know. Unfortunately, Senator DASCHLE's amendment amends the Constitution. This is not the proper way to do what he wants to do. I happen to agree that we should put out as much information on how we will get there as possible. I would also say that 7 year estimates are just guessing. No one knows what will happen in the economy between now and then, and certainly the economy makes a lot of difference on what the outlays will be and what the revenues will be. But to put something like his amendment in the Constitution is wrong. I just hope my colleagues before they vote on this amendment will read the amendment that is pending and read section 9. It includes about 11 or 12 paragraphs.

The rest of the balanced budget amendment is quite simple. The rest of the amendment, which is similar to an amendment we passed in the Senate in 1982, one which Senator DASCHLE himself has supported in the past, makes sense. It is logical. It would fit in the Constitution. Section 9 does not belong in the Constitution.

I hope that my colleagues will not support the right to know amendment. Does that mean that Congress should abdicate its responsibility and wait until the seventh year to do anything to balance the budget? No, we should take concrete steps each year to reduce our deficit down to zero.

I regret to say that President Clinton, in his latest budget submission, has not done that. I think he has raised the white flag on deficit reduction. His deficit stays at about $200 billion in the foreseeable future, and beyond the year 2000 increases rather dramatically. The President's budget touches a little bit on discretionary spending, it increases it dramatically in some areas, cuts it in defense and some other areas, and does not touch entitlements.

Entitlements have been exploding. I think that is irresponsible. I think, basically, the President punted and said, ''Congress, you take over. We will wait and see how you do and we will throw rocks at it.'' I think that is irresponsible.

Regardless of what the President does, we need to move toward a balanced budget. Regardless of whether or not we pass this amendment, we need to move to balance the budget. I hope we will. I hope we take concrete steps this year and each and every year to reduce the deficit, reduce the enormous debt load we have on the American people.

Mr. President, we do have enormous debt load. Federal debt in 1994 is $4.6 trillion. Mr. President, per capita that is $17,848 for every man, woman, and child in the United States. That is the amount of public debt we have today. Next year, 1995, that figure is $18,800. So that figure has risen by over $1,700 for every man, woman, and child in the United States, the amount of debt load increase they have all inherited.

I do not think that is acceptable. I think we have to manage something. Maybe this is not the perfect solution, but it happens to be one of the few that I think will work. We are sworn to uphold the Constitution, and we all take an oath that we will uphold the Constitution, I think we will show the courage to do so.

Unless and until we have that constraint, I am afraid we will fall back to business as usual, and business as usual is passing the Daschle amendment or passing another amendment that says we will exclude Social Security or gut this amendment some way or another and not pass it, and we will continue spending more money than we take in.

Why do we do that? Senators are a lot more popular if we spend money than if we take it. People do not like taxes. They like spending. Therefore, we spend more, tax less, and have big deficits. I do not think that is responsible, Mr. President. I do not think we can continue doing that.

How can we balance the budget? Can we do it? CBO says we will have to cut spending by $1.2 trillion. The President's budget would cut spending by $144 billion in the next 5 years. Mr. President, we will spend over $10 trillion in the next 6 years. The President is talking about a marginal reduction of about 1 percent. Again, Federal spending under the President's program goes from $1.5 to $1.9 trillion. That is not a spending reduction. If spending goes up by a dollar, we should say spending went up, not that we reduced the rate of both and therefore it is a spending cut.

Mr. President, we can balance the budget if we allow spending to increase, but spending cannot increase as fast. According to the baseline that CBO uses, spending is increasing right now about 5.26 percent. We can balance the budget keeping spending growth to 3.21 percent for the next 7 years. Then we can balance the budget. Let me repeat that: Spending can increase each and every year, by 3.26 percent.

Mr. DORGAN. Mr. President, will the Senator yield?

Mr. NICKLES. Mr. President, I will not yield. I have a few more points to make, and I will be happy to yield in a moment.

So, Mr. President, how do we do that? We have some programs growing astronomically. I will mention a few: Defense has actually gone down, but there are a lot of other programs that are growing very dramatically. Medicaid, for example, in the last 4 years has grown at 28, 29, 12, and 8 percent. We cannot continue that rate of growth.

Earned income tax credit, a program that this President is very proud of, the last 4 years has grown at 11, 55, 18 percent, 1994 at 22 percent, 1995 at 55 percent. That is an exploding entitlement program that this President expanded. I could go on. Food stamps in the last 4 years has grown 17, 25, 21, and 11 percent. Last year, zero percent. We can see it has exploded in growth. In 1990 we spent $15 billion in food stamps; in 1994, $25 billion in food stamps.

Mr. President, I ask unanimous consent that these tables be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

FEDERAL SPENDING CATEGORIES

[In billions of nominal dollars—Source: CBO]

Year	Outlays	Dollar Growth	Percent Growth	Percent of GDP
Mandatory				
1980	$292	.....	.....	11
1981	341	$49	17	11
1982	373	32	9	12
1983	412	39	10	12
1984	406	(5)	−1	11
1985	450	44	11	11
1986	460	10	2	11
1987	470	11	2	10
1988	494	24	5	10
1989	526	32	6	10
1990	567	41	8	10
1991	634	67	12	11
1992	712	78	12	12
1993	762	50	7	12
1994	789	27	4	12
1995	845	56	7	12
1996	899	54	6	12
1997	962	63	7	12
1998	1,026	64	7	12
1999	1,097	71	7	13
2000	1,173	76	7	13
Domestic				
1980	129	.....	.....	5
1981	137	7	6	5
1982	127	(9)	−7	4
1983	130	3	2	4
1984	135	5	4	4
1985	146	10	8	4
1986	148	2	1	3
1987	147	(0)	−0	3
1988	158	11	8	3

FEDERAL SPENDING CATEGORIES—Continued

[In billions of nominal dollars—Source: CBO]

Year	Outlays	Dollar Growth	Percent Growth	Percent of GDP
1989	169	11	7	3
1990	183	14	8	3
1991	195	13	7	3
1992	214	19	10	4
1993	229	15	7	4
1994	242	13	5	4
1995	253	11	5	4
1996	262	9	4	4
1997	274	12	5	3
1998	284	10	4	3
1999	295	11	4	3
2000	304	9	3	3
International				
1980	13	.....	.....	0
1981	14	1	6	0
1982	13	(1)	−5	0
1983	14	1	5	0
1984	16	3	20	0
1985	17	1	7	0
1986	18	0	2	0
1987	15	(3)	−14	0
1988	16	1	3	0
1989	17	1	6	0
1990	19	3	15	0
1991	20	1	3	0
1992	19	(1)	−3	0
1993	22	2	12	0
1994	20	(2)	−7	0
1995	21	1	5	0
1996	22	1	5	0
1997	22	0	0	0
1998	22	0	0	0
1999	23	1	3	0
2000	24	1	6	0
Defense				
1980	135	.....	.....	5
1981	158	23	17	5
1982	186	28	18	6
1983	210	24	13	6
1984	228	18	9	6
1985	253	25	11	6
1986	274	21	8	6
1987	283	9	3	6
1988	291	8	3	6
1989	304	13	5	6
1990	300	(4)	−1	5
1991	320	20	7	6
1992	303	(17)	−5	5
1993	293	(10)	−3	5
1994	282	(11)	−4	4
1995	270	(12)	−4	4
1996	270	0	0	4
1997	278	8	3	4
1998	285	7	3	3
1999	295	10	4	3
2000	304	9	3	3
Social Security				
1980	117	.....	.....	4
1981	138	21	18	5
1982	154	16	12	5
1983	169	15	9	5
1984	176	8	5	5
1985	186	10	6	5
1986	197	10	5	5
1987	205	9	4	5
1988	217	12	6	4
1989	230	14	6	4
1990	247	16	7	4
1991	267	20	8	5
1992	285	18	7	5
1993	302	17	6	5
1994	317	15	5	5
1995	334	17	5	5
1996	352	18	5	5
1997	371	19	5	5
1998	390	19	5	5
1999	411	21	5	5
2000	433	22	5	5
Net Interest				
1980	53	.....	.....	2
1981	69	16	31	2
1982	85	16	24	3
1983	90	5	6	3
1984	111	21	24	3
1985	130	18	17	3
1986	136	7	5	3
1987	139	3	2	3
1988	152	13	9	3
1989	169	18	12	3
1990	184	15	9	3
1991	195	10	6	3
1992	199	5	3	3
1993	199	(1)	−0	3
1994	203	4	2	3
1995	235	32	16	3
1996	260	25	11	3
1997	270	10	4	3
1998	279	9	3	3
1999	294	15	5	3
2000	310	16	5	3
Earned Income Tax Credit				
1980	1	.....	.....	0
1981	1	0	0	0

FEDERAL SPENDING CATEGORIES—Continued

[In billions of nominal dollars—Source: CBO]

Year	Outlays	Dollar Growth	Percent Growth	Percent of GDP
1982	1	(0)	−8	0
1983	1	0	0	0
1984	1	0	0	0
1985	1	(0)	−8	0
1986	1	0	27	0
1987	1	0	0	0
1988	3	1	93	0
1989	4	1	48	0
1990	4	0	10	0
1991	5	1	11	0
1992	8	3	55	0
1993	9	1	18	0
1994	11	2	22	0
1995	17	6	55	0
1996	20	3	18	0
1997	23	3	15	0
1998	24	1	4	0
1999	25	1	4	0
2000	26	1	4	0
Medicaid				
1980	14	.....	.....	1
1981	17	3	20	1
1982	17	1	4	1
1983	19	2	9	1
1984	20	1	6	1
1985	23	3	13	1
1986	25	2	10	1
1987	27	2	10	1
1988	31	3	11	1
1989	35	4	13	1
1990	41	7	19	1
1991	53	11	28	1
1992	68	15	29	1
1993	76	8	12	1
1994	82	6	8	1
1995	90	8	10	1
1996	100	10	11	1
1997	111	11	11	1
1998	123	12	11	1
1999	136	13	11	2
2000	149	13	10	2
Unemployment				
1980	17	.....	.....	1
1981	18	1	8	1
1982	22	4	21	1
1983	30	8	34	1
1984	17	(13)	−43	0
1985	16	(1)	−7	0
1986	16	0	2	0
1987	16	(1)	−4	0
1988	14	(2)	−12	0
1989	14	0	2	0
1990	18	4	26	0
1991	25	8	43	0
1992	37	12	47	1
1993	35	(2)	−4	1
1994	26	(9)	−27	0
1995	22	(4)	−15	0
1996	23	1	5	0
1997	24	1	4	0
1998	26	2	8	0
1999	27	1	4	0
2000	28	1	4	0
Food Stamps				
1980	9	.....	.....	0
1981	11	2	24	0
1982	11	(0)	−3	0
1983	12	1	7	0
1984	12	(0)	−2	0
1985	12	0	1	0
1986	12	(0)	−1	0
1987	12	0	0	0
1988	12	1	6	0
1989	13	1	4	0
1990	15	2	17	0
1991	19	4	25	0
1992	23	4	21	0
1993	25	2	11	0
1994	25	0	0	0
1995	26	1	4	0
1996	27	1	4	0
1997	29	2	7	0
1998	30	1	3	0
1999	32	2	7	0
2000	32	0	0	0
Medicare				
1980	34	.....	.....	1
1981	41	7	21	1
1982	49	8	19	2
1983	56	6	13	2
1984	61	6	10	2
1985	70	9	14	2
1986	74	5	6	2
1987	80	6	8	2
1988	86	6	7	2
1989	94	9	10	2
1990	107	13	14	2
1991	114	7	6	2
1992	129	15	13	2
1993	143	14	11	2
1994	160	17	12	2
1995	176	16	10	2
1996	196	20	11	3
1997	217	21	11	3
1998	238	21	10	3

FEDERAL SPENDING CATEGORIES—Continued

[In billions of nominal dollars—Source: CBO]

Year	Outlays	Dollar Growth	Percent Growth	Percent of GDP
1999	262	24	10	3
2000	286	24	9	3
AFDC				
1980	7	.....	.....	0
1981	8	1	12	0
1982	8	(0)	−2	0
1983	8	0	5	0
1984	9	1	6	0
1985	9	0	3	0
1986	10	1	8	0
1987	11	1	6	0
1988	11	0	3	0
1989	11	0	4	0
1990	12	1	9	0
1991	14	1	11	0
1992	16	2	16	0
1993	16	0	3	0
1994	17	1	6	0
1995	18	1	6	0
1996	18	0	0	0
1997	19	1	6	0
1998	19	0	0	0
1999	20	1	5	0
2000	20	0	0	0
Farm Price Supports				
1980	3	.....	.....	0
1981	4	1	43	0
1982	12	8	193	0
1983	19	7	62	1
1984	7	(12)	−61	0
1985	18	10	142	0
1986	26	8	46	1
1987	22	(3)	−13	0
1988	12	(10)	−46	0
1989	11	(2)	−13	0
1990	7	(4)	−39	0
1991	10	4	55	0
1992	9	(1)	−8	0
1993	16	6	68	0
1994	10	(6)	−36	0
1995	10	0	0	0
1996	9	(1)	−10	0
1997	9	0	0	0
1998	8	(1)	−11	0
1999	8	0	0	0
2000	8	0	0	0
Veterans Benefits and Services				
1980	14	.....	.....	1
1981	15	1	10	1
1982	16	0	3	1
1983	16	0	1	0
1984	16	0	1	0
1985	16	(0)	−1	0
1986	16	(0)	−1	0
1987	16	0	0	0
1988	18	2	12	0
1989	18	0	1	0
1990	16	(2)	−10	0
1991	17	1	9	0
1992	20	2	13	0
1993	21	1	7	0
1994	18	(3)	−14	0
1995	17	(1)	−6	0
1996	17	0	0	0
1997	18	1	6	0
1998	19	1	6	0
1999	20	1	5	0
2000	21	1	5	0
Federal Retirement and Disability				
1980	32	.....	.....	1
1981	37	5	17	1
1982	41	3	9	1
1983	43	3	6	1
1984	45	2	3	1
1985	46	1	2	1
1986	48	2	4	1
1987	51	3	7	1
1988	54	3	7	1
1989	57	3	6	1
1990	60	3	5	1
1991	64	5	8	1
1992	67	2	3	1
1993	69	2	3	1
1994	72	3	5	1
1995	75	3	4	1
1996	77	2	3	1
1997	81	4	5	1
1998	85	4	5	1
1999	90	5	6	1
2000	96	6	7	1
Other Mandatory				
1980	160	.....	.....	6
1981	187	27	17	6
1982	196	9	5	6
1983	208	13	6	6
1984	219	10	5	6
1985	241	22	10	6
1986	233	(8)	−3	5
1987	235	2	1	5
1988	255	20	8	5
1989	270	15	6	5
1990	288	18	7	5

FEDERAL SPENDING CATEGORIES—Continued

[In billions of nominal dollars—Source: CBO]

Year	Outlays	Dollar Growth	Percent Growth	Percent of GDP
1991	314	26	9	5
1992	336	23	7	6
1993	352	16	5	6
1994	368	16	4	5
1995	394	26	7	6
1996	412	18	5	6
1997	431	19	5	5
1998	454	23	5	5
1999	477	23	5	5
2000	507	30	6	6

HISTORICAL BUDGET ESTIMATES

[In billions of dollars]

Year	Revenues	Discretionary	Mandatory	Net interest	Deposit ins.	Off. receipts	Outlays	Deficit
1970	193	125	69	14	(1)	(12)	196	(3)
1971	187	127	83	15	(0)	(14)	210	(23)
1972	207	133	97	16	(1)	(14)	231	(23)
1973	231	135	112	17	(1)	(18)	246	(15)
1974	263	143	127	21	(1)	(21)	269	(6)
1975	279	163	164	23	1	(18)	332	(53)
1976	298	176	190	27	(1)	(20)	372	(74)
1977	356	197	207	30	(3)	(22)	409	(54)
1978	400	219	228	36	(1)	(23)	459	(59)
1979	463	240	248	43	(2)	(26)	504	(40)
1980	517	277	292	53	(0)	(29)	591	(74)
1981	599	308	341	69	(1)	(38)	678	(79)
1982	618	326	373	85	(2)	(36)	746	(128)
1983	601	354	412	90	(1)	(45)	808	(208)
1984	667	380	406	111	(1)	(44)	852	(185)
1985	734	416	450	130	(2)	(47)	946	(212)
1986	769	439	460	136	2	(46)	990	(221)
1987	854	445	470	139	3	(53)	1,004	(150)
1988	909	465	494	152	10	(57)	1,064	(155)
1989	991	490	526	169	22	(64)	1,144	(154)
1990	1,031	502	567	184	58	(58)	1,252	(221)
1991	1,054	535	634	195	66	(106)	1,323	(269)
1992	1,092	537	711	199	3	(69)	1,382	(290)
1993	1,153	543	761	199	(28)	(67)	1,408	(255)
1994	1,257	545	789	203	(7)	(69)	1,461	(203)
1995	1,355	544	845	235	(16)	(77)	1,531	(176)
1996	1,418	549	899	260	(9)	(73)	1,625	(207)
1997	1,475	548	962	270	(5)	(76)	1,699	(224)
1998	1,546	547	1,026	279	(5)	(79)	1,769	(222)
1999	1,618	566	1,097	294	(3)	(82)	1,872	(253)
2000	1,697	585	1,173	310	(3)	(84)	1,981	(284)
2001	1,787	605	1,245	325	(3)	(88)	2,084	(297)
2002	1,880	626	1,328	344	(3)	(93)	2,202	(322)
2003	1,978	647	1,417	365	(3)	(97)	2,329	(351)
2004	2,082	669	1,513	387	(3)	(102)	2,465	(383)
2005	2,191	692	1,617	412	(4)	(106)	2,611	(421)

FEDERAL DEBT

[In millions of dollars]

Year	Gross Federal debt	Held by the Government	Held by the public	Amount subject to the debt limit
1940	50,696	7,924	42,772	43,219
1945	260,123	24,941	235,182	268,671
1950	256,853	37,830	219,023	255,382
1955	274,366	47,750	226,616	272,348
1960	290,525	53,685	236,840	283,827
1965	322,318	61,540	260,778	314,126
1970	380,921	97,723	283,198	372,600
1971	408,176	105,139	303,037	398,650
1972	435,936	113,559	322,377	427,751
1973	466,291	125,381	340,910	458,264
1974	483,893	140,194	343,699	475,181
1975	541,925	147,225	394,700	534,207
1976	628,970	151,566	477,404	621,556
1977	706,398	157,295	549,103	699,963
1978	776,602	169,477	607,125	772,691
1979	828,923	189,207	639,716	827,615
1980	908,503	199,212	709,291	908,723
1981	994,298	209,507	784,791	998,818
1982	1,136,798	217,560	919,238	1,142,913
1983	1,371,164	240,115	1,131,049	1,377,953
1984	1,564,110	264,159	1,299,951	1,572,975
1985	1,816,974	317,612	1,499,362	1,823,775
1986	2,120,082	383,919	1,736,163	2,110,975
1987	2,345,578	457,444	1,888,134	2,336,014
1988	2,600,760	550,508	2,050,252	2,586,869
1989	2,867,537	678,210	2,189,327	2,829,770
1990	3,206,347	795,990	2,410,357	3,161,223
1991	3,598,993	911,060	2,687,933	3,569,300
1992	4,002,669	1,004,039	2,998,630	3,972,578
1993	4,411,489	1,100,758	3,309,717	4,378,039
1994	4,644,000	1,212,000	3,432,000	4,605,000
1995	4,942,000	1,325,000	3,617,000	4,902,000
1996	5,280,000	1,443,000	3,838,000	5,240,000
1997	5,641,000	1,563,000	4,077,000	5,599,000
1998	6,001,000	1,684,000	4,317,000	5,959,000
1999	6,392,000	1,803,000	4,589,000	6,349,000
2000	6,814,000	1,923,000	4,891,000	6,771,000

FEDERAL DEBT PER CAPITA

[In dollars]

Year	Gross Federal debt	Held by the Government	Held by the public	Amount subject to the debt-limit
1940	384	60	324	328
1945	1,963	188	1,775	2,028
1950	1,691	249	1,442	1,682
1955	1,662	289	1,373	1,650

FEDERAL DEBT PER CAPITA—Continued

[In dollars]

Year	Gross Federal debt	Held by the Government	Held by the public	Amount subject to the debt-limit
1960	1,614	298	1,316	1,577
1965	1,666	318	1,348	1,624
1970	1,869	479	1,390	1,828
1971	1,979	510	1,469	1,933
1972	2,093	545	1,548	2,054
1973	2,222	597	1,624	2,184
1974	2,289	663	1,626	2,248
1975	2,544	691	1,853	2,507
1976	2,930	706	2,224	2,895
1977	3,264	727	2,537	3,235
1978	3,559	777	2,782	3,541
1979	3,766	860	2,906	3,760
1980	3,998	877	3,122	3,999
1981	4,333	913	3,420	4,353
1982	4,907	939	3,968	4,933
1983	5,865	1,027	4,838	5,894
1984	6,633	1,120	5,512	6,670
1985	7,637	1,335	6,302	7,665
1986	8,829	1,599	7,230	8,791
1987	9,681	1,888	7,793	9,641
1988	10,637	2,252	8,386	10,580
1989	11,618	2,748	8,870	11,465
1990	12,857	3,192	9,665	12,676
1991	14,243	3,605	10,637	14,125
1992	15,697	3,938	11,760	15,579
1993	17,126	4,273	12,849	16,996
1994	17,848	4,658	13,190	17,698
1995	18,808	5,043	13,766	18,656
1996	19,906	5,440	14,469	19,755
1997	21,072	5,839	15,230	20,915
1998	22,217	6,235	15,983	22,062
1999	23,459	6,617	16,842	23,301
2000	24,795	6,997	17,797	24,638

Mr. NICKLES. Mr. President, I could go on. Medicare, in the last 4 years is compounded at 13, 11, 12 percent. This year it is expected to compound at 10 percent. Those are rates greater than 3.2 percent.

I admit, we will have to slow the rate of growth in a lot of programs if we will balance the budgets. Will it be easy? Not necessarily. The point is that Federal spending will continue to grow and we can still balance the budget. It will not be able to grow as much or as fast.

Again, I have heard people say, wait a minute, to balance the budget we will have to reduce spending $1.2 trillion. Over the next 7 years we will spend about $15 trillion. Can we afford $1.2 trillion? I think we can reduce the rate of growth and not spend $15 trillion.

I think we have to do it, Mr. President. I think passing a constitutional amendment to balance the budget will make us do it. If we do not pass it, I am afraid we will be back to business as usual. I hope that is not the case. I really do hope we will be serious. I hope that we will be serious and make a concerted effort to balance the budget, make the tough decisions, cut spending, cut entitlement programs, reduce those programs that are growing to astronomical levels, and try to live within our means. We have to do it.

I just have a couple of comments concerning the pending Daschle amendment. It says:

> In order to carry out the purpose of this article, Congress shall adopt a concurrent resolution setting forth a budget plan to achieve a balanced budget (that complies with this article) * * *.

And so on. And it says in section C:

> New budget authority and outlays, on an account-by-account basis, for each account with actual outlays or offsetting receipts of at least $100,000,000 in fiscal year 1994.

This does not belong, Mr. President, in the Constitution. This does not fit. It does not work. And it will not work.

I will read from Senator DASCHLE's comments that he made last year on February 28. He said:

> To remedy our fiscal situation, we must stop spending beyond our means. This will not require emasculation of important domestic priorities, as some suggest.

And then he says:

> Congress and the President will have 7 years to address the current deficit and reach a consensus on our Nation's budget priorities. We will have time to find ways to live within our means and still meet existing obligations to our citizens, particularly the elderly.

I happen to concur with that. However, his amendment does not concur with the statements last year. His amendment does not belong in the U.S. Constitution, with all respect to its supporters. I may concur with their desire for Congress to set out a glidepath. The glidepath is this: Let us limit Federal spending to 3.2 percent, and if we want spending in some areas, like Social Security, to grow at 5 percent, that is fine; we have to find some other spending areas to be reduced to offset that amount. We can do that, if we will just show the courage to do it. Unfortunately, Congress has not shown the courage in the past.

Mr. President, I will conclude with, again, complimenting the sponsors of the balanced budget amendment, Senators SIMON, HATCH, and CRAIG, and many others who worked tirelessly to make it happen. We passed a similar amendment in 1982—I wish it would have been adopted by the House—in 1982, we were spending about $746 billion. We are spending more than twice as much today, in 1995, as we did in 1982.

So I think we need this balanced budget amendment. It is regretful we did not pass it a decade ago, or maybe in Jefferson's time. We would not be in the plight we are in, with our children inheriting a debt of over $18,000 per person. So I hope that the Daschle amendment will be either defeated or tabled, and I hope that we will pass a constitutional amendment to balance the budget identical to that of the House and then allow the States to go forward with the ratification process.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN. Mr. President, I intend to yield time to the Senator from Illinois. Let me for 30 seconds on my time indicate that which sounds deceptively simple is just plain wrong. As someone said, as happens often, you can simply limit to 3 percent growth and you solve the problem. If you limit Social Security to 3 percent growth, you effectively—Social Security recipients would not have the cost-of-living adjustments—but you tell the 6 million new people who become eligible, ''There is no money for you; you don't get your Social Security benefits.'' It sounds simple.

Mr. NICKLES. Will the Senator yield?

Mr. DORGAN. I do not have the time, as the Senator did not, either. Let me yield 10 minutes, if I might, to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for up to 10 minutes.

Mr. NICKLES. Will the Senator from Illinois yield for 30 seconds?

Ms. MOSELEY-BRAUN. Mr. President, I cannot yield because there is precious little time left in the debate. I would like to take this opportunity to state my support for the right-to-know amendment.

Mr. President, I am a strong supporter of the balanced budget constitutional amendment, and I am an equally strong supporter of the American people's right to know what balancing the budget will mean for them, for their future, and for their children's future.

Frankly, I do not understand why the right-to-know amendment should be the least bit controversial. I cannot believe that any Member of this Senate would argue that the American people should not know how the Government spends their money. I cannot believe that any Member of this Senate would argue that the American people should not know—in advance—what programs will need to be cut, or consolidated, or terminated, in order to balance the budget. I cannot believe that any Member of this Senate would argue that the American people should not have the right to make their views known on the options for balancing the budget before we are committed to any particular set of options, and that includes options for changes in tax laws, as well as spending cuts. Most of all, I cannot believe that any Member of this Senate would seriously argue that the American people should be asked to make a decision on an issue as important as the balanced budget constitutional amendment without knowing in detail—before they decide—what balancing the budget will mean, both for the United States in general, and for themselves.

It seems to me that we have an obligation to give the American people the absolute truth about the Federal budget, and about the choices we have to make to bring it back to balance—and to keep it there. If we think balancing the budget is important—and I, for one, believe that it is critically important to meeting our responsibility to future generations—then we have an obligation to present the facts to our constituents, to let them know what the options are, and the consequences they entail. In a democracy, the only way to build broad, sustainable support for the hard decisions that adopting a balanced budget constitutional amendment will force is to talk sense to the American people and to tell them the truth.

The people know the truth when they hear it—and they want to hear it. They know that, all too often in the past, budgetary issues have been presented to them as if they were the marks in a three-card monte con game.

Americans don't want to put up with that any more. They want the truth—now. They know they haven't been getting that truth, but they also know that in our democratic system, they deserve that truth, and they are entitled to it.

What the right-to-know amendment is all about is seeing that they get the truth. It calls for nothing more than treating the American public with the respect they deserve. It does nothing more than ask the Congress to do what common sense requires—to simply tell the truth about what it means to balance the budget, and about the changes that balancing the budget will bring. Most importantly, it means putting an end to the kind of budgetary gamesmanship that has contributed so greatly to the rise in public cynicism about Government, and its ability to tell the truth.

Just yesterday I was talking to an auto worker from Decatur, IL. He recounted a joke that goes something like this: ''How can you tell the government official is lying?'' The answer is: ''Because his lips are moving.'' That response is a telling indictment of the Government's stewardship of the budget and the kind of cynicism that is out there about what we do. In 1981, the American people were asked to believe in supply side economics, a plan that told the American people that cutting taxes would lead to faster economic growth, generating additional Federal revenues that would painlessly balance the budget. Of course, the only thing that it actually generated was staggering deficits that led to a quadrupling of the national debt from $1 trillion to over $4 trillion in just 12 years.

And the American people were told that Gramm-Rudman budget discipline would lead to a balanced budget. That effort also failed, because, like supply-side economics, it was more a cosmetic fix. It made the Congress look good and look like it had the discipline to make hard choices concerning the budget. But it was not based on telling the American people the truth about the Federal budget, or about what it would really take to balance it.

That is why the right-to-know amendment is so important now. If the balanced budget constitutional amendment is not to be seen as another budgetary gimmick, as another way to avoid the decision, or as another attempt to concentrate on process in order to again postpone the real decisions that must be made, the American people need to know that Congress is prepared to act, realistically and forcefully, based on budgetary realities rather than political illusions. And the only way they will be convinced of that is if they are made a full partner in the decisionmaking process.

There are those who fear that telling the American people the truth will undermine support for the balanced budget amendment, and there are others who hope it will. But there is no reason to fear the truth. The only thing we should fear is the consequences for our country and our democracy if we do not tell the truth.

Yet, there are those who continue to twist and turn in order to avoid meeting their obligation to the American people—to avoid telling the truth about the budget—and thereby put the balanced budget constitutional amendment unnecessarily at risk. These continued attempts at evasion make the right-to-know amendment, and the facts it will provide, even more necessary.

After all, according to the Congressional Budget Office, it will take over 1.2 trillion dollars' worth of budget changes to reach a balanced budget by the year 2002. And that is just the beginning, because balancing the budget that year will not ensure that it is balanced from then on, and that is what the balanced budget amendment requires.

The fact is that, as difficult as it will be to balance the budget by 2002, that task looks almost insignificant when compared to the challenge of keeping it balanced. I served on the Bipartisan Commission on Entitlement and Tax Reform. That Commission's interim report, adopted by an overwhelming 30 to 1 vote, found that, without major reform in entitlements, the Federal Government will almost double in size by 2030 as a percentage of the economy, and the Federal deficit that year would exceed 18 percent of the economy.

Think of that. Not only would the Federal deficit in 2030 equal virtually one-fifth of our GDP that year, but interest expense alone would consume over $1 of every $10 our economy generates.

The Commission report also made it very clear that growth in spending on discretionary programs subject to annual appropriations is not what is driving the growth of Federal spending. As a percentage of overall Federal spending, discretionary spending has dropped from over 70 percent of the budget in 1963 to only 28 percent of the budget now.

What is growing is entitlement spending, spending for activities like Social Security, Medicare, and Medicaid, and the like. Entitlements consumed only 22 percent of the Federal budget in 1963, but by 2003, together with interest on the national debt, they will account for 72 percent of overall Government spending.

The report of the Congressional Budget Office entitled ''The Economic and Budget Outlook: Fiscal Years 1996–2000,'' confirms the findings of the Entitlement Commission. It found that nondefense discretionary spending has basically not grown at all, as a percentage of GDP, since 1960. Over that same period, however, the CBO report found that entitlement spending has more than doubled.

Some might say, however, that looking only at percentages of the economy masks very large spending increases. The actual numbers tell much the same story. For example, based on CBO's latest estimates, Federal spending increased by a total of $70 billion between fiscal 1994 and fiscal 1995. Ninety-five percent of that increase was due to growth in entitlement programs and interest expense. In fact, those two budget areas actually increased by a total of $88 billion, well over the $70 billion net overall increase in Federal spending this year.

It seems to me, Mr. President, that every American has a right to know these budget facts, and that every American has a right to know what Congress plans to do about them. Yet, it is also very clear that the American people have not been told these facts, either by the media or by the Congress or the administration. Instead, the American people have been led to believe, as a recent poll by the Wirthlin Group found, that ''cutting welfare, foreign aid, and 'congressional perks' '' would ''do a lot towards balancing the budget.''

Most Americans, however, harbor substantial doubts about what they know about the budget. According to a recent memo done for the Republican Conference by the Luntz Research Cos., entitled ''Communications Strategy for the Upcoming Budget Battle'':

> Again and again, focus group participants complain that they don't have anywhere close to the information on the budget that [Members of Congress] do. Survey respondents always overestimate their knowledge on nearly any subject, and only 22% believe they know either ''a lot'' or ''a good amount'' about the budget process.

What that means is most Americans know that they are missing a lot of important information about the budget. Most Americans do not know, for example, that AFDC spending—and I have heard a lot of talk about programs for the poor—in real dollars per beneficiary, is down by roughly 40 percent since 1970. Most Americans do not know that foreign aid is only about 1 percent of the Federal budget, and that the value of congressional perks much, much smaller than that. But every American has a right to know these and the myriad other important facts about the budget, and every American has a right to know how Congress plans to change the budget if the balanced budget constitutional amendment becomes the law of the land. Americans have a right to know in advance so that they can determine whether those plans make sense, whether they will work, who will be affected, and why.

There are those who argue against providing details at this point, on the ground that it is somehow premature. Timing, however, did not prevent the new House majority from laying out its tax proposals in great specificity, proposals that the Treasury Department estimates will cost $375 billion over the next 7 years, and increase the size of the budget gap over that period by almost 40 percent.

Why is it, Mr. President, that now is the time to be specific about tax cuts, but now is not the time to be specific about the changes on the spending side of the equation that will be required to pay for those tax cuts and still balance the budget by the year 2002?

Americans have the right to know the specifics. It is time to put aside talking about waste, fraud, and abuse, and pork barrel spending as if the budget could be balanced by eliminating those sins. It is, instead, time to come clean with the American people and tell them what balancing the budget will really mean. I do not say that to suggest that we abandon our efforts to deal with waste, an inefficiency. Far from it. Tackling those issues must continue to be a priority. But it is time to acknowledge reality, and the reality is that dealing with waste, fraud, and abuse is not, and cannot be, in and of itself, a complete strategy for dealing with the budget deficit. It is only a component of a strategy, and not even the biggest one.

It is time to stop diverting the American people's attention from the major policy options that absolutely must be examined if the budget is to be balanced. If we are serious about balancing the budget, if we want to meet our obligation to future generations—and if we want the American people to support the tough decisions that will be required—then we have to stop the budget gamesmanship now, and enter a real partnership with the American people.

The American people need to know the dimensions of the budget problems we face, and what the realistic options are to address those problems. They need to know that it would take a 13-percent across-the-board cut in every Federal program, including Social Security and Medicare, to balance the budget by 2002—and that more cuts would be needed thereafter to keep it balanced unless the rate of growth of entitlement spending can be cut.

They need to know that it would take an 18-percent cut in every other program but Social Security to balance the budget by 2002, if that program is taken off the table, and that further cuts would be needed in those other programs to keep the budget balanced after 2002. And they need to know that even taking Social Security off the table will not keep Social Security viable in the long run, because that does nothing to restore the actuarial balance in that program that the Social Security trustees say is now out of balance. They need to know that we must act to keep Social Security available for future generations—and that the sooner we act, the easier it is to accomplish. And they need to know that maintaining Social Security's viability can be accomplished without cutting

the benefits of any current beneficiary by even a nickel.

They need to know that it would take a 32-percent cut in all other Federal programs, including defense, to balance the budget by the year 2002, if both Social Security and Medicare are taken off the table—and more cuts in those programs thereafter to keep it balanced, because both Social Security, and particularly Medicare, are growing faster than our economy or Federal revenues. And they need to know that it will take a cut of 36 percent in all other Federal programs if defense is also taken off the table.

They need to know that it is not the programs benefiting the poorest Americans that are driving the growth of the Federal budget. They need to know that the real engines of growth are rapidly rising health care costs, and the fact that the baby boom generation is moving toward retirement.

Perhaps most of all, they need to know what some of the options for balancing the budget might mean for them. Would the proposed path toward the balanced budget mean rougher roads, or higher subway fares? What would it mean to their children, to their opportunity to get a good grammar school and high school education, and to their chances to go to college. What will it mean to their ability to buy a home and to obtain a mortgage? And what would it mean to older Americans who need access to affordable health care? Would they face additional gaps in coverage, higher premiums, higher deductibles, or some combination of all of these? Would older Americans be able to choose to pay somewhat more in taxes to keep Medicare solvent, or would the only choice they are offered be private insurance—even if that option were to be more costly. Will COLA's—cost of living adjustments—be set based on the facts and the best measurement of inflation we can make, or will COLA's be determined on a more political basis?

Americans also want to know whether the result of Federal actions to balance the budget means higher State and local taxes for them. After all, the Federal Government currently provides more than 21 percent of the State of Illinois' budget, and provides major support for the budget of towns and cities across my State. An analysis done by the Treasury Department at the request of the chairman of the National Governors Association found that across-the-board cuts in Federal spending to balance the budget could lead to tax increases in my State of over 10 percent—and in some States, the tax hikes necessary to make good the loss of Federal funds could be as much as 25 percent.

In the 1970's and the 1980's, both the Presidents and the Congress failed in their obligation to face our long-term budget problems. They flinched from making the necessary decisions because those decisions were politically difficult and because it was easier to talk about fiscal responsibility, than to act to achieve it. However, if we had balanced the budget in 1980, there would be no need for even a single dollar of program cuts this year. The budget would actually be in surplus. Dealing with the rapid cost increases in Medicare and Medicaid would be much easier than it will be now. The Government would have a far greater ability to act to address problems that need our attention, because it would not be spending over $200 billion a year just on debt service.

The failures of the 1980's brought us to where we are now, and those failures make the job of restoring fiscal discipline more difficult now. The lesson of that failure is that we cannot afford further delay. That is why I was critical of the President's budget that was released yesterday It avoids facing our budget problems. It avoids telling the American people the truth about those budget problems, and what it will take to solve them. It does not meet the responsibilities that leadership entails.

But the fact that the President did not act aggressively does not lessen the responsibility of the Congress to act, particularly when Congress is attempting to add a balanced budget amendment to the Constitution. We must begin to act—now—whether there is a balanced budget constitutional amendment or not.

And that is the real importance of the right-to-know amendment. It properly focuses attention where it absolutely must be focused—on the decisions involved in implementing a constitutional amendment—on what is involved in turning the promise of a balanced budget into a reality. The work is not done if and when the balanced budget amendment becomes a part of the Constitution, and the truth is that the real work cannot wait until a constitutional amendment is ratified.

The ongoing Mexican financial situation gives us a glimpse of the future if we do not tell the truth to the American people about or budget problems and get their help in beginning to solve them now. Mexico was financing economic growth with foreign capital, and was therefore vulnerable to a loss of confidence. The result of that loss of confidence is creating economic recession in Mexico, and real hardship for millions of Mexicans.

The United States economy is much larger and stronger, and much more resilient than Mexico's. We do not face the same kind of sudden collapse. But the U.S. national savings rate has been declining for many years now. We are financing an increasing portion of our Government debt, and private economic investment with foreign capital. And the result will likely be everyhigher interest rates in the United States, and increasing pressure on the incomes of most Americans, if we do not begin to act now. On the other hand, if we do begin to move toward a balanced budget, OMB Director Alice Rivlin, in her ''Big Choices'' memo, tells us that we can turn the anemic 3.7-percent national savings rate into a 6.1-percent savings rate by the year 2000. And that higher national savings rate would mean more opportunity and a brighter future for our children—and their children.

As important as it is to our futures, and our country's future, to restore discipline to the Federal budget—to balance the budget—how we get to that balance makes a difference. Some options work better for the American people than others. How we choose to get to a balanced budget makes a big difference.

The right-to-know amendment ensures that every American has the opportunity to get a good, hard look at the plans for balancing the budget, and, indeed, at all of the available options. It takes the abstractions involved in the balanced budget amendment, and makes them concrete and real.

The right-to-know amendment calls on Congress to meet its obligation to American democracy. It is nothing less than a recognition of our fundamental moral responsibility to our country, because it seeks to ensure that the American people have the information they need to be able to meet their own responsibilities as Americans.

No one can make good decisions without good information. In a democracy, that means not only must Congress and the President have good information, but so must the American people. For that reason alone, it should have universal support in this Senate. It is the only way to demonstrate that Congress is serious about wanting to balance the budget, that Congress wants the American people to be real partners in the decisions required to make that happen, and that Congress is committed to doing what is right—telling the whole budget truth to the American people.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. MOSELEY-BRAUN. I ask if the Senator will yield for 5 minutes.

Mr. DORGAN. I have 12 minutes and two additional statements.

Ms. MOSELEY-BRAUN. I conclude by saying, Mr. President, the balanced budget amendment is going to require some real hard decisions by all of us, decisions that will affect our States, decisions that will affect our constituencies, and it seems to me that we have an obligation to tell the truth beforehand so people get a sense of exactly how this will work.

Taking Social Security off the table, taking Medicaid off the table, taking defense off the table, doing the kinds of changes that will come up in amendments after we get past this one, will, I think, require some hard decisions. It seems to me that with the right-to-know-amendment the people will have the truth. They can evaluate our actions more accurately and more effectively. They can hold us accountable for what we do.

With that, Mr. President, I thank the Senator from North Dakota and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. I yield myself 6 minutes.

Mr. President, at the outset of this debate, I observed that Members of the Senate divided into three distinct groups in connection with the proposal now before us.

The first was those who believe that the present budget and financial system of the Government of the United States is broken, broken seriously and requires major surgery in order to fix it. The evidence which we, a majority, in this body have cited is the fact that in 30 years we have had but one balanced budget. In the last 20 years, the total debt has multiplied by more than 10 times to almost $5 trillion, a tremendous burden on the people of the United States of America; that even at the present time, at a time of relative prosperity, we are running deficits of $200 billion a year, adding that amount to our total debt. The cure, it is the belief of the substantial majority of the Members of this body, is the balanced budget amendment in the form in which it passed the House of Representatives.

The second group in this debate are those who claim allegiance to the concept of a balanced budget but not in this fashion, not through the provision for such a budget in the Constitution of the United States.

Now, I believe that the overwhelming challenge to that second group is if not this way, what way? What indicates to them in the history of the last 30 or 40 years that either a President of the United States or a Congress of the United States without any external discipline whatsoever will change the course of action of several decades and work toward a balanced budget without external discipline?

So far, this second group has been quite silent about what there is that has so profoundly changed in America that we will now get what we have lacked over the course of the last 30 years. In fact, it seems to me that it is more the duty of that group to show us how they would reach the goal than it is of those who believe that a constitutional amendment is necessary and who are the subject of the demands in this motion by the distinguished Democratic leader.

Third, of course, is the group that does not believe in a balanced budget at all, who feel that the present, the status quo is perfectly appropriate. There are relatively few in number in this body who candidly advocate that position but one certainly can credit their candidness. Probably a number of those in the second group really fall into the third group with the balanced budget as a low priority or no priority at all.

That third group, however, got a wonderful new recruit on Monday. On Monday, the President of the United States, William Clinton, joined them by presenting to us a budget with a $200 billion deficit and projections that are very optimistic from the perspective of inflation and economic growth, projections that never bring the budget deficit to significantly less than $200 billion a year, with a deficit that increases after the turn of the century, so that another $1.5 trillion will be added to the debt. That budget, that Presidential budget is the best single advertisement for the passage of this constitutional amendment in its original form.

The Daschle motion, the motion of the distinguished Democratic leader, is designed to justify doing nothing, to retain the status quo. I cannot imagine that any of its proponents really believe we ought to include in the Constitution of the United States two pages of detailed instructions which will become irrelevant if the constitutional amendment is actually passed. They cannot believe it.

But beyond the inappropriateness of putting such language in the Constitution of the United States is the unconstitutionality of the motion itself because our Constitution tells us that this Congress passes proposed constitutional amendments which are then submitted to the States for their ratification. Under the Daschle motion, no such thing will happen. The submission to the States is conditioned upon Congress passing a series of laws before that submission takes place.

The Daschle motion is, therefore, not only bad policy, not only bad aesthetics by putting terrible language in the Constitution of the United States, it is itself blatantly unconstitutional.

Both for reasons of policy and for reasons of constitutionality, the Daschle motion should be decisively and swiftly tabled so we can move on to a debate over the merits of the constitutional proposal itself.

The PRESIDING OFFICER (Mr. KYL). Who yields time?

Mr. HATCH. Mr. President, I yield 7 minutes to the distinguished Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I rise in support of the pending resolution to amend the Constitution to require a balanced budget.

I have not always supported the balanced budget amendment. When this measure was considered by the Senate in 1982 and again in 1986, I felt that Congress could and would address deficits without the aid of a constitutional amendment. Several years ago, however, I realized that I had overestimated Congress' ability to deal responsibly with the budget. We have not balanced the budget in 25 years.

When it came time for the tough spending cuts ordered by the Gramm-Rudman deficit reduction law, Congress did not have the will to follow through. So in 1992, for the first time I supported a balanced budget amendment in the Senate.

Public debt is not inherently bad. It was both necessary and wise for the Federal Government to borrow heavily during World War II. In the three decades following the war, the United States gradually paid down this debt. Beginning in the 1970's and worsening in the 1980's, however, the Federal Government reversed this trend by borrowing more and more to pay for current expenses. The huge deficits we have been running for the past 15 years have not been to finance public investments that will yield benefits in the future. We have been borrowing primarily to pay for current consumption. We're not borrowing to build roads; we're borrowing to put gas in the car.

Contrary to popular belief, Congress is never faced with the option of raising taxes or borrowing money to finance Government. Spending can only be paid for through taxes—it is simply a question of whether we raise taxes today or tomorrow. Borrowing invariably means that future generations will face a heavier tax burden. In fact, the Office of Management and Budget last year published an analysis of the growing tax burden. The report forecast that, without changes in Federal law, the average net tax rate for future generations would eventually reach 82 percent of their lifetime earnings. Clearly, such a tax burden would be unacceptable.

The real harm caused by Government borrowing is that it draws down the pool of savings available for investment. Rising standards of living are possible only through investments in infrastructure, in plants and equipment, and in education. Savings by American families and businesses provide the capital for these investments. But deficits draw down, or crowd out, the national pool of savings. This year, for instance, the first $200 billion in savings will not go to investments in new plants and equipment but to feed the deficit.

As more and more of our savings are devoured by the deficit, investments for the future decline—and with them, the rate of economic growth in the country.

So the deficit is a double hit on future generations. We are not only asking them to finance our current spending; we are handicapping their ability to meet this obligation—by crowding out investments for the future. We are not only eating their seed corn, we are asking them to pick up the dinner check.

This travesty simply must end. As nearly every economist in the country agrees, the surest way to increase investment in the future is to cut the deficit. And, the surest way to cut the deficit is to pass the balanced budget

amendment. All other remedies have failed.

Repeated deficits have done serious damage not only to the economy but to Congress' standing with the public. The low esteem in which Congress is held is directly related to our fiscal irresponsibility. For the sake of the integrity of this institution, we cannot continue to promise the American people long-term deficit reduction and do little about it. Actions do speak louder than words.

We have tried every conceivable legislative option to force a more responsible budget policy. With few exceptions, these efforts have failed. A constitutional amendment appears to be the only solution left. As others have said, it may be a bad idea but one whose time has come.

Amending the Constitution should not be proposed lightly. It is a very serious matter. However, the balanced budget amendment is consistent with the historic role of the Federal constitution in safeguarding the rights of those who may be under-represented in the political process. In this case the under-represented individuals are future generations who are being asked to pay for our profligacy.

Numerous arguments have been made in opposition to the balanced budget amendment. Some have argued that the balanced budget amendment is a gimmick that will not work, while at the same time arguing that it will wreak havoc by imposing draconian cuts. The balanced budget amendment is neither a gimmick nor a merciless ax hanging over all Federal programs—and it is certainly not both.

The balanced budget amendment is not an easy political vote. The easy votes have been the routine ones to spend beyond our means. The proposed amendment will not—with certainty—end deficit spending, but it will undoubtedly make it more difficult.

When the 1990 budget agreement required a supermajority to exceed annual caps in discretionary spending, no one argued that the supermajority requirement was a gimmick. It was recognized as an essential step toward fiscal responsibility. When all the smoke is cleared on the balanced budget debate, it is undeniable that deficits will be harder to continue under a constitutional amendment. If you want to make it more difficult for Congress and the President to pass the tax bill on to future generations, you should support the balance budget amendment.

The amendment does not tie Congress' hand to the point that it could not respond to a national crisis. With the approval of three-fifths of the Congress, deficits would be permitted. In times of war or dire economic circumstances, three-fifths of the Members of the Congress can be expected to recognize the need for deficit spending.

Unfortunately, Congress has too often viewed deficits not as a necessary tool in dire circumstances but as a convenient way to spend beyond our means. We have turned the exception into the rule and have become hooked on deficit spending. It has been easier to reach for the deficit brew than to abstrain and act responsibility. The practical effect of the balanced budget amendment will be to put this elixir a little higher on the shelf and further out of Congress' reach.

In closing, I would like to make three points that I think put this debate into context.

First, 37 States have balanced budget amendments. Complying with these requirements is not always convenient. But over the long term, forcing governments to balance their budgets promotes good and disciplined government.

Second, the fact that taxpayers are willing to finance only $1.4 trillion of the $1.6 trillion worth of current Government services, begs the question of whether the public really wants as much Government as currently exists.

Last, we should not lose sight of the fact that there is no free lunch here. Every dollar the Government borrows is a dollar unavailable for job-creating investment in the private sector. Also, every dollar the Government borrows today is a dollar tomorrow's taxpayers will have to repay. At its most basic level the balanced budget amendment stands for the simple principle that we should pay today for the Government we use today. If we are unwilling to put the money on the barrel ourselves, by what right can we ask future generations to put their money on the barrel?

The balanced budget amendment offers the best hope of ending the fiscal child abuse in which we have been engaged. The bruises may not show right now, but the pain is going to last a lifetime. We owe it to our children and their children to balance the budget. I have no illusions that this will be an easy task, but if we do not in earnest set this as our goal and accept it as our responsibility, it will never happen. The debate today is not about how do we get there, it is about where are we going.

Thomas Jefferson once said that whenever one generation spends money and taxes another to pay for it, it is squandering futurity on a massive scale. Let us end this squandering and pass the balanced budget amendment now before our task becomes even more difficult.

Mr. President, now let me speak briefly about the pending amendment, the so-called right-to-know amendment.

The word ''gimmick'' has been thrown around here quite a bit in this debate, with the opponents of the balanced budget amendment arguing it is simply a gimmick rather than a serious effort to balance the budget. I respectfully suggest if there is a gimmick stalking the Chambers these days, it is the so-called right-to-know amendment. It is designed to kill the balanced budget amendment and nothing else. Some of its principal sponsors supported the balanced budget amendment last year, and there was no mention on their part of a right to know at that time. Curiously, suddenly it has emerged.

Any one of us can produce a balanced budget plan by the year 2002. Indeed, some of us have. I joined last year with Senators Danforth, Boren and JOHNSTON, to offer the only bipartisan alternative to the President's budget. Our plan called for cutting spending on the basis of $2 for every $1 in taxes. It was a serious and detailed plan. Unfortunately, it gathered more critical acclaim from the Concord Coalition and others than it did from Members of the Chamber.

But the issue pending before the Senate is not how we are going to get somewhere. It is about where we are going. Are we truly committed to balancing the budget? If so, let us take the first step by passing this amendment. The process of figuring out how we achieve the goal is going to be difficult. Everyone in the Chamber understands just how it is that no serious debate can take place in an atmosphere of partisan sniping, where one side is trying to score points through fear mongering, by saying the other side is trying to attack Social Security or veterans or some other group.

Three years ago, Senators NUNN and DOMENICI offered a plan to cap entitlement spending the way we already cap discretionary spending. I supported it. Unfortunately, there were only 28 votes in favor of that approach.

A second-degree amendment was offered by the Democratic leader to exempt veterans' programs. It was effective. Very few Senators wanted to vote against that amendment. It was effective in terms of short-term politics, but it served to underscore what is wrong with Congress and why the American people are basically fed up with Washington. Every thinking person who has looked at the Federal Government knows entitlement reform is the key to any serious deficit reduction, yet the political fires are stoked to the point where no one dares to discuss openly what we know privately to be essential—entitlement reform.

During the debate on the Nunn-Domenici plan, we were told, do not undertake broad entitlement reform, that is really not where the problem is. The problem is with health care spending. We need health care reform.

After a year of debate in this Chamber, after the President submitted his 1,435-page proposal for health care reform, the best that could be said was that it was deficit neutral. Yet before we were told, ''Wait until we get to health care reform, that is where the savings are, forget about entitlement reform,'' and when the plan finally came up it was at best deficit neutral. It certainly did not reduce the deficit.

It is a mistake both in terms of politics and policy. The atmosphere around

here has become so poisoned that honest debate has become nearly prohibited, and that is neither in the country's nor the Senate's best interest.

The President's budget calls for $200 billion in deficits as far as the eye can see. We all understand why it does not call for a long list of specific cuts, because he would be attacked, just as Republicans are when we produce lists of spending cuts. We need an environment like the one Chief Justice Earl Warren sought when the Supreme Court took up the case of Brown v. Board of Education, dealing with racial segregation in public schools. The Chief Justice, knowing this would be a landmark and controversial case in the country's race relations, first sought an agreement among the Justices for unanimity in their decision. He did not want such an important decision to be decided by a split Court.

I have no illusion that the Members of Congress could unanimously agree on a difficult deficit reduction package, but I do think we ought to learn from Chief Justice Warren's approach in terms of securing an atmosphere where debate can be undertaken without fear of being punished for candor. The budget deficit is rivaled only by the candor deficit. Until we can openly discuss these issues without fear of charges of heresy, is any serious progress ever going to be made? The balanced budget amendment is necessary to create that atmosphere, and I urge my colleagues to reject the attempt to subvert and derail this effort by the so-called right-to-know amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN. Mr. President, I yield the remaining 11 minutes to the Senator from Massachusetts [Mr. KENNEDY].

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Do I understand the Senator from Connecticut desires time?

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all, I thank the distinguished Senator from Massachusetts. I will ask for just 2 minutes, if that is appropriate, if the Chair will notify me so I do not eat into the time of the Senator from Massachusetts.

Mr. President, I rise to support the right-to-know amendment offered by the distinguished Senate minority leader, Senator DASCHLE.

The first headline to greet me yesterday morning was "Republicans Vow Leadership They Say Clinton's Budget Lacks."

Mr. President, I look forward to their leadership on this vitally important matter. We have not seen any yet, but I am sure it is right around the corner.

I look forward to providing as much scrutiny of Republican deficit reduction efforts as has been accorded to the President's efforts. To my Republican friends, I say it is time to see your cuts. The 104th Congress has now been in session for 36 days, and we have yet to see any specific cuts.

THE CLINTON RECORD

Twenty-seven days after President Clinton assumed office he submitted a detailed budget plan that contained more than $500 billion in deficit reduction. He did not say "I want to see the Republicans plan first." Instead he did what he was elected to do—he led.

He made difficult and painful choices. The choices were so hard, in fact, that not a single Republican Member supported his deficit reduction initiative. The House Budget Committee chairman, Representative JOHN KASICH, proposed an alternative plan that cut the deficit by $15 billion less than the President's plan.

Despite the doom and gloom predictions of our Republican colleagues, the President's plan has substantially reduced the deficit and helped the economy. President Clinton has reversed the trend of the Reagan/Bush era. Then the national debt was growing faster than the economy. Now the economy is growing faster than the debt. And the combined rates of unemployment and inflation have reached a 25-year low.

HEALTH CARE

Last year, the President exercised considerable leadership again by tackling the principle cause of rising deficits, skyrocketing health care costs. The President offered a comprehensive plan to reform our health care system and contain rising health care costs that are fueling deficit growth. Forty percent of the increase in spending is due to increasing medical costs.

Last February, CBO reported that:

> Once the administration's proposal was fully implemented, it would significantly reduce the projected growth of national health expenditures * * * from 2000 on national health expenditures would fall below the baseline by increasing amounts. By 2004, CBO projects that total spending for health would be $150 billion—or 7 percent—below where it would be if current policies and trends continued.

Unfortunately, the President's efforts were thwarted.

The President remains committed to reining in rising health care costs and reforming our system in a comprehensive manner. Health care, however, is not even mentioned in the Contract With America.

FISCAL YEAR 1996 BUDGET

On Monday, the President submitted his 1996 budget and recommended an additional $81 billion in deficit reduction. That savings, and the President's tax cuts, are fully funded with specific spending cuts.

REPUBLICAN LEADERSHIP

Mr. President, we have heard much from our colleagues on the other side of the aisle about their desire to achieve significant accomplishments in the first 100 days of this session. We are now 36 days into that benchmark and we have yet to see the Republicans spending cut plans.

We have heard much talk, and seen very little action. The GOP has reversed the advice of a great Republican leader, Theodore Roosevelt. Instead of speaking softly, and carrying a big stick, they are shouting loudly and carrying a fig leaf. A constitutional amendment provides their cover.

Congressman KASICH said recently, "You can't have people who are afraid to break china when you've got to go at this with a sledgehammer."

Let us see what the sledgehammer will produce.

RIGHT-TO-KNOW AMENDMENT

Mr. President, that is the purpose of this amendment. It is no more and no less than a truth in budget advertising amendment. It says simply that we must be honest with the American people.

Before we pass a balanced budget amendment to the U.S. Constitution, we should tell the American people how we intend to accomplish this task. I cannot imagine this effort being at all controversial anywhere but Washington, DC. It simply says if you are going to talk the talk of balanced budgets, you have to walk the walk of how you get there. So far, that is exactly what is not happening.

RENEGING ON PROMISES

Several weeks ago, in response to President Clinton's demand that any tax cuts be deficit neutral, our Republican colleagues promised that spending cuts would precede tax cuts. The message was clear: Before we pass broad new benefits, we must assure the American public that they will be paid for. This promise has since been abandoned to concerns of kneebuckling constituents.

MORE PROMISES—NO DETAILS

The Contract With America promises to balance the budget by 2002. CBO estimates that this will cost $1.2 trillion over 7 years.

The contract also promises $200 billion in tax cuts over 5 years, and $700 billion in cuts over 10 years. Fifty percent of the tax cuts, I might add, would benefit Americans with incomes in excess of $100,000 a year.

Before attempting to pay for these promises, the GOP proposes to take more than half the budget off the table. Republicans want to increase defense spending and remove Social Security, while at the same time continuing to pay interest on the debt. Less than half the budget would then remain on the chopping block.

Removing these items would require a 30-percent across-the-board reduction in everything else.

That means a 30-percent across-the-board cut in: Violent crime programs, veterans pensions, Medicare benefits, child nutrition, headstart, health programs, low-income energy assistance, student loans, research and development, and so forth.

Let us analyze further for a moment what these cuts may well mean in human terms:

A 30-percent across-the-board could mean:

A $5,175 increase in Medicare premiums and out-of-pocket costs for seniors.

An elimination of nursing home coverage or optional services like home care and prescription drugs.

Some 6.6 million less children with health care coverage through the Medicaid Program.

A drop of a third in NIH biomedical research grants severely impeding research on cancer, AIDS, heart disease, and other illnesses.

Veterans disabled in their service to our country could expect their average monthly benefit check to decline from $819 to $574.

A middle-class family relying on Government loans to send a child to college could owe over $3,000 in additional interest.

As many as 3,000 teachers could lose their jobs, dramatically increasing class sizes.

Over 200,000 American families could lose the child care subsidies that enable parents to work or attend school.

Approximately 1.8 million households could lose the Federal assistance that enables them to pay their heating bills during the winter.

Over 150,000 jobs could be lost through cuts in highway funds.

Almost 2 million pregnant women and young children could lose infant formula and other nutrition supplements.

Over 30 million meals on wheels for homebound seniors might not be delivered.

Over 38 million means might not be served at seniors centers.

The average interval between inspections of food manufacturing facilities could increase from 6 to 11 years.

Over 200,000 dislocated workers could be denied retraining and job replacement services; 40,000 violations of workplace safety regulations uncovered by the Occupational Safety and Health Administration could remain uncorrected.

Mr. President, it is clearly impossible to achieve significant deficit reduction without pain.

That is the whole point of this amendment. Before we promise to balance the budget, and enact new tax cuts, the American public deserves to know exactly what kind of pain to expect.

The President has revealed his cuts. Democratic members have made painful choices and tough votes. It is time for the Republicans to reveal how they intend to fulfill their own promises.

NO DETAILS

On spending cuts, the Republicans are essentially saying to each other, like Connie Chung, ''Whisper it, just between you and me.'' They do not want a serious debate by an informed public of all the implications of this constitutional amendment.

It is true that 80 percent of the American public supports a balanced budget amendment to the U.S. Constitution, as long as it remains a slogan or a simple statement of principle. But what happens to that 80 percent figure when people are presented with various spending cut options?

A Washington Post-ABC news poll is telling:

Only 59 percent still support the balanced budget amendment if it would mean cuts in welfare or public assistance to the poor.

Only 56 percent still support it if it would mean cuts in defense.

Only 37 percent still support it if it would means cuts in education.

Only 34 percent still support it if it would mean cuts in Social Security.

Mr. President, before we amend the fundamental charter of our Nation, the U.S. Constitution, we must be open and frank with the American people about our plans.

I urge my colleagues to support this amendment to inform the electorate of the important budgetary choices this body intends to make in the years ahead.

Let me briefly say it is no secret to my colleagues here that I am opposed to this amendment to the Constitution. My intention would be to vote against all amendments that are offered to it. This amendment, however, I think, deserves support. It simply asks us to know what I think most persons would like to know: Before their Congressmen or Senators vote on something as significant and profound as to change the organic law of the country into which we will incorporate economic theory—and it is always open to speculation and guesswork in such an organic law—to have some idea as to how this is all going to be achieved.

It is, as one would enter into contract negotiations—since that is a subject of some heated debate now in this city, between baseball owners and players—as if someone would suggest: Look, sign the contract. We will talk about the details afterwards.

You would be ridiculed if you made such a proposal.

Here, what we are merely suggesting is that as we go down this road, which will incorporate for the first time a real straitjacket into the Constitution of the United States, what are the implications of this? What does it mean to people out there who pay the taxes and fund all these programs? They, it seems to me, are really the ones who have a right to know how their tax dollars will be used or not used in the future.

The suggestion, somehow, their knees would buckle if they knew because it is painful is no reason to reject the desire to find out exactly how this is going to work. And for that reason I strongly support this amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I oppose the proposed balanced budget constitutional amendment, because it is unnecessary and unwise to write a balanced budget requirement into the Constitution.

It is obvious why the Republican majority has scheduled consideration of the balanced budget amendment now, so early in this new Congress.

The Republican majority wants to pass the constitutional amendment before more pressure builds for them to explain how they would achieve the balance. The more the American people understand this leap-before-you-look strategy, the less the people like it.

The House Republican majority leader has already admitted to this strategy. Congressman ARMEY, a strong supporter of the proposed constitutional amendment, said that if Members of Congress know what it takes to comply with the requirement, ''their knees will buckle.'' He also is reported to have said that ''putting together a detailed list beforehand would make passing the balanced budget amendment virtually impossible.''

Instead of devoting the time and effort to craft a responsible budget, the Republican majority asks us to amend the Constitution now, ask questions later. But the Constitution has served this Nation through wars, economic depressions, and other crises far worse than the current budget deficit. Amending the Constitution should be the considered option of last resort, not the expedient course of first resort.

For that reason, I commend Senator DASCHLE's amendment to insure that the constitutional amendment will not take effect unless Congress first passes a resolution specifying in detail how the budget would be balanced by 2002. The American people and their elected representatives in the State legislatures have a fundamental right to know how this constitutional amendment would affect their lives.

The Congressional Budget Office estimates that a total of $1.2 trillion in deficit reduction will be required to balance the budget by the year 2002. And that total does not include the tax cuts called for by the Republican Contact With America, which would raise the total of cuts required to $1.5 trillion.

If Social Security, defense, and interest on the national debt are excluded from the deficit-cutting calculations, all other Federal programs will have to be cut by 22 percent to achieve a balanced budget in 2002. And if the tax cuts in the Contract With America are included, all other Federal programs will have to be cut by 30 percent. That's a 30-percent cut in spending on Medicare, Medicaid, veterans benefits, student loans, farm benefits, and all other Federal programs.

The American people have a right to know if that is how the Republican majority will balance the budget.

Across-the-board 30-percent cuts would have a disastrous impact on children, the elderly, and hard-working familes throughout the United States. Here are just a few examples:

Over 220,000 children would be unable to enroll in Head Start early childhood programs.

Over 200,000 families would lose the child care subsidies that enable parents to work or attend school.

And 1.9 million students would lose the opportunity for remedial education through title I of the Elementary and Secondary Education Act.

Also, 3,000 teachers would lose their jobs, dramatically incresing class sizes in many school districts.

To achieve the necessary cuts, the House Budget Committee has already proposed that the Federal Government should stop paying the interest on student loans while students are in college or professional school. Middle-class students on the full available amount of such loans would owe over $3,000 in additional interest at the end of 4 years of college. Instead of $17,000 in loans to pay back, they would have to pay back over $20,000.

The challenge that we are facing in higher education is not how we are going to raise the burden on middle-income families to send their children to school, but how we are going to dampen that burden, lessen that burden, so that their young members of their family are going to be able to go to school. The fact, even as we are here this morning, is that efforts are being made within the Republican Budget Committee and by the Republican chair of the Appropriations Committee to raise the cost of those loans significantly for future years.

If those same needy students were to attend medical school and continue to borrow the full amount available, they would owe over $16,000 in additional interest at the end of medical school. A debt that would be $51,000 under current law would climb to a debt of $67,000.

If Pell grants are slashed by 30 percent, eligible students would receive a maximum of $1,560, a fraction of the $8,000 it now costs to attend many State universities. Many students could not even afford community college at this reduced level of support.

What we have seen in the 1980's to 1992 is a dramatic shift from the grant programs for the children of working families to go to schools and colleges which they were qualified to go to and to which they wanted to go—three-quarters for the grants and one-quarter for the loan. Now it is three-quarters for the loan and one-quarter for the grant.

Now the Republicans are talking about increasing the costs of those particular loans and indenturing young sons and daughters of working families for years to come. That will only be increased dramatically with a balanced budget amendment.

If the cut is achieved by reducing the number of students receiving Pell grants rather than the amount of the grant, 1.1 million students would fail to receive the Federal aid they need to attend college.

Senior citizens would face drastically higher medical bills. Medicare beneficiaries would pay an additional $1,320 more in premiums and out of pocket costs.

Monthly benefits for disabled veterans would drop from $819 to $574 a month.

A 30-percent cut in Federal support for biomedical research would reduce the number of annual research project grants awarded by the National Institutes of Health from 6,000 to 4,200. This cut would severely damage research on cancer, AIDS, heart disease, and other illnesses affecting millions of Americans. The promising current effort to identify a genetic basis for diabetes would be set back.

The greatest opportunity for breakthroughs that we have had in the history of this country is out at the NIH. There is a difficulty, even with the administration getting an additional $500 million for additional grants. More than 90 Nobel laureates won because of NIH support over the history of the NIH with extraordinary opportunities for breakthroughs in cancer and many other diseases that affect families all across this country.

The effect of a balanced budget amendment, in cutting back what is called discretionary funds—we are not talking about exempting NIH. No; no. We are talking about cutting discretionary funds, whatever that means. Make no mistake about it. You are talking about cutting NIH; you are cutting cancer research; you are cutting heart disease research; and you are cutting AIDS research. That is going to be a direct result with a balanced budget amendment.

Why not give us the opportunity to find out from those that support a balanced budget amendment whether they are going to include the NIH? Let us have a debate on it. What is wrong with that? Why not say: Are you going to include NIH, or are you going to be willing to cut back on other kinds of spending? Or, do you want to enhance some fees in terms of other parts of the country, mining fees or grazing fees? But we are denied that opportunity, and the Daschle amendment would require that kind of a factor.

Approximately 1.8 million households would lose the Federal assistance that enables them to pay their heating bills during the winter. Alternatively, the assistance available to all eligible households would be cut to only $120 each year, barely enough to pay a single month's bill.

Nearly a quarter million senior citizens who rely on the Meals on Wheels Program for their nutrition would be denied that assistance. There are some 32,000 seniors every single day who get Meals on Wheels in my State of Massachusetts. You are talking about cutting thousands off of that particular list. Over 700,000 senior citizens who benefit from the congregate meals program would lose that assistance. Large numbers of these senior citizens, unable to feed themselves, would no longer be able to live at home and would be placed into institutions.

The Occupational Safety and Health Administration would be able to carry out 12,000 fewer inspections each year. Some 40,000 violations of workplace safety regulations that OSHA uncovered last year might remain uncorrected. A similar number of violations uncovered by the Mine Safety and Health Administration might remain uncorrected.

Over 200,000 dislocated workers would be denied retraining and job placement services. An additional 200,000 teenagers seeking summer jobs would be refused that opportunity.

The average number of food inspections by the Food and Drug Administration would fall from 10,000 to 7,000.

The average interval between inspections of food manufacturing facilities would go from 6 years to 11 years. The average frequency of blood bank inspections would decrease from once every 2 years to once every 3 years.

The process for reviewing new pharmaceutical products would lengthen from approximately 20 months to 30 months initially, and get longer as the backlog carries over from year to year.

Those are but a few of the examples of the impact of the 30-percent across-the-board cut in Federal spending that would be required under the Republican proposal for a balanced Federal budget by 2002.

If that is what the Republican majority have in mind to comply with the proposed constitutional amendment, the American people have a right to know it.

The Treasury Department has also estimated the impact of the proposed constitutional amendment on the States.

An across-the-board deficit reduction package that excluded Social Security and defense would require cuts in Federal grants to States of $97.8 billion and cuts of an additional $242.1 billion in other Federal spending that directly benefits State residents. We can ask whether the States have a full understanding and awareness of this as they begin this debate.

According to the Treasury Department, State taxes would have to increase an average of 17.3 percent, just to offset the loss of Federal grants.

If that will be the impact of the proposed constitutional amendment, then the States have a right to know it.

Asking the States and the American people to support this proposed constitutional amendment without telling them what it means is bumper sticker politics at its worst. The American people deserve facts, not slogans.

I urge my colleagues to support the right-to-know amendment. Sunshine is

the best disinfectant. It is understandable that the Republican majority prefers to keep Congress and the country in the dark about this proposal. But if it cannot stand the light of day, it does not deserve to pass.

We have the election of Republicans, and they have leadership positions in the House and Senate of the United States. I hope that at least they would feel honor bound to be able to describe to the institutions and the American people what their vision is in terms of a balanced budget.

That is all this amendment does. If we are going to have a balanced budget, why not let the American people understand exactly what is going to be involved, both at the Federal level and at the State level? This particular amendment would give that kind of information to the American people. I think the amendment is flawed without this amendment.

I hope that the amendment will be agreed to.

I yield back whatever time remains.

I thank the Chair.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I enjoyed listening to my dear colleague from Massachusetts, and almost everyone, I think, knows of my affection for him. But we know what is going to happen if we do not do this balanced budget amendment. He and his friends are going to continue to spend us blind, which is what they have been doing for most of the last 60 years.

The fact of the matter is everyone knows that this country is in real trouble and they know who has basically put the Great Society programs into effect, many of which, if not all of which, were well-intentioned—they know who has caused the entitlements to grow to now. If you put interest in the entitlements, which it should be, 72 percent of the total Federal budget, it is running out of control. And if you add in the factor that most of them do not support any type of fiscal discipline to bring the Federal Government into some sort of a balance, and now they come to us and say: Well, now that you have the balanced budget amendment on the floor, you ought to tell us how you are going to do it, knowing that we have all kinds of plans already on the boards, some of which I agree with and some of which I do not, but nevertheless budgets that would get us to balance without the draconian 30-percent cut that the distinguished Senator from Massachusetts is talking about, this 30-percent cut across the board that my friend from Massachusetts has been presenting is highly exaggerated.

Congress could adopt many types of these plans or parts of these plans into a consolidated whole, if they want to, and we can reach a balanced budget without cutting 30 percent across the board. In fact, I do not think anybody would argue against that provision.

But while we have been talking here in the Congress—we are now in our 10th day since we started this—our balanced budget debt track we reach each day, $4.8 trillion is the baseline; that is our debt which we started with before we started this debate. We are now in our 10th day, and we are now up to $8,294,400,000 in additional debt just in the 9 days since we started here.

All I hear from my friends is you should not be able to enact a balanced budget amendment until you tell us how you are going to reach a balanced budget, and you cannot submit it to the States until you do. They know once we put this fiscal discipline into place, the game is over. And they know that they are going to have to start to live within their means. No longer can they spend themselves into the Senate or keep themselves in the Senate by spending and telling the people how much we are doing for them while we are spending them into bankruptcy.

I cannot sit here and simply ignore the fact that the liberals, who have spent us into bankruptcy, are the ones who are fighting against this amendment. We have irresponsible debt in this country. We have runaway spending. We have a destructive welfare system that not only is too expensive but it is destroying families. We have an antisavings Tax Code that is eating us alive. We have a huge Washington bureaucracy. We are killing the American dream, and we are killing our children's future.

We have to cut the waste. We have to cut the fat. We have to do it through a discipline that only the balanced budget amendment will bring to us. And if we do not do that, I just worry about the country, and so does everybody else. This is not a game around here. For those who are against the amendment to come and say, now, after they have been in control for most of the last 60 years, and never having reached a balanced budget for the last 26 years, to come to us and say, you have to explain how you can do it and satisfy 535 Members of Congress before you can put the discipline into place that will get us there, it seems to me is pure sophistry.

We need the discipline. That is what is missing. Remember Gramm-Rudman-Hollings? We all thought that statute was going to do the job. It did do a little bit until we amended it and set the goals farther out there, and amended it again, and now we have done away with it altogether because it was a simple statute. It was well-intentioned, and a lot of people thought it might work, and it did to some to degree, but it was tossed out when they decided to spend more around here.

The Democrats against this balanced budget amendment were in charge last year, and they have been in charge since 1986. They have never presented a balanced budget, nor have they presented a plan. Certainly the President's program is not a plan either to get us to a balanced budget. His budget, very clearly, is not a plan to get us there.

Now we come down to the Daschle amendment, this right-to-know amendment. I have seldom seen a more frivolous trivialization of the Constitution than what this amendment would do, because it would write a section 9 into the balanced budget amendment that would put new language into the constitutional amendment—new language for the first time, all kinds of budgetary terms, all kinds of language that really would allow loopholes galore, which would institutionalize even committees in the Senate and the Congressional Budget Office.

Look at this language and you have to say, constitutional language? That is with a big question mark. I do not see how anybody can argue this is what we ought to do for the Constitution, even though they talk about the right to know. Aggregate levels of new budget authority. In the Constitution? Major functional category, account-by-account basis, allocation of Federal revenues, reconciliation directives, section 310(a) of the Congressional Budget Act. That can be changed by a simple majority vote? Talk about trivialization. Omnibus reconciliation bill. What in the world does that mean? That is going to be written into the Constitution so they can continue doing business as usual? Congressional Budget Office. They are going to go write that into the Constitution, the Congressional Budget Office? For all of its good intentions, it has been wrong more than it has been right on budgetary matters. Economic and technical assumptions. And then they are going to write the Committee on the Budget into this Constitution?

Let me just end. This is a trivialization of the Constitution. It does not make constitutional sense. It would destroy the balanced budget amendment. It would destroy the one time in history since the House, for the first time, has passed the balanced budget amendment, the one time in history when we really have a chance to restore discipline to this process. It would put language into the Constitution that is totally unworkable, unless you want to keep spending.

I thought it was appropriate for some of those who did come out here and speak right before this important vote. The opponents are apologists for the status quo. They are the people that have been here 30, 40 years. They are the people that have been around here and have seen it go the same way every time, and they say we ought to have the guts to do it. Yet, when they had control, they could not do it because there was not a fiscal discipline in the Constitution that required them to do it, or at least gave incentives, which is what this amendment does, to get to a balanced budget.

Are we going to stick with the old order around here, the old way of doing things, the status quo, that now has us $4.8 trillion in debt, plus another $8.294

billion in the 10 days we have been debating this? Are we going to stick with the people who brought us to this and let them come in here with this phony trivialization of the constitutional amendment and say all of a sudden, in just a short period of time, you Republicans, before you pass a balanced budget amendment and submit it to the States, you have to show us how you are going to cut the budget? The fact of the matter is that we will show them once the discipline is in place, because we will all have to show them. The Democrats who support this amendment will be right there with us helping us to show how this can be done. But you cannot do that in less than a year or so, and we have to get the balanced budget amendment in place before we do.

The Daschle proposal raises a lot more questions than it will answer. For example, it would require a statement of new budget authority and outlays only on accounts which were over $100 million in 1994. What about accounts which were under $100 million in 1994 but have grown over that? What about new accounts? This proposal would also require an allocation of Federal revenues among major resources of such revenues. But what qualifies as major? This proposal would further require a detailed list and description of changes in Federal law required to carry out the plan. Such information is currently in a document separate from the budget resolution. That document for President Clinton's 1993 budget plan was over 1,000 pages long. His budget plan will keep deficits at around $200 billion well into the future, for 12 years into the future, and then we do not know what will happen. That is assuming if the rosy economic circumstances continue that they are claiming will be the case.

Do we really want to increase the already mammoth budget resolution? In addition, the provision is vague and incoherent. The Daschle proposal literally requires that we predict over the next 7 years not just the changes in law Congress may ultimately pass, but the date that Congress will pass them.

The Daschle proposal creates additional problems by making constitutional reference to statutory law, as I have just shown on this chart. It is ridiculous. Incorporate 310(a) of the Congressional Budget Act of 1974 by reference. What happens if Congress amends that section? Does that qualify as a constitutional amendment by a simple majority vote? Similarly, as we have said, the CBO is explicitly referred to in this proposal. That means that the Constitution will now have to refer to four branches of Government: judiciary, executive, legislative and, of course, the Congressional Budget Office.

Here we are in the new Congress trying to reduce the Federal bureaucracy, and the Daschle proposal attempts to enshrine a part of it in the Constitution. Those of us on both sides of the aisle who have worked for years to pass this constitutional amendment have consistently heard from our opponents that we are trivializing the Constitution with this budget matter. Talk about trivializing the Constitution.

The Daschle proposal would have us add a new section to the Constitution that is longer and extraordinarily more detailed and technical than the proposal that has been the subject of hearings, committee debate, vote, and a committee report. It adds new terms to the Constitution like ''concurrent resolution.'' I have gone through those terms. They will no longer have just lawyers pouring over the document; we are going to need a slew of accountants to tell us what the Constitution means as well.

I think we ought to vote this amendment down. It does not deserve to be in the Constitution.

Mr. President, I have stated many times during this debate that the balanced budget amendment represents the kind of change the American people voted for in November. The American people know that the mammoth Federal Government must be put on a fiscal diet. In contrast, the proposal offered by the distinguished minority leader, with all due respect, is offered in the defense of the status quo and business as usual.

THE RIGHT TO STALL AMENDMENT

The Daschle motion to recommit has been termed by the opponents of the balanced budget amendment the right-to-know motion. But it has rightly also been called the right-to-stall proposal. It purports to put off the requirement of a balanced budget until Congress actually agrees to a balanced budget, by adopting such a budget plan.

Mr. President, this proposal actually will give to Congress a constitutional right to stall the requirement of a balanced budget by mere failure to balance the budget. Mr. President, the very reason we need a balanced budget amendment is because Congress has failed to balance the budget for decades. The Daschle right-to-stall amendment would make that abject failure of responsibility the explicit condition of avoiding the acceptance of that responsibility. If there is a better manner to lock in business as usual, a better way to constitutionalize our borrow and spend status quo—our ever-steeper slide into the debt abyss—I admit I cannot think of it.

Consider, Mr. President, that the proponents of the right-to-stall amendment want to use Congress' historical inability to balance the budget as a reason—a constitutional reason—to deny the American people, to deny future generations, the requirement they want to force Congress to act responsibly, get its fiscal house in order, and live within its means. Talk about a recipe for inaction. The right-to-stall proponents say ''if Congress cannot balance the budget, they should not have to.'' They say, ''if Congress has been and is unable to balance the budget in the absence of a balanced budget requirement, we should not impose a balanced budget requirement on it.'' Is this what the American people want? Do they want Congress' failure to fulfill its responsibility to be a reason to drop the requirement? Does this even make any sense?

If my colleagues supporting the Daschle proposal had been in the First Congress, we would never have adopted the first amendment in the Bill of Rights. Just imagine James Madison defending the free speech clause of the first amendment from some of my colleagues: Does this mean you cannot yell fire in a crowded theatre? they would ask. Does it protect obscenity? If not, what is the line between obscenity and protected free speech? We cannot accept the free speech clause without these details spelled out, they would say. Does the free speech clause protect the American flag from desecration? If so, we cannot accept the first amendment. Some of my colleagues made that clear when they turned down the flag-burning amendment twice a few years ago.

What about the religion clauses, the free exercise clause and the establishment clause, of the first amendment? Would supporters of the Daschle proposal, had they been in the First Congress, demanded an accounting of just when and how the Government can aid religious schools? Would they have insisted on knowing all of the circumstances under which citizens or local governments can put a Menorah or a creche on public property? Would they have turned down the first amendment because the First Congress could not fulfill the ludicrous task of answering these questions? Or would they have accepted the principles contained in the first amendment and allowed those principles to develop, as they have over the years?

Just imagine when the following clause in article I, section 9 came before the Constitutional Convention of 1787 in Philadelphia: ''No money shall be drawn from the treasury, but in Consequence of appropriations made by law * * *'' Oh no, my colleagues would have said, tell us how much the appropriations will be over the next 7 years or we cannot adopt this provision and this Constitution.

What about the clause in article I, section 8, giving Congress the power to regulate foreign and interstate commerce? Oh no, some of our colleagues would have said in Philadelphia in 1787. We cannot give Congress the power to regulate commerce until we know the tariffs and interstate regulations Congress will enact over the next 7 years.

Here and now, let us adopt the principle of a balanced budget with the careful exceptions of war time or when a supermajority consensus is reached for a pressing national purpose, on a rollcall vote. Then, after we adopt the principle, we can implement it over the next 7 years, adjusting the budget to

take into account changing circumstances during that time.

After all, this is a constitution we are amending, not budget legislation. In fact, as I read the Daschle proposal, it requires that we pass a resolution laying out the details of a plan starting in fiscal year 1996 even though that requirement is contained in an amendment that does not become effective until 2002.

To require that a constitutional provision be fully implemented before it is adopted puts the cart a long way before the horse. After all, the whole problem is that Congress has not been able to balance the budget in the absence of a constitutional requirement to do so.

It seems to me that the people who really have the burden of showing us how they will balance the budget are the ones who claim we do not need the balanced budget amendment. We say the budget cannot be balanced without a constitutional requirement. To those who think we can balance the budget without the balanced budget amendment, I say show us how. If you cannot show us the way to a balanced budget without the amendment, this suggests one of two things. Either you agree with us that it cannot be done without the constitutional requirement, or you are simple arguing against balancing the budget at all.

CONFUSING PROCESS WITH SUBSTANTIVE CHOICES

Mr. President, the right-to-stall amendment confuses the difference between choosing rules and making choices within the rules. Yesterday, I mentioned a letter to the editor in the Wall Street Journal by Prof. James M. Buchanan, a Nobel Prize-winning economist, who explained that important distinction. I would like to quote it again because I believe it points up a basic fallacy in the reasoning of the objection of the right-to-stall proponents. Professor Buchanan states:

> The essential argument [of the Daschle amendment proponents] against the balanced budget amendment reflects a basic misunderstanding of the difference between a choice of rules and choices made with rules. The Clinton-Democratic argument suggests that proponents of the amendment should specify what combination of spending cuts and revenue increases are to be implemented over the 7-year transition period. This argument reflects a failure to understand what a choice of constitutional constraint is all about and conflates within-rules choices and choices of rules themselves.
>
> Consider an analogy with an ordinary game, say poker. We choose the basic rules before we commence to play within whatever rules are chosen. Clearly, if we could foresee all of the contingencies beforehand (for example, how the cards are to fall), those of us who know in advance that we shall get bad hands would not agree to the rules in the first place. Choices of rules must be made in a setting in which we do not yet know the particulars of the within-rule choices.
>
> Applied to the politics of taxing and spending, the constitutional amendment imposes a new rule of the game, under which the ordinary interplay of interest groups—majoritarian politics will generate certain patterns of taxing-spending results. By the very nature of what rules-choices are, outcome patterns cannot be specified in advance.
>
> The opponents of the proposed balanced budget amendment should not be allowed to generate intellectual confusion about the difference between choices among verus within rules. There are, of course, legitimate arguments that may be made against the amendment, but these involve concerns about the efficacy of alternative rules, including those that now exist, rather than a specific prediction of choices to be made under any rule or choices made during the transition between rules. [Wall St. Journal, 2/6/95, p. A13.]

Mr. President, Professor Buchanan is obviously correct. Proponents of the balanced budget amendment recommend a rule change. Opponents argue against the amendment on the basis of either possible choices under the new rule which could hurt well-organized special interest groups or the failure to specify which well-organized special interest groups will be hurt under the new rule. Either objection is, as Professor Buchanan points out, intellectually confused as an objection to the new rule. The proponents do not advocate any particular outcomes, just a new way of making those choices. The right-to-stall motion offered by the Democrat leader does not move the debate forward.

In fact, Mr. President, the Daschle right-to-stall amendment is nothing more than a way to stop Congress from adopting the resolve to force itself to act responsibly and balance the budget and live within its means in the future.

PRESIDENT CLINTON'S DEFICIT REDUCTION RECORD

This brings me to the President. If President Clinton gets his way and defeats the balanced budget amendment this year as he did last year, what is his purpose? Does he not want a balanced budget? Does he stand for the status quo of ever higher taxes and even higher deficits? Let us look at his record.

The President's 1993 deficit reduction tax plan has failed to control even the growth of annual budget deficits, which continue to rise during the later years of the plan, surpassing $200 billion as early as 1996, reaching the record level of $297 in 2001, and topping $421 in 2005.

The President's so-called deficit reduction plan, which included massive tax increases on working people, retirees, and other Americans, neither stopped the growth of the national debt nor balances the budget.

Now, the opponents point to President Clinton's tax plan of 1993 as the great epitome of budgetary courage we should follow. But, Mr. President, that was no plan to balance the budget. I would ask my colleagues, did the 1993 tax bill balance the budget? Does the President propose a path to a balanced budget?

Now look at the President's budget released this week. It projects $200 billion yearly budgets as far as the eye can see—and that is the best case scenario with the most optimistic assumptions. There is no budget balancing leadership here.

Mr. President, those who say we can balance the budget without the balanced budget amendment are the ones who should show us how they propose to do it. They are the ones who say, regardless of history, we can balance the budget now, without a rules change. But I continue to ask in vain, how do they propose to do it, Mr. President? Why should we trust they will do better under the status quo than they have for the last 26 years? Mr. President, I ask again, where is their plan?

Mr. President, this will not do. We should adopt the binding resolve to accept our responsibility, and then fulfill it. We should not avoid responsibility on the ground that we have so far failed to act responsibly. We should not be able to deny the American people and future generations the responsible rule of fiscal discipline on the grounds of our historical lack of discipline.

Mr. President, let us take the first step first, and let us get our house in order by adopting the balanced budget amendment.

The fact is that if House Joint Resolution 1 passes in its current form, we can and will balance the budget. It is not the lack of plans that has prevented us from balancing the budget; it is the lack of will.

We don't claim to have the perfect, painless way to balance the budget, but there are quite a number of options for us to examine and draw from, at least in part. In fact, as I stated previously in this debate, over the last few years we have seen a number of plans released from both sides of the aisle, from both bodies, and from outside organizations. [I will just hold up a few of them]: The Concord Coalition zero deficit plan; the Republican alternative to the fiscal year 1994 budget, and the Congressioinal Budget Office's illustration of one path to balance the budget in their Economic and Budget Outlook 1996–2000, just to name a few.

Even the current White House Chief of Staff submitted a balanced budget proposal during his tenure in the House.

Other ideas include limiting the growth of spending to 2 percent without touching Social Security, or cutting 4 cents a year off of every dollar of planned spending except Social Security.

Furthermore, there are many proposals out there to reduce spending significantly and reduce the deficit: The Dole 50-point plan; the Penny-Kasich deficit reduction plan; the Brown-Kerrey bipartisan cutting plan; the prime cuts list prepared by Citizens Against Government Waste; the Kasich budget alternatives for fiscal year 1994 and fiscal year 1995; and the Brown deficit reduction plan.

I do not think that any one of these proposals is necessarily the ultimate solution. Yet, they all have some ideas worth considering. I certainly believe that we could evaluate and analyze

proposals in these plans as well as other ideas that I guarantee will be forthcoming from both sides of the aisle if we pass this amendment.

Let me say it one more time: The problem is not the lack of ideas, it is the lack of will. House Joint Resolution 1, in its current form, will provide that will.

THE UNWORKABILITY OF THE DASCHLE PROPOSAL AND THE TRIVIALIZATION OF THE CONSTITUTION

Furthermore, the Daschle proposal raises more questions than it would answer. For example, it would require a statement of new budget authority and outlays only on accounts which were over $100 million in 1994. What about accounts which were under $100 million in 1994 but have grown? What about new accounts? This proposal would also require an allocation of Federal revenues among major resources of such revenues. But what qualifies as major?

This proposal would further require a detailed list and description of changes in Federal law required to carry out the plan. Such information is currently in a document separate from the budget resolution. That document, for President Clinton's 1993 budget plan, was over 1,000 pages long. Do we really want to increase the already mammoth budget resolution?

In addition, this provision is vague and incoherent. The Daschle proposal literally requires that we predict, over the next 7 years, not just the changes in law Congress may ultimately pass, but the date that Congress will pass them.

The Daschle proposal creates additional problems by making constitutional reference to statutory law. It incorporates section 310(a) of the Congressional Budget Act of 1974 by reference. What happens if Congress amends that section? Does that qualify as a constitutional amendment?

Similarly, the Congressional Budget Office is explicitly referred to in this proposal. That means that the Constitution would now refer to the four branches of Government: Congress, the Supreme Court, the President, and the Congressional Budget Office.

Here we are in the new Congress, trying to reduce the Federal the bureaucracy, and the Daschle proposal attempts to enshrine a part of it in the Constitution.

Those of us on both sides of the aisle who have worked for years to pass this constitutional amendment have consistently heard from our opponents that we are trivializing the Constitution with budget matter. Talk about trivializing the Constitution. The Daschle proposal would have us add a new section to the Constitution longer and extraordinarily more detailed and technical than the proposal that has been the subject of hearings, a committee debate and vote, and a committee report. It adds new terms to the Constitution like concurrent resolution, aggregate levels of new budget authority, account-by-account basis, allocation of Federal revenue, reconciliation directives, section 310 of the Congressional Budget Act, omnibus reconciliation bill, Congressional Budget Office, and economic and technical assumptions. We will no longer have just lawyers pouring over this document, we'll need a slew of accountants.

THE DASCHLE PROPOSAL IS UNCONSTITUTIONAL

Perhaps the most significant reason for opposing this proposal is that it is unconstitutional. Article V of the Constitution provides for two—and just two—ways to amend the Constitution: By a proposal passed by two-thirds of both Houses of Congress, or by a proposal of a constitutional convention called by two-thirds of the States. In either case, three-fourths of the State legislatures must ratify the proposal before it becomes part of the Constitution.

The Daschle proposal is infirm because it places a condition subsequent to the explicit methodology for amending the Constitution contained in article V. Article V mandates that whenever two-thirds of both Houses concur, a proposed amendment must be promulgated to the States for ratification. The Daschle proposal, on the other hand, delays sending the proposed amendment to the States after passage by Congress until Congress acts again, this time by a simple majority on a budget resolution. It is black letter law that Congress may not alter, expand, or restrict, procedures established and explicitly mandated by the Constitution. See *Immigration and Naturalization Service* v. *Chadha*, 462 U.S. 919 (1983) (the Supreme Court held unconstitutional the one-House congressional veto as violative of the bicameralism and presentment to the President requirements of the Constitution).

Now Senator DASCHLE defended his proposal by referring to the 7-year time requirement in House Joint Resolution 1 itself as an example of a condition that Congress has historically set to the amendment process. Indeed, the Supreme Court in *Dillon* v. *Gloss*, 307 U.S. 433 (1939), did hold that the 7-year limit that appears in the text of an amendment is a constitutional condition placed on the ratification process.

Senator DASCHLE, however, misstates my argument. Article V sets forth the exclusive conditions for promulgation of a constitutional amendment. The 7-year time limit is a condition on ratification. Promulgation and ratification are, of course, distinct acts, and the two should not be confused.

Under article V, once Congress has passed an amendment by the necessary two-thirds margin in both Houses, the amendment must be promulgated to the States for ratification. There is nothing in either the text of article V nor in our constitutional history that suggests that Congress can play slick games with the States by passing an amendment but keeping it from going to the States. The act of promulgation is a ministerial act that must be performed once the two-thirds vote has been obtained.

By contrast, there is ample reason why Congress should be permitted to include additional conditions on ratification, such as the 7-year time limit. Article V itself makes clear that it is up to Congress to specify the mode of ratification. There is also substantial precedent in our constitutional history for Congress to specify time limits on ratification.

In conclusion, the promulgation of a constitutional amendment is distinct from its ratification. The Daschle substitute is unconstitutional in that it would place an additional condition on, and thereby delay, Congress' promulgation of the balanced budget amendment. Under article V, once Congress passes an amendment, it shall be promulgated to the States. The Daschle substitute violates this provision.

Mr. President, for the forgoing reasons, I urge my colleagues to support the Dole amendment and vote to table the Daschle proposal.

I would like to point out that, look, we would like to resolve these problems. We hope there are enough Senators here who are willing to stand up for this one time in history, Democrat-Republican, bipartisan amendment that would put us on the fiscal path we should be on. We would not have to worry about all those moneys being laundered through the Federal Government and getting back to the people Senator KENNEDY said they are meant for. I think it is time to get real about budgeting and spending and real about balancing this budget and real about what is best for this country. The only way we are going to do that is by passing the balanced budget amendment intact, without statutory language added to it.

The PRESIDING OFFICER. Under the previous order, the hour of 11:30 having arrived, the Senator from South Dakota [Mr. DASCHLE] is recognized for 15 minutes.

Mr. DASCHLE. Mr. President, I yield 2 minutes of my time to the distinguished Senator from Louisiana.

Mr. BREAUX. I thank the minority leader for yielding.

I would just say this, as we come down to the critical point of the vote: You would think that when someone proposes a balanced budget amendment, they must have a plan to get to it after the balanced budget amendment passes. The only thing I am suggesting is that they should share that information with the American public. They should share it with the States.

If there is a secret plan that they have to balance the budget, does it include massive cuts in Social Security? Or does it include massive reductions in veterans' pension plans? Or does it include the dismantling of the highway assistance programs for the States? I am not sure what it includes.

But if there is a secret plan to reach this balanced budget, I would suggest that it should be secret no longer. If it

is good enough to balance the budget in the year 2002, let the States see it. Let them have an opportunity to vote knowing how we are going to balance that budget.

How can we send this amendment to the States and not let them know what the plan is as to how we are going to achieve it?

Oh, perhaps, maybe there is a golden secret plan they have that does nothing with regard to cutting Social Security and does not increase taxes and increases defense spending and yet still balances the budget. Maybe they have that type of a plan. But let us see it.

I mean, somebody over there who is proposing this must have a plan on how to get to the end result. How are you we doing to ask the States to be able to pass this amendment unless they know what that plan is?

And that is what the right-to-know amendment is all about. I think the people of America have a right to know how they are going to do this. How are we all going to do it, because it is a collective effort. It is going to be a partnership between the Federal Government and the States. And the States are not going to be able to vote unless they see what plan they are going to be voting on. I think we need a right-to-know amendment. I think America needs it.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, let me thank the Senator from Louisiana for his comments this morning.

Like this Senator, the Senator from Louisiana was in the House of Representatives in 1981. I am sure he, like I, remembers the ease with which we passed the tax package of 1981. The President and the Republican leadership at that time convinced the Congress and the American people to cut taxes, to increase defense spending, to protect Social Security, and to balance the budget by 1984. There were no details, very few specifics, just a promise and the words ''trust us.'' The vote was overwhelming.

I will never forget that morning on the floor and the overwhelming vote. Everyone applauded. We all went home.

But 10 years later, the American people saw an increase in the national debt to $4 trillion, four times what it was when we had cast that vote in 1981.

I also remember the difficulty we encountered in 1993, as we passed the President's economic package. That did not pass overwhelmingly. That passed by a margin of 50 to 49, amid doom and gloom predictions of recession and mass unemployment and negative market reaction. We heard it all. It was a very, very tough vote. I vividly remember that morning, as well.

But the difference between 1981 and 1993 was more than the difficulty in passage. Rather than vague predictions with rosy scenarios of 1981, the 1993 proposal put details into black and white—details involving cuts, details involving revenue, details requiring major changes in the way we do business; hundreds and hundreds of pages of black and white details. It was controversial. And we fought over many of the details in this document for days. No one can forget that.

But, do you know what? It was effective. And in the end, the 103d Congress passed a 5-year deficit-reduction plan that reduced the deficit by $500 billion. Instead of asking the American people to trust us, we showed them, up front, line-by-line, what our intentions were. And the results—well, the results speak for themselves.

Mr. President, those are the two models from which we can choose today. The only difference is that today the issue is far more serious—more serious because the debt has now risen to $4.5 trillion; more serious because this is the first time in history that we may be adding an amendment to the Constitution affecting the fiscal policy of this Nation.

The question for the American people is really very simple: After those two experiences, will the Senate roll the dice, will it roll the dice and say, ''trust us again,'' or will we do what we know we must do? Will we show in 1995, as we showed the American people in 1993, exactly what must be done? That is the issue.

The Senator from New Hampshire, my good friend, this morning mentioned my willingness to support a balanced budget amendment last year and took issue with us for not arguing the right-to-know amendment then.

Well, the reasons are easy for anyone to understand. First, we had just passed our own version of the right to know. It was right here. The print was hardly dry. Second, we were not faced then, as we are today, with the exact situation with which we were faced in 1981—promises of tax cuts, promises of increases in defense, promises to protect Social Security, and promises to balance the budget in a designated period of time, but no promise to explain how it is going to be done.

If the Senate is unwilling to promise the American people a blueprint, I guess I would have to ask: What is it they are trying to conceal? What is it we are trying to conceal from Social Security recipients whose pensions are affected by the decision we are going to make in the next couple of weeks? What is it we are trying to conceal from the Pentagon and our allies about the true commitment to the military strength of this Nation in the coming years? What is it we are trying to conceal from veterans and military retirees about our true intentions with respect to their future?

What about States? What are we trying to conceal about the real impact this decision will have on them, on the Governors, and on their fiscal health?

And, very honestly, what about us? What about us? What are we trying to conceal from ourselves, and how is it possible that we can commit ourselves to repeating the clear mistake of the past? How can we set a goal and have no idea—none—how we are going to get there?

Tax cuts, defense spending increases, protection for Social Security—all these are doable in the abstract. It is only in the context of a constitutional amendment to balance the budget in 7 years that the job becomes nearly impossible.

Assuming we pass the Contract With America, assuming that we protect Social Security, our job is to cut $2.2 trillion in 7 years. That is our goal—$2.2 trillion. That means we have got to cut $300 billion for each of the next 7 years.

Pass the Contract With America, protect Social Security, balance the budget by the year 2002. And we are going to ask our colleagues in the next 7 years, each and every year, to cut $300 billion. And every year we delay, the task becomes even more overwhelming the next year.

But that is only part of the story, because if we actually take Social Security off the table, if we take defense off the table, and because we must exclude interest payments, we are left with a mere 48 percent of the budget with which to work. That is really what we have left—48 percent. If you take those three items off the table, that is all we have left, 48 percent of the entire Federal budget from which we now must cut $2.2 trillion in 7 years.

Well, do you know what the American people are saying? The American people are saying: ''Right. Show me. Show us how you are going to cut all that and how you are going to cut funding for the States. Show us how you are going to cut my farm programs and other programs directly affecting rural America. Show us how you are going to deal with education, nutrition, health and housing, and as you do, do not even think about saying any of this is going to be easy or painless.''

Mr. President, I bet there is one thing for which there is universal agreement within this Chamber. That is, there is a lot of skepticism out there, and, frankly, I think there is skepticism for a good reason.

Too many times, Washington has said one thing and done another. We cannot afford, on something this important—this important—to let that happen again. We cannot afford to add to the deep-seated skepticism about this institution or its actions. Not now. Not on an issue this important.

My Republican colleagues have lodged three basic objections to the right-to-know-amendment. The House majority leader said recently, ''Once Members of Congress know exactly, chapter and verse, the pain that the Government must live with in order to get a balanced budget, their knees will buckle.'' The majority's apparent solution is to hide the truth and sidestep the pain. But the right-to-know-amendment says we have tried all that. We did it back in 1981, and $4 trillion

later, we now must come to the realization that we have to end business as usual. That will not work again.

The second objection is that they cannot be precise about a 7-year budget process. Yet, the current law requires already that we offer 5-year estimates. What is so much more mysterious or unknowable about years 6 or 7 than years 4 and 5? All the health reform proposals last year were evaluated over a 10-year budget projection. The Congressional Budget Office already has the ability to give us 7-year budget estimates. We should use them. I have not heard one credible economist tell Members that this cannot be done, that we cannot lay out a budgetary glidepath for 7 years.

The third objection is especially ironic. It asserts that the right-to-know-amendment is somehow unconstitutional because the Constitution does not specifically sanction Congress to set conditions on an amendment before it goes to the States for ratification. But neither does the Constitution specifically sanction the 7-year limit for ratification that is found in the underlying amendment.

I have not heard any of my colleagues argue that their amendment is unconstitutional because it includes the customary but not constitutionally sanctioned time limit. As everyone here knows, the Constitution has just two requirements: First, that we pass the amendment by a two-thirds vote in both Houses; and second, that it be ratified by three-fourths of the States. That is all it says. Period.

Mr. President, the issue is pretty simple. If we are going to build a sturdy house of real deficit reduction, do we have a blueprint? Are we going to ask this body to lay out the blueprint by which that will be done? Or do we just start pounding away, hoping we have the materials to build that house, hoping we know where the budget-cutting rooms really are, hoping we can do it all in 7 years, hoping that somehow we can build a house of real deficit reduction without the details.

The American people would never build their house without a blueprint. They know we cannot, either. By a margin of 86 to 14 percent, they are saying, ''Show us. We have a right to know if you are going to affect Social Security. We have a right to know if you are going to cut defense. We have a right to know if you are going to cut veterans programs. We have a right to know how you plan to cut $2.2 trillion from 48 percent of your budget in 7 years. We have a right to know if you have learned from the mistakes of the past. We have a right to know if you are really serious.''

So today, Mr. President, the Senate has an opportunity. It is an opportunity to end business as usual, an opportunity to be honest, an opportunity to affirm that when it comes to an amendment to the U.S. Constitution, the American people have a right to know.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, the majority leader is in a meeting and is having a difficult time getting here, and has asked that I take a few minutes before he gets here. He may have to use some of the leader's time.

The PRESIDING OFFICER. The Senator from Kansas was to be recognized for 15 minutes.

The Senator from Utah will be recognized.

Mr. HATCH. Mr. President, I particularly enjoyed the comments of the distinguished minority leader of the Senate. He is a very fine man. I am sure he is very sincere in what he is talking about. And he is a good friend. I do not have any desire to make this a partisan thing. This is a bipartisan constitutional amendment. We are fighting to try to get this country's fiscal house in order.

To have people come here now and say, ''Just show us a blueprint,'' and to use that tax vote a year ago, when they increased taxes on the American people—and they did get the deficit down to a little below $200 billion, but this was nothing, and they all know that that very bill that they passed and they are taking such credit for, touting it as their fiscal responsibility, that bill had the deficit jamming upward in 1996 and thereafter to the point where we get to a $400 billion deficit after the turn of the century.

That is hardly something I would brag about, increasing taxes against the American people, the largest in history, and then a jump in spending, starting in 1996. Now, the President has come in and he has tried to reduce that jump in spending, but even his budget admits, until the year 2007, we will have at least a $190 billion deficit a year.

Now, we have had 38 years since the balanced budget amendment has been introduced. Since we passed it when I was Constitution chairman back in 1982 in the Senate, we have had 13 years. And every time we turn around, somebody is saying, ''Well, show us how you will get to a balanced budget before we pass a balanced budget amendment,'' or, as in this amendment's case, ''Show us how you will get there before you can submit the balanced budget amendment, once passed, to the States,'' putting another requirement into the Constitution that really does not deserve it to be there.

Now, look, this is a game. It is a game by those who personally do not want a balanced budget amendment, although some who will vote for this will do so out of loyalty to the leader on the other side. It is not a game to us. The distinguished Senator from Illinois and I are not playing games. We have worked to bring the whole Congress together on a bipartisan consensus—Democrat and Republican—constitutional amendment, and we intend to get it there. This type of an amendment to the basic constitutional amendment would gut the whole amendment, and everybody on this floor knows it.

I yield a couple of minutes to the distinguished Senator from Idaho.

Mr. CRAIG. Mr. President, let me thank the Senator from Utah for yielding. Let me express my thanks for the leadership that he and the Senator from Illinois have taken on this issue, along with myself and others, to bring to the floor and to build the consensus that is clearly here in a strong majority to pass a balanced budget amendment.

Now, within a few moments, we will have a vote on the Daschle motion. We have been debating this amendment and the Daschle motion in part for a week and a half, without a vote. I think the American people expect Members to move in an expeditious fashion through this issue, to a time when we can vote up or down on it, and send it to them to make the decision.

Article V of the Constitution is very clear. We have the right to propose amendments, and when we do, they must go straight to the States. In all fairness, the Daschle amendment has to be called not the right to know, but the right to stall, and stall and stall, and deny the American people the opportunity to express their will through their State legislators as to whether they want a balanced budget amendment, as to whether they want a balanced budget amendment to the Constitution to be the 28th amendment to our Federal Constitution.

So while Senator EXON or Senator HOLLINGS may have offered similar amendments to the unfunded mandates issue, they were entirely different. That was a statute. That was an issue that can be changed year to year, day to day, as the Congress meets. This is an amendment to our Constitution. Nowhere has there ever been within the Constitution such a prescriptive process as so designed by the Senator from South Dakota. It is not the right to know, it is simply the right to stall, in an effort to defeat this amendment or to deny the American people the right to express their will.

The Senator from Utah has made that evident time and time again. I have and our colleagues have joined Members on the floor to debate this issue.

Certainly we are now at a point, within a few moments, of voting, the very first vote in over a week and a half, while the other body has already moved several other pieces of legislation.

I am not at all convinced that just stalling and stalling and stalling, as has been proven here, is the way to solve this problem. Thorough debate is, and I am all for adequate and thorough debate on this issue. Now it is time to vote and move on to other portions of it in a timely fashion, and then allow

the American people to make the decision on how we govern, not the elite few.

I yield back to the Senator from Utah.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. MIKULSKI. Mr. President, I rise to give my strong support to the right-to-know amendment.

The American people have a right to know what a balanced budget means.

If a balanced budget amendment is added to the U.S. Constitution without a plan for how to balance the budget, we will leave the American people in the dark.

Mr. President, I will not defend every line item in the Federal budget. I believe we must look at the mission of programs. If a program achieves its mission and helps people, it should continue. If not, it should be scrapped.

However, before we adopt a balanced budget amendment, we should know exactly what it is that we are doing. We need to know just how these programs are going to be affected. What cuts are going to be taken. How deep. What programs. And most importantly what the consequences will be to the health, safety, and security of the American people.

My first question is how a balanced budget amendment will affect Medicare.

Achieving a balanced budget in 2002 will require cuts of between 20 and 30 percent in Medicare—between $75 and $100 billion in 2002. What will this mean for seniors?

Medicare already pays less than half of older Americans' health costs. In the year 2002, older Americans are expected to spend more than $4,600 on health care premiums and other out of pocket health costs. But a balanced budget amendment could make seniors pay $1,300 more. What will that $1,300 mean? It could mean forcing older Americans to choose between health care and eating, or between health care and heat.

Could a balanced budget amendment restrict access to health care providers? We do not know. If the cuts are taken out of payments to providers, those providers may decide not to see Medicare patients. This could leave millions with no access to health care, especially in rural areas. We have a right to know.

Could a balanced budget amendment mean raising the eligibility age for Medicare up to age 70? We do not know. Unemployed individuals in their fifties and sixties already find it difficult to obtain health insurance. Many struggle with no insurance, hoping they will not get sick before they reach age 65, when they will at least have access to Medicare. If we raise the Medicare eligibility age, many more seniors could be forced into poverty, unable to pay their medical bills. We have a right to know.

Will the balanced budget amendment force elderly Americans into managed care plans so they are no longer able to choose their physicians? We do not know. We—and they—have a right to know.

There are many other agencies and many other programs that the American people depend upon to protect their health, their safety, their economic security. Law enforcement, traffic safety, education—now will they be affected? What is the plan? Do we not owe it to the people we represent to explain to them how they will be affected by the balanced budget amendment?

I applaud this effort by my colleague Senator DASCHLE, the Democratic leader. His amendment would satisfy the American people's right to know. I am proud to cosponsor and vote for this amendment, and I urge each of my colleagues to join me.

I yield the floor.

Mr. BIDEN. Mr. President, Senator DASCHLE has put before us a common sense addition to the balanced budget amendment, that requires us to tell the people of the States—the people who will decide on ratification of the balanced budget amendment—what the effects of their decision will be.

Should we and the people who will be asked to ratify this permanent change to our Constitution not be given the facts we need to understand its effects?

It seems to me that to oppose full disclosure is to say that we want this decision—that is a fundamental change in our Nation's charter—to be made in the dark, in ignorance.

Two years ago, we voted for a budget plan that laid out a course of action that identified the specific changes that would be needed to cut half a billion dollars from our deficits over 5 years.

That plan was clear and detailed; it was of course subject to both honest disagreement, and, unfortunately, some partisan distortion. But it has cut the deficit for 3 years running, for the first time since the Truman administration.

We told the American people what we were going to do, and we did it. We cut over $500 billion from our deficits over 5 years.

And a strong economy that followed passage of that plan has brought our deficits even lower.

Like all of us here, I hope that the most recent action of the Federal Reserve Board will not be the one-two punch that wipes out the benefits of that plan—a blow that both flattens the economy and increases our deficits with higher interest rates.

Our plans here in Congress, like the plans of private citizens and businesses across the country, now hang on the hope that the Federal Reserve has not gone too far.

But that is a topic for another day.

Some of my friends here who voted against cutting the deficit back then, and some of my newer friends, who do not like the way we did it, now act surprised to see that deficits will rise again in the future, even though no one—certainly not the administration—ever claimed they would not.

We all knew that fundamental health care reform and other actions would be necessary to turn the deficit trend down permanently, and not just over the life of the 1993 budget plan.

But the fact is that we passed that budget plan with the narrowest possible margin in each House of Congress.

As for those who now complain, their own plan was less specific than ours and still could not promise as much deficit reduction as we have actually accomplished.

So let us not be distracted from our duty of being honest about the future by arguments about the past.

With the release of President Clinton's budget plan, we hear again from those who voted against deficit reduction in 1993 that they could do better.

Well, Mr. President, I believe them. That is why I challenge them to tell us how they would do better, as specifically as the plan they are attacking.

If an amendment to the Constitution is needed to keep building on the accomplishments of the last few years, to force us to confront the continuing deficits that are predicted through the end of this decade, then it only makes sense for us to prepare a document that sets forth the choices that will be necessary to bring the budget into balance.

Right now, we are confronted with an interesting situation. A new majority in Congress, that promised a new legislative agenda, now tells us that they cannot commit themselves to bring the budget into balance until after the Constitution is changed to force them to do it.

It is certainly within the competence of our budget committee and Congressional Budget Office to provide us with the specifics of a budget path that will bring us to balance by the year 2002.

Of course projections are only our best scientific estimates of future economic activity. But virtually all of my friends who support the balanced budget amendment have made good use of projections of future deficits under current law.

Those estimates are the best view we have of the future, even if we cannot be certain that all of our assumptions will hold true.

So let us drop that argument right now—we all accept that it is possible to make useful estimates about our economic and budget future.

It is because we accept such projections that we are here today, contemplating an amendment to our Constitution.

The particular problem this year is that this amendment is part of an economic plan—as announced in the so-called contract—that, taken all together, raises serious problems.

If we cut taxes, increase defense spending, and promise not to push any new costs off onto the Governors and mayors, the road to the balanced budget looks rocky indeed.

It may be, Mr. President, that you cannot get to a balanced budget from here, if the contract is your road map.

There is powerful evidence—the one-vote margins in both Houses for the 1993 budget package—that votes for deficit reduction are difficult to find.

How much more difficult will it be if we reduce our revenues, and keep major segments of the budget safe from the requirements of the balanced budget amendment?

Well, we know that it will be difficult, but we cannot know just how difficult until we see some numbers about where the axe is going to fall.

Mr. President, I would like to echo the astute observation of a new member of the judiciary, the distinguished Senator from Wisconsin [Mr. FEINGOLD].

During the debate in the Judiciary Committee on a similar proposal, Senator FEINGFOLD responded to the suggestion that this was a transparent ploy to kill the balanced budget amendment.

I want us all to reflect on that charge for a moment—that an attempt to find out just how a permanent addition to our Constitution will work is nothing but a ploy by those who oppose it.

Mr. President, when I took on the task as floor manager for this important proposal, I did so because I am genuinely torn between my concern for our fiscal future and my concerns about the effects of this balanced budget amendment on our Constitution and on our economy.

I did not anticipate that honest questions about the effects of a permanent change in our fundamental charter would be dismissed as insincere or disingenuous.

But I ask my colleagues to consider Senator FEINGOLD's response to that charge. He said that the American people would be more likely to ratify this amendment if they knew for sure what was in it, than if they had to buy it sight unseen.

Those of us who have faith in the people who will make the final decision on this amendment believe—whether we support or oppose it ourselves—that it is our constitutional duty to establish a record of debate and evidence before we send this amendment to the people.

Not often enough, I am afraid, does this chamber live up to its claim to be the world's greatest deliberative body. Certainly, we should aspire to fulfill that role as we debate a change in our Constitution.

And certainly, the American people deserve to know what the new majority party has in mind when they say that they can comply with the terms of the balanced budget amendment.

If we truly believe that amending the Constitution is the right thing to do, then let us give the American people the facts they need to make that choice themselves.

Certainly, that is not too much to ask.

In addition to the very real benefits of being honest with the American people, and restoring some of their faith in our ability to solve problems, there is another substantial benefit of accepting Senator DASCHLE's amendment.

If we accept this amendment, we will have the assurance that we have in place a plan to get us from where we are today to a balanced budget by the year 2002.

By itself, that is no small accomplishment.

I cannot believe where we now find ourselves in this debate—where the call for a specific set of goals that provide a path to a balanced budget is denounced as a delaying tactic, a distraction.

And where those who call for an amendment to the Constitution that will go into effect in the next century say that a promise to take action in the future is more serious than a call for action now.

That does not make sense to me.

If we accept this amendment, we will still have to send the amendment to the States. Let us assume for a moment that the American people lose their enthusiasm for the balanced budget amendment. What happens if we put all our eggs in that one basket?

Will we wait for the year or more that ratification is likely to take before we decide what to do next?

Or would we be more prudent, more serious, more committed to real deficit reduction if we were to also pass a binding budget resolution that sets a course for a balanced budget regardless of the outcome of the ratification process?

I believe that the answer to that question is clear. The more serious approach is to pass the actual law that compliance with the balanced budget amendment would require, not simply to pass an amendment with the promise that at some future date we will get down to the real work of balancing the budget.

And there is a further substantial advantage to what Senator DASCHLE's amendment offers—a commitment to start now on the very difficult journey ahead of us.

Without a plan that starts now to build on the real progress of the past 3 years—without such a plan in place from the beginning, we will have established a collision course between our Constitution and our economy.

In a game of chicken, we will approach the year the balanced budget amendment comes into effect, without the capacity to comply with its mandate.

If we wait until the last minute, when huge budget cuts will be required—over $300 billion for the deficit in 2002—we will swerve, and avoid the economic crash that deficit reduction on that scale would cause.

At that point, the balanced budget amendment will not keep us from extending the year of reckoning yet further into the future. As we all know, it will not make deficit spending—at any level—unconstitutional.

Lest we forget, Mr. President, the balanced budget amendment makes deficits difficult, not illegal.

And if we make use of the established procedure in the amendment to permit continued deficits—probably rightly, if the cost would be a disastrous recession—we will only add to the frustration and anger of the American people.

The balanced budget amendment will be not just another empty promise from Washington, but the most cynical one of all—one that we were willing to put into the Constitution, but not into action.

And so Mr. President, to avoid making a mockery of our constitutional duties, to avoid a collision between the Constitution and the economy, to provide the American people the facts they need to make an informed decision, we should adopt this right-to-know amendment.

Mr. LIEBERMAN. Mr. President, I rise in support of this amendment to require us to pass a detailed plan on how we will balance the budget before we act to send this proposed balanced budget amendment to the States for ratification. This amendment makes good sense because it requires us to consider in the here and now—not at some undefined time in the future—just what steps we will take to get our books in order. I support getting us to a balanced budget. And I support tough cuts in programs to get us there. But taken alone, I am not convinced that a balanced budget amendment will get us to make those tough cuts. Taken alone, I am not convinced that a balanced budget amendment will get us in balance by the year 2002. In fact, taken alone, I am concerned that the balanced budget amendment may have the unintended consequence of taking us further, not closer to, the goal of a balanced budget.

That is why I support this right to know amendment. What I do not support is an amendment which might make us all feel better but will not make us behave better with taxpayer dollars. Taken alone, the balanced budget amendment is long on the atmospherics and short on the details—the amendment does not take Social Security off the table, it does not provide for a continued strong national defense, it does not require us to choose difficult cuts over increased taxes. And although I know it is not intended to be I am fearful that this amendment is potentially dangerous to our economic

health. I say potentially dangerous because I am fearful that this amendment may lull us into a false sense of security—that we have balanced the budget just by saying we will do so.

Mr. President, this Chamber has just spent long hours debating the unfunded mandates bill. The idea behind that bill is that we should not pass on costs to other levels of government, particularly if we have no clear idea what those costs will be. In a certain sense if ever there was an unfunded mandate it is asking the States to ratify the balanced budget amendment without fessing up to what that amendment will cost. By refusing to give the details on how we will achieve the goal of a balanced budget, we are hiding the costs, and pushing the tough decisions we must make into the future. We may also be pushing the costs of getting our financial house in order onto our States and our localities. At least one Treasury study shows that a balanced budget amendment would reduce Federal grants to Connecticut by $1 billion a year. Treasury estimates that if Social Security and defense are off the table, Connecticut would be faced with truly draconian cuts in education, job training and the environment.

If those are the decisions we intend to make, then let us debate them. If they are decisions that we would prefer to avoid, let us figure out what we can support in a rational and thoughtful way. What we really need to do, is figure out how we intend to get to a balanced budget and map out that strategy. If we are serious about balancing the budget, the least we can do is provide those details and start working toward our goal. Because I believe that it is both desirable and possible to come up with a workable roadmap to a balanced budget, I strongly support the right-to-know amendment which calls for a 7-year approach to get us to a balanced budget by the year 2002. This approach makes good sense and prods us toward action sooner rather than later.

The consequences of waiting are daunting and quite frankly, the balanced budget amendment gives us the excuse to wait. If we wait until the year 2002, when this amendment would go into effect, the Congressional Budget Office [CBO] has estimated that we would need to cut $322 billion—that is billion with a ''b''—out of the Federal budget in a single year. That would create national, local and personal chaos. What we need to do is start acting now by making the kind of tough spending cuts that will bring us closer to our goal of a balanced budget and by implementing policies that will help our economy to grow in a healthy way.

Standing in front of the mirror and announcing that you are going to lose 10 pounds does not take the weight off, dieting and exercise does. That is what this Chamber must pledge to do. As Hobart Rowen noted a few weeks ago, ''By itself, such an amendment would cut neither a dollar nor a program from the Federal budget.''

As anyone who has read the resolution mandating a balanced Federal budget can tell you, it is sketched with a very broad brush. It excludes nothing from the requirements of a balanced budget—not Social Security, not defense, not veterans' benefits. Nor does it leave higher taxes off the table. And it allows 40 rather than 50 percent of the House and Senate to hold up the entire Federal budget in the event that there is a Federal deficit. I have spent a tremendous amount of time exploring ways to bring that deficit down. At the same time, I do not support increasing the power of large States with lots of Members of the House. By decreasing the number of House Members needed to hold up the budget we would be doing just that. When you come from a small State like mine, changing the rules in this way just does not sit well.

I want us to balance the budget in a responsible and thoughtful way. For this reason, I support drawing up a 7-year plan toward that goal. Regardless of what happens in this particular debate, I hope that all of us in this Chamber will pledge to work together to make that happen.

Mr. KERRY. Mr. President, I rise in support of this commonsense amendment to the balanced budget proposal. No matter what our beliefs are on the wisdom of this amendment, we should at least ensure America's right to know who will be hurt and what will be cut if we pass a balanced budget amendment to the U.S. Constitution.

It would seem to me, Mr. President, that notwithstanding any Senator's position on this legislation, this amendment—which simply requires that we be honest about the impact of our actions—is little to ask in the face of such a monumental constitutional change.

Frankly, I cannot imagine that we would consider passing any piece of legislation, regardless of the subject, without doing our best to understand as much as possible about its potential impact on the general public. Is that not, in fact, our fundamental responsibility as legislators? Is that not what we were sent here to do?

Is that not what we just asked in the legislation this body passed not more than a week ago that required the CBO to advise us of the impact on State and local governments of the unfunded mandates bill?

I have to say, Mr. President, I am somewhat confused. The same Senators who insisted on knowing the nature and the exact impact of that legislation are now arguing that we do not need to know the financial impact of our actions. Are we not supposed to know what we are doing here?

I ask you, are we not obligated—as a body—''to protect the people,'' as Madison said in his Journal of the Federal Convention ''against the transient impressions into which they themselves might be led.''

And here we are, legislating by impressions. That is exactly what we are doing if we do not show the people what this means.

We do not need to know the contents. We do not need to know how it works or what it does, we just need to buy it, we are told.

Mr. President, is this the modern day equivalent of the ''traveling salvation show'' complete with snake oil and magic elixirs that cure all of our ills? We do not need to know what is in it. Trust us. It works.

Have we lost our perspective here? Have we lost all touch with reality? I wonder if anyone in this Chamber can go home to his or her constituents and say, ''Ladies and gentlemen who elected me, I have absolutely no idea what this legislation will do. However, I've been assured that everything will be fine. Trust me, and thank you for your continued support.''

And yet here we are suggesting that we pass this constitutional amendment and worry about the details later. By God, let us be honest with our constituents.

If achieving a balanced budget by 2002—with half of the budget protected from cuts—will cost my State, annually, $1.9 billion in Federal grants, then let us be honest about it.

If a balanced budget will cost Massachusetts $248 million in highway trust fund grants, $459 million in lost funding for education, job training, the environment, and housing, then let us be honest about it.

If—over 7 years—it will cost over $1 billion in Medicaid, and almost $2½ billion in Medicare, then let us be honest.

Mr. President, what are we afraid of? If we support it, let us talk about it. If we believe in it, let us defend it. But I implore you, let us be honest about the impact of what we do here. It is our job. It is our obligation. It is our only mandate from the people who sent us here.

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

Mr. HATCH. Mr. President, I have been informed that the majority leader is in meetings which he cannot interrupt.

(At the request of Mr. HATCH, the following statement of Mr. DOLE was ordered to be printed in the RECORD):

Mr. DOLE. Mr. President, let us be clear about one thing. Whether or not the Senate votes to approve the balanced budget amendment, Republicans intend to offer a detailed 5-year budget plan that will put us on a path toward a balanced budget by 2002—a test that President Clinton's latest budget makes no attempt to meet.

The Daschle amendment is a poorly crafted, last-ditch effort to thwart the will of the American people who overwhelmingly support a balanced budget constitutional amendment. The distinguished chairman of the Judiciary Committee, Senator HATCH, and the distinguished chairman of the Budget Committee, Senator DOMENICI, and others have already made that point.

The Daschle amendment is an effort to change the subject. Rather than debate the value of making a balanced Federal budget a national priority, most opponents of the balanced budget amendment would prefer talk about potential cuts that might affect their pet programs.

This bait-and-switch effort will not work.

This Congress will put forward a plan to control Federal spending and move us toward a balanced budget without touching Social Security and without raising taxes. Everything else, every Federal program from Amtrak to zebra mussel research will be on the table. For those who want an idea of how we would try to achieve this goal, look at the Republican alternative budgets that have been introduced in each of the past 2 years.

Mr. President, it is ironic that on April 1, 1993, the vast majority of those who now support the Daschle right-to-know amendment voted to adopt a budget blueprint paving the way for President Clinton's massive tax increase before President Clinton submitted the legally required details of his plan to Congress. They voted to adopt a budget blueprint that called for a massive tax increase without knowing the specifics.

This debate is different. It is a lot simpler. The central issue is whether or not we should vote to make balancing the budget a national priority. We are debating whether or not future generations of Americans—our children and our grandchildren—deserve constitutional protection. That is what this amendment is all about.

This year, we have a real chance to approve a balanced budget amendment and send it to the States for ratification. It is the best chance we have had in years. Every single vote matters.

Several Senators who voted for a balanced budget amendment in the past are now under tremendous pressure from the special interests and others who are addicted to Federal spending. The special interests are trying to convince past supporters of the balanced budget amendment to switch their votes. I hope that every Senator who supports the balanced budget amendment will continue to stand firm, do what is right for our children and our grandchildren, and vote for the balanced budget amendment.

Let us get on with the real debate.

Mr. HATCH. Mr. President, I would like to just read a few of the distinguished majority leader's remarks because I think they are very appropriate.

I will read these for and on behalf of the majority leader:

* * * Mr. President, it is ironic that on April 1, 1993 the vast majority of those who now support the Daschle right-to-know amendment voted to adopt a budget blueprint paving the way for President Clinton's massive tax increase before President Clinton submitted the legally required details of his plan to Congress. They voted to adopt a budget blueprint that called for a massive tax increase without knowing the specifics.

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Let us get on with the real debate.

On behalf of the majority leader, I move to table the Daschle motion, and I 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 the Daschle motion to commit House Joint Resolution 1. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. THOMAS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 44, as follows:

[Rollcall Vote No. 62 Leg.]

YEAS—56

Abraham	Gorton	McConnell
Ashcroft	Gramm	Murkowski
Bennett	Grams	Nickles
Bond	Grassley	Packwood
Brown	Gregg	Pressler
Burns	Hatch	Roth
Campbell	Hatfield	Santorum
Chafee	Heflin	Shelby
Coats	Helms	Simon
Cochran	Hutchison	Simpson
Cohen	Inhofe	Smith
Coverdell	Jeffords	Snowe
Craig	Kassebaum	Specter
D'Amato	Kempthorne	Stevens
DeWine	Kyl	Thomas
Dole	Lott	Thompson
Domenici	Lugar	Thurmond
Faircloth	Mack	Warner
Frist	McCain	

NAYS—44

Akaka	Feingold	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Bradley	Harkin	Murray
Breaux	Hollings	Nunn
Bryan	Inouye	Pell
Bumpers	Johnston	Pryor
Byrd	Kennedy	Reid
Conrad	Kerrey	Robb
Daschle	Kerry	Rockefeller
Dodd	Kohl	Sarbanes
Dorgan	Lautenberg	Wellstone
Exon	Leahy	

So the motion to lay on the table the motion to commit House Joint Resolution 1 was agreed to.

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

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

ORDER OF PROCEDURE

Mr. BAUCUS. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business, and that at the conclusion of my remarks the Senate proceed to a quorum call.

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

BUTTE, MT

Mr. BAUCUS. Mr. President, my statement today is the second in a series on Butte, MT, and the attractions it offers the Micron semiconductor company. I would like to focus today on Butte's top-notch higher education facilities, particularly in technical fields.

Foremost among these is Montana Tech. Under the dynamic leadership of Montana Tech president, Lindsay Norman, Montana Tech has grown and developed into one of the best small engineering and science schools in the country.

A former vice president of Chase Manhattan Bank in New York, Mr. Norman really understands business, and has made it his mission to ensure that Montana Tech's programs reflect the needs of the private sector.

As I pointed out yesterday, a recent survey of college presidents voted Montana Tech the best small college science program in the United States—the best, No. 1. Other surveys show that this is no fluke. Money Guide magazine rated Montana Tech one of the top 15 best buys in college education in the southwest and mountain States. And last year, U.S. News & World Report ranked Montana Tech the No. 1 educational value among western regional universities.

Let me repeat. The U.S. News & World Report ranked Montana Tech the No. 1 educational value among western regional universities.

Established in 1895 as the Montana School of Mines, Montana Tech historically focused on mineral and energy-related engineering programs. It now offers undergraduate and graduate programs in a multitude of science and engineering disciplines, including computer science, environmental engineering, hydrogeological engineering, and mathematics.

Montana Tech also offers a broad range of courses in the humanities and social sciences. In addition, the college has an active continuing education program which offers night courses for adults.

The university has said that it would work closely with Micron to make sure class offerings not only meet the educational needs of Micron's employees but convene at appropriate times for Micron's work force.

Altogether, Montana Tech offers Micron a top-quality source of new recruits, and the perfect place to ensure that existing employees are able to upgrade their technical and computer skills.

Also located in Butte is the Butte Division of Technology, whose 41-acre site offers occupational training. Its strength is its ability to meet immediate and short-term training needs of regional industry and businesses, as well as to constantly update and revise its courses of instruction in order to meet changing market demands.

Finally, of course, Butte's educational resources are not limited to Butte-Silver Bow County. The city is strategically located at the center of the southwestern Montana technology corridor at the intersection of Interstates 90 and 15.

Thus, in addition to Montana Tech and the Division of Technology, Micron employees would have easy access to Montana State University at Bozeman [MSU], Carroll College in Helena, and the University of Montana at Missoula. These institutions together have combined research and engineering programs that exceed $49 million a year.

Education has always been a top priority for Montanans. As Michael Malone, the president of Montana State University and the dean of Montana historical scholars, writes, as early as 1900 our State boasted one of the Nation's highest literacy rates.

Our earliest State education laws paid special attention to technical and scientific fields. That commitment continues today in top-quality institutions like Montana Tech. And it is a perfect fit for a company like Micron.

If I might, Mr. President, it is interesting to make another observation. Last year, the senior Senator from New York [Mr. MOYNIHAN] presented in the Democratic Caucus two charts. One chart listed the per capita State expenditure for elementary and secondary education, ranked with the most expensive on down to the least expensive. That is, the top States spend more dollars per pupil in elementary and secondary education on down to the States that spend the fewest number of dollars per pupil.

Next to that was another chart. It ranked, in descending order, States whose elementary and secondary students do best in mathematics, the best States being at the top, the worst States down at the bottom. Senator MOYNIHAN put the charts side by side and asked a very pertinent question: What on Earth could one deduce by looking at these two charts? One is that there is no correlation, zero correlation, between the number of dollars spent per pupil on the one hand, and how elementary and secondary students ranked in mathematics performance on the other.

Finally, the Senator pointed out, in a way only he can, combinations, and in seeing linkages that others do not see, he said that one can draw only one conclusion by comparing the two charts and, that is, if you want your kids to have the best math education, either live in Montana or live in the State adjoining Montana, because the States that have the highest rankings of mathematics are the States of Montana, the Dakotas, and Wyoming.

I mention this to point out the commitment the State of Montana gives to education in general, and particularly the commitment Butte gives to its people, Montana Tech and related universities, so that Micron will do very well if it comes to Butte. Butte wants Micron and will make any necessary adjustments to tailor its operations to Micron.

This is the second in a series of statements I will make. I will make another speech regarding the ties between Micron and Butte on Monday.

I yield the floor.

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

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

RECESS UNTIL 2 P.M.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:00 p.m.

There being no objection, the Senate, at 12:35 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FRIST).

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. DOLE. Mr. President, I now ask that there be a period for the transaction of morning business, not to extend beyond the hour of 2:30, with Senators permitted to speak for not to exceed 5 minutes each.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding the leader just put the Senate into morning business.

The PRESIDING OFFICER. That is correct.

SOCIAL SECURITY AND THE BALANCED BUDGET

Mr. REID. Mr. President, I take this opportunity to address the Senate about the amendment we hope to offer in the immediate future. That is the amendment regarding the exclusion of Social Security from the balanced budget amendment.

Mr. President, I believe that we lost the amendment that has been debated on this floor for a week dealing with the right to know; that is, whether the American public should be able to understand the glidepath that will allow this Government to arrive at a balanced budget by 2002. That was denied. The American public does not have the right to know how we are going to arrive at that balanced budget by the year 2002.

I hope, though, Mr. President, that the next matter we are going to discuss, namely, Social Security, would be something the American public should have the right to know. How are we going to handle Social Security in the overall mix of this balanced budget amendment?

It would seem to me that senior citizens, but just as importantly all the people of this country, men and women who are working for a living and those people who yet will work, should be entitled to know how we are going to handle Social Security.

I, frankly, am disappointed the way it was handled in the other body. In my opinion, the other body in handling this, in passing House Joint Resolution 17, recognized how weak their references were to protect Social Security. They did not even go to the trouble of introducing a statute, trying to pass a statute. They had a concurrent resolution that passed by a vote of 412–18 that has, Mr. President, the authority of this blank piece of paper.

I suggest that we would all be well advised to get to the debate on Social Security, to have a determination made by this body whether we will exclude Social Security from the stringencies of the balanced budget amendment.

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. DORGAN. 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. DORGAN. Mr. President, my understanding is that we are in a period of morning business.

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. And I may be recognized for 5 minutes.

The PRESIDING OFFICER. Yes.

SOCIAL SECURITY EXCLUSION AND THE BALANCED BUDGET

Mr. DORGAN. Mr. President, following on the comments by the Senator from Nevada, let me ask the Senator from Nevada a question. The right-to-know amendment was an amendment

offered by the Senator from Nevada, myself, and many others who felt that it was important to try to understand: Is this a promise to balance the budget, or is it a promise with a plan this time to balance the budget? Lord knows the American people have had a barrel full of promises.

Was there something behind it? If there is, as one of the leaders in the other body said, the plan is so significant it will make America's knees buckle. It will make the knees buckle of the American people if we ever told them what is required. The question many ask is, should not the American people understand what it is they are talking about? What will buckle people's knees? Is there a plan? Is this a mystery plan that we are not allowed to understand or see? Well, we had a vote on that and the vote was no. This is a program, but we do not want you to see the plan, if there is one. We are not sure there is one.

Second question: Will, in the process of balancing the budget, the Congress decide to take Social Security trust funds and use them to balance the Federal budget? After all, the Social Security trust funds come from dedicated taxes to be used for only one purpose. They go into the Social Security trust fund to be used for Social Security. It is a contract between those who work and those who are retired.

The question is, yes or no, does someone intend to use receipts from the Social Security trust fund to balance the budget? The Social Security system has not caused one penny of the Federal deficit. This year it is running a surplus of $70 billion. This is not a difficult question. It is easy to understand, and it is even easier to answer—yes, or no.

I think the Senator from Nevada understands, because of the way the constitutional amendment that is on the floor is proposed, the wording says receipts mean all receipts including Social Security receipts. Because it is worded that way, one cannot correct this problem in any other way except to amend the constitutional amendment that is on the floor.

I hope the Senator from Nevada will move as quickly as possible and that when we debate that amendment—I hope that is the next amendment the Senate will consider—we will get an up or down vote. I do not think we should have a ricochet vote on this, I do not think we should bounce around on various procedural motions.

I think the question can be answered simply yes or no, are we going to use the Social Security trust funds to balance the budget? Is it the Senator's intention to offer this as the next amendment if that is in order, and do we hope to get a recorded vote on the question, yes or no?

Mr. REID. Mr. President, my friend from North Dakota asked two questions. Is there a plan? I have to answer that, yes, I think there is a plan, and it is not one that people who are now depending on Social Security would like. I think the plan is to raid the Social Security trust fund.

The second question, do I want to vote on my amendment? The answer is yes, I think we have to have a vote on the amendment. It is the only thing that would be fair to the American public. Is the Social Security trust fund a separate trust fund? The answer to that is yes.

I would also say to my friend from North Dakota that it is interesting that those Members who are pushing so hard for the Social Security exclusion are people who support the balanced budget amendment. The Senator from North Dakota and the Senator from Nevada are not people here trying to deep six the balanced budget amendment. I believe in a balanced budget amendment. And I have heard speeches on this Senate floor by our colleague, who I do see on the floor in front of me, from North Dakota, the senior Senator from North Dakota. He has talked many, many times about the need to balance this budget. Those people that are pushing for the Social Security trust fund to be excluded are people—the most vocal—are people who support the amendment.

Mr. DORGAN. Mr. President, can the Senator think of any reason that someone would want to vote no on an amendment like this, unless one had designs on using the Social Security revenues to balance the budget? I cannot think of any other reason.

I came here this morning and said I do not ask anybody for five reasons or even three if it is hard for somebody. I just ask for one simple, easy-to-understand reason from somebody that would say, ''Here is why we do not want to include this,'' because, I guess, the only reason that is plausible is that we would like to use the Social Security revenues at some point to balance the budget. Is there any other possible reason for someone not wanting to vote for this?

Mr. REID. Mr. President, I say to my friend from North Dakota, as I have said on this floor on another occasion, the answer is, that is where the money is. As Willie Sutton, the famous bank robber said when he was let out of prison, they asked, ''Why do you rob banks?'' And he said, ''That is where the money is.''

The Social Security trust fund is where the money is. That is why there are some who do not want to exclude it.

Mr. DORGAN. I appreciate the Senator's comments. The problem with those of us here is we get confused by labels—what is conservative and what is liberal. You get totally confused, because the conservative approach, it seems to me, is to balance the budget the way it is supposed to be balanced. And the way it is supposed to be balanced is you set the Social Security trust fund aside and balance the budget deficit. That it seems to me is a conservative approach.

Yet, it seems to me that most who call themselves conservatives say, ''Gee, we don't want to do that.'' That position, apparently, is a liberal position. Maybe we ought to all change seats here for a while, because I just do not understand why we are in this quandary.

This ought to be the simplest of questions to answer: Do we want to balance the budget by raiding the Social Security trust fund? The answer is, of course not. Do we want to balance the budget? The answer is, of course.

I take a back seat to nobody on this subject. I have been in charge of waste task forces, identified $80 billion of Federal spending we ought to eliminate, much of which we have not. The fact is that still does not deal with the deficit. We have an abiding deep deficit problem that we have to deal with. That is why I voted for balanced budget amendments in the past. It is why I likely will in the future, but there is a right way and wrong way to do things.

Those who come to the floor say, ''We want to cut taxes and increase defense.'' I want them to come to the floor to say to us, if we intend to do that, cut taxes and increase defense, how do you get to where you want to get to, how do you balance the budget? Do you do it by taking Social Security funds? Not with my consent you do not. That is not honest. That is not an honest approach.

I hope when the Senator from Nevada offers his amendment that we can have an up-or-down vote on the merits of the amendment and we can understand what are the virtues of conservatism here: Pay your bills and treat money the way you promised people you would treat money. These principles hold especially true with Social Security.

We told people, we promise you we will put it in a trust fund, we promise you we will keep it there. That will not be the case, if it is then used sometime later to offset tax cuts, much of which will go to the wealthy, and offset defense spending increases at a time when we are choking on Federal deficits. That is the dilemma. I hope we can clarify this and have a very simple vote after an honest debate.

Mr. President, I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, the reason this debate is so important is because we are talking about issues that have enormous implications for the future, and the implications are a balanced budget amendment to the Constitution of the United States that would have, as its predicate, that we would loot the Social Security trust funds of $636 billion over the next 7 years in order to have the operating budget of the United States balanced.

That is just a fundamentally flawed strategy. It is not right. Any CEO in this country, if they went before their board of directors and said that their

plan for balancing the operating budget of the corporation was to loot the trust funds of their employees, that individual would be on his or her way to a Federal facility and, as I said moments ago in the press gallery, it would not be the U.S. Congress, it would be the Federal facility they would be headed for. They would be headed for a Federal penitentiary because that is fraud. Unfortunately, that is what is occurring with respect to the budget of the United States now.

Social Security trust fund surpluses are being used to fund the operating expenses of the United States. What is fundamentally wrong about that is that we are using a regressive payroll tax to fund not the retirement systems of Americans but instead we are using those funds to understate the real budget deficit we confront in this country. And now we have a constitutional amendment before us that would take that approach and put it in the Constitution of the United States.

Mr. President, that cannot be the result of this balanced budget amendment debate. We should never allow a trust fund to be looted in order to achieve balance, and we should never put that kind of construct into the Constitution of the United States. That is profoundly wrong.

I am just very hopeful that we can get to a vote and a debate on the amendment that Senator REID and others of us will be offering. It is an amendment Senator REID and I offered last year, along with my colleague Senator DORGAN. I understand that there are others who are proposing an alternative mechanism and vehicle for the implementing language. Let me just say, this Senator would never accept that kind of pale imitation. That is not going to suffice.

We are talking about an amendment to the organic law of the United States: The Constitution of the United States. That is the document that each of us swore to uphold when we took the oath of office. We are talking about a Contract With America; that is the contract with America that counts.

I thank the Chair and 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. EXON. 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. EXON. Mr. President, I have been listening with interest to the debate on what very likely will be an upcoming amendment with regard to whether or not we are eventually going to get to a vote on the balanced budget amendment.

As the Chair knows, this Senator has been very much involved in all of this because while I think that there are many good reasons for not having a balanced budget amendment as a part of the Constitution, I think after the years that I have served here and on the Budget Committee, I must say that without that discipline that I think we have exhibited in the past by the tendencies that seem to prevail and by the fact that we have not even come close to balancing the Federal budget, I am convinced that with the reservations that are obviously in order, and many of them well taken, this Senator believes that we have to have a constitutional amendment to balance the Federal budget.

I think the arguments that are being made today with regard to Social Security are good ones. Many of my close friends, with whom I have worked for many, many years in this body, are supporting that kind of an amendment.

I guess the question comes down to in this Senator's mind: How are we going to fashion, if we can, 67 votes in this body to pass a constitutional amendment? The more I see and the more I hear, the more fearful I come to the conclusion that maybe it is not possible, maybe some of these votes that were taken pro and con on this issue are going to simply give cover to one group or one party or one Member to vote against the balanced budget amendment.

I say in all candor, Mr. President, one of the big problems we have is that I am not sure a majority of this body understand the difficulty we have once we have passed a constitutional amendment and assume that will be ratified by three-fourths of the States.

Another way of putting it would be that passing the constitutional amendment to balance the budget, as was done with great fervor, with great fanfare, and with great flag waving on the Contract With America, was the easy part. That was not necessarily the time for celebration. That was done in the House of Representatives, I would suggest, without fully informing the Members of the House of Representatives, 435 of them, and certainly not informing the State legislators who are going to have to vote, three-fourths of them, before such a constitutional amendment, if it passes the Senate, would be enforceable.

Certainly last, but far from least, I do not believe the American people have been afforded an opportunity to fully understand what all of this means. In fact, I am very much concerned because I saw a poll the other day that I suspect is accurate. I think it kind of represents what I have heard from various sources. That is, that 72 percent of the American public strongly support a constitutional amendment to balance the budget, but 47 percent of the American public think the budget can be balanced by eliminating waste, fraud and abuse.

I say to the people of the United States that they have been sorely misled, indeed, if they believe the Federal budget can be balanced by the year 2002 with the elimination of waste, fraud and abuse. No one in this body and no one over on the House of Representatives side really believes we should have one dollar or one penny of waste, fraud and abuse. And I can understand how the public has been abused on that because of the time and attention that has been paid to $1,400 toilet seats and $200 hammers and other things of that nature, which is ridiculous on its face.

There was a half an hour program on the prominent show called Nightline a couple of weeks ago, a whole half-hour devoted to whether or not we should dispose of the $268 million we are spending annually to subsidize public radio and public television, and that is a very legitimate debate. There are two sides of discussion on that, and both of them can make a point. But when you talk about that, even if we would eliminate any and all assistance, taxpayer assistance to public radio and public television, that $238 million, although it is an awful lot of money, is such a small, infinitesimal amount of the deficit that if we eliminated that and all such programs it would not even put a minor, thimble-sized dent in the budget deficit.

Another way of putting all of it is that far too much attention is being focused on shortcomings in the budget process and not enough attention is being given to the significant cuts that are going to have to be made to balance the budget in the year 2002 as would be required under a constitutional amendment to balance the budget.

I guess another way of saying this is that I am not sure all of it has been put in proper perspective. I voted earlier today for the amendment offered by the Democratic leader called the right-to-know-amendment. I voted for that amendment not because I was particularly excited, nor did I really feel we should go so far as to incorporate such language as the Daschle amendment, of which I was a cosponsor, into the Constitution of the United States of America.

I would guess that probably, if we would have passed that and it had been included, it would be the first time in the history of the United States of America such language would have been incorporated in with a constitutional amendment. And so I caution with regard to what we should be putting into the Constitution.

I was a cosponsor, and I voted for that amendment, trying to have a better understanding, trying to bring the two sides, the Democrats and the Republicans, together on this issue. And even had it passed, which I suspected that it would not have, we maybe could have taken that out and gotten back to a constitutional amendment at least somewhat in the form of the constitutional amendments that have been passed in the past. Certainly I would be one of those to say we should amend the Constitution with considerable restraint.

Now, back to the matter of Social Security. The Senator has stood at this

desk before, as I stand here today, to say I think many good points have been made by those who do want to protect the Social Security trust fund. And I wish to do that also. I have said that even if the coming constitutional amendment would be passed without such protection, at least this Senator very likely would not ever agree to raid the Social Security trust funds. My only appeal is that possibly there is a way we could sit down and work together to come up with some type of arrangement offering proper guarantees to the logical protection of the Social Security trust fund which I think have been outlined very effectively and precisely by many of my colleagues who have spelled out this matter in this Chamber.

Let me put it another way, if I might, Mr. President. I would be willing to sit down with anyone, any group, any combination of groups to see if we could factor in some type of workable compromise which would get us the 67 votes that are necessary, and I think we should try to get, to proceed to have a constitutional amendment to balance the budget and then refer it to the States.

So I would simply like to ask, Mr. President, if there is any way that we could assure—and under those conditions I might vote with my colleagues who are offering the Social Security amendment, if I could have the assurance of some of those who are proposing the amendment that they then would turn around and be one of the 67 votes we need to pass the constitutional amendment.

Putting together 67 votes in the Senate on this issue is going to be a very difficult task. From the counting that I have done as of now—it is not infallible because I think there is some shifting going on, but it would appear to me very likely, if we had the vote today, the final vote on sending a constitutional amendment to the States by the Senate would fail.

Given that concern of mine, I would simply say to my colleagues on both sides of this issue, and both sides on the many other issues that are likely to be brought forth on this matter: Let us try to work together. I do not think anyone has the wisdom, the knowledge, the intellect to be able to solve all of these problems. As a body of 100 people who are charged to represent their constituents and the people of the United States as a whole, I just hope we can get together. I think there are many of us who share the goal. All of us do not——

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. EXON. Mr. President, I ask for 1 additional minute.

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

Mr. EXON. I hope we can maybe come together on some kind of compromise, some kind of understanding that does not so weaken and change the constitutional amendment to balance the budget that it will not work.

Last but not least, whatever we do, I think we must—we have the obligation to go far further than we have as of now, to explain how difficult this will be, and the sacrifices that probably every American is going to have to make to get it accomplished.

I outlined in a speech 10 days ago some of the major concerns in this area, that I would reference as a part of my speech. That might be referred to.

Mr. President, I call for cooperation to get a balanced budget amendment passed by the Senate. That is most important of all.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. I thank the Chair.

(The remarks of Mr. KOHL pertaining to the introduction of S. 274 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

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

UNANIMOUS-CONSENT REQUEST

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of the original joint resolution to be offered by Senators SIMON, BREAUX, and others regarding Social Security, and that during the consideration of the Senate joint resolution, no amendments be in order and debate be limited to 2 hours to be equally divided in the usual form. I further ask that immediately following the conclusion or yielding back of the time, the Senate proceed to vote on the resolution without any intervening debate or motion.

Finally, I ask unanimous consent that immediately following the disposition of the Senate joint resolution, the Senate resume consideration of House Joint Resolution 1.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I respectfully object to the leader's request.

The PRESIDING OFFICER. Objection is heard.

The Senator from Nevada.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

AMENDMENT NO. 236

(Purpose: To protect the Social Security system by excluding the receipts and outlays of Social Security from the budget)

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. DASCHLE, Mr. DORGAN, Mr. CONRAD, Mrs. FEINSTEIN, Mr. FORD, Mr. HARKIN, Mr. HEFLIN, Mr. GRAHAM, Mr. KOHL, Mr. BAUCUS, Mrs. BOXER, Mr. HOLLINGS, Ms. MIKULSKI, and Mr. LEAHY, proposes an amendment numbered 236.

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

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

The amendment is as follows:

On page 3, line 8, after ''principal.'' insert ''The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this article.''.

Mr. REID. Mr. President, this amendment is being offered on behalf of the Senator from Nevada, Senator REID, and Senators DASCHLE, DORGAN, CONRAD, FEINSTEIN, FORD, HARKIN, HEFLIN, GRAHAM, KOHL, BAUCUS, BOXER, HOLLINGS, MIKULSKI, and LEAHY.

Mr. President, this is a very simple amendment. It really is. It will take some time during the next few days to talk about this amendment. But it is an amendment to determine what we are going to do about Social Security. In effect, this amendment excludes from the balanced budget amendment the Social Security trust fund as it relates to the old-age pension aspect thereof.

Mr. President, I rise in support of the balanced budget amendment. If Social Security is excluded, I will vote for the balanced budget amendment. As a veteran of a number of debates in this body on this issue, I am fairly well versed on persuasive arguments for the balanced budget amendment. There are people who I have heard—including my friend, the senior Senator from Utah—over the years make very, very persuasive arguments why it is important that this country have a more sound fiscal policy and why it is necessary to have a balanced budget amendment. Some would say in debating this issue—that is, whether we should include Social Security or exclude it from balanced budget amendment—that it is a very painful vote, and it perhaps is. This body would be forced to make a determination as to whether or not the proceeds of Social Security, and the old-age pension aspect thereof, would be excluded from this balanced budget amendment when it would become part of the Constitution.

Mr. President, we have all been called upon as legislators, and those who served as Governor or Lieutenant Governors in States or mayors of cities, to make decisions that are difficult sometimes. I remember one of the most difficult decisions I had to make as a Senator in this body, which I was relating to my friend, the senior

Senator from New Mexico, and my colleague, the junior Senator from New Mexico, regarding whether a stealth wing should be taken out of the State of Nevada. We had spent the taxpayers' money in this country—about one-half billion dollars—building the secret air base in the deserts of Nevada to test this very exclusive weapon, which was the Stealth fighter bomber. There came a time when it was no longer secret, and therefore the Pentagon made the decision that they would move this Stealth fighter wing from Nevada to New Mexico. It was a difficult decision. It involved many, many jobs, several thousand jobs, something that was very important to Nevada. But I made the decision that, if the GAO would tell us that it would save this country money to move that wing and that we would be just as secure, I would not object.

The General Accounting Office came back in a relatively short period of time with the report that it would save money and we would be just as strong as a nation if this wing were moved to New Mexico. I swallowed hard and watched the wing move to New Mexico without raising a hand to stop it.

Yesterday, I received a call from some of my friends in Nevada that the President's budget called for the elimination of a facility we have—the Bureau of Mines—in Reno doing research. There are not as many jobs, but a job is a job.

These are some of the things we have to make decisions on, and it appears to me that it is sound fiscal policy to consolidate. And perhaps that is the best thing for the country to do. We all have to make tough decisions.

This amendment is a tough decision. If we ever are going to balance the budget of the United States, there will have to be a series of very difficult decisions made as to how we will do that. This is different than a simple statute that we are going to amend. It is different because we are talking about not passing a law; we are talking about amending the Constitution of the United States.

Over the years there have been in this and the other body about 4,000 attempts to amend the Constitution. As we know, very, very few have been accomplished. This is not one of those amendments that is done for press releases to be sent home. This is not an attempt made to satisfy a certain constituency. This is a serious attempt to put language in the Constitution of the United States that would force us to balance the budget. We all know that we have the legal authority to balance the budget right now. But over the decades we have not done a very good job doing that, and, therefore, a majority of the people of this body feel that we should amend the Constitution of the United States to include in there a provision mandating a balanced budget. I say a majority. I think we do not know yet that there will be a supermajority; that is, 67 votes to make this a part of the Constitution. I say now as I have said before, if Social Security is excluded, I will be one of the 67. If it is not, I will not.

I emphasize the U.S. Constitution because, Mr. President, it is unlike States balancing their budgets. In the State of Nevada, for example, we just completed the construction of a new State building in Las Vegas. That building cost about $400 million. But, no, that is not a part of the budget that is talked about every year as being a balanced budget in the State of Nevada. The reason that it is not is because they have bonding authority. Many capital expenditures are taken off budget.

This amendment that we have before this body is more stringent than the laws and the constitutions of most all States. Most all States, as I mentioned, do not balance their budgets as they say they do because there are capital expenditures which are off budget.

This amendment has no smoke and mirrors. If this amendment passes, everything will have to be balanced. This will be much different than when most of us handle our personal lives. If we own a home, we make payments on it. Most of us, if we have a car, we make payments on the car, refrigerators, things of that nature. But, if this amendment passes, this will not do that. This is not a smoke and mirrors amendment by any stretch of the imagination.

Mr. President, I think that it is important that we recognize that budgeting decisions, assuming we are working on a balanced budget amendment, will necessarily include all of our operating expenses and all of our capital expenditures. That is the legislation that is now before this body.

So I repeat, with all due respect for States that say they balance their budgets, ours would be honest and truthful budgeting, I think more so than has ever been done at any level of government. Senate Joint Resolution 1 guarantees a balanced budget. It does not spell out how we will get there, and I am disappointed that the amendment that we just voted on a couple of hours ago failed. I think it would have been nice had that passed. I think it would have given the American public a glidepath of how we are going to arrive at the balanced budget by the year 2002. But that is not what happened. We were only able to get 44 votes.

The amendment to the Constitution that is pending before this body is a rule without any exceptions. I believe this balanced budget amendment will ultimately pass because the American people want it to pass. Indeed, Mr. President, according to a recent ABC-Washington Post poll, well over 80 percent of the American public wants a balanced budget amendment to pass. However, when these same people were asked in a subsequent poll, would they want the budget balanced by using Social Security trust funds, the answer was a resounding 90 percent no.

Mr. President, I offered this amendment about a year ago. At that time, I did not know that the American public felt about this the way they did. Had any of us known, there may have been a lot of other people offering the amendment. But we have learned subsequent to last year that the American public feels very strongly about protecting Social Security. I raise this issue not because decisionmaking should or ought to be guided by the polls. I believe it should not be, and I think we in political life—at the Federal, State, and local level—follow the polls too much. As my staff will tell anyone who will listen, I am not a believer in polls. Very, very infrequently do I do polling.

Rather, I raise this issue because much of the rhetoric in the balanced budget debate revolves around carrying out the demands of the American people. How often have we heard someone say that the American people are demanding passage of the balanced budget amendment and Congress ought to pass it? Well, I think in that same breath we should recognize that they are also demanding action to guard against unilateral raiding of the Social Security trust fund to balance the Federal budget. Passage of the amendment that is now pending before this body is the only sure-fire assurance that such action will not occur.

Mr. President, we have heard a lot of promises being thrown around during the balanced budget debate. It should not come as a surprise to anyone that in this Chamber and in the other body individuals have said that they will fight against any cut of Social Security. We have some special interest groups that are saying the same. That is to be expected. There seems to be universal agreement that Social Security should not be used to balance the budget. This agreement, I believe, transcends party lines. Democrats and Republicans alike support protecting Social Security.

I have found it interesting to read the CONGRESSIONAL RECORD, Mr. President, to see what others are saying about Social Security. When this debate transpired in the other body, I believe it was on the 25th of January of this year, a number of people said a number of different things. I had the pleasure of being able to serve in the other body for a couple of terms and found it a most enjoyable experience. I say that the turnover there has been significant, and I do not know a lot of the people that now serve in that body.

However, Mr. President, one of the men that spoke on this issue, one of the Members of Congress that spoke on this issue is the Congressman that replaced the former chairman of the Ways and Means Committee, Congressman Rostenkowski, by the name of FLANAGAN. Here is what he said, among other things:

> The committee shall do nothing to increase Social Security taxes or reduce benefits to achieve that goal.

That is, balancing the budget. That is what he said.

We have another Congressman by the name of FUNDERBURK, who stated:

The balanced budget amendment will protect Social Security because there will be no more borrowing from the trust funds, which truly protect our Nation's retirees.

Mr. Hayworth stated:

One of the previous speakers was quite correct to point out that before there was this contract—

Meaning the Contract With America that we hear so much about.

there was enacted a solemn contract with the American people, and we call that Social Security.

Mr. Wamp indicated:

We can achieve a balance without touching Social Security. Our party and our leadership are on record opposing cuts in Social Security, and so am I.

Mr. CHAMBLISS, from the eighth district of Georgia, said:

Mr. Speaker, let us send a message of assurance to seniors of this great Nation.

He, of course, is referring to Social Security not being touched.

Mr. ENGLISH of Pennsylvania said:

At a time when some are talking about a new covenant, we should signal our intent to protect Social Security for those who participate.

Mr. YOUNG of Florida—and I did not have the pleasure of serving with any of the Members I have mentioned until now. I served with Mr. YOUNG of Florida. He said, on January 25 of this year:

It reaffirms what I have long said and supported, that in reducing the Federal budget deficit we should look to cutting spending in those areas which are driving our Nation deeper into debt. That certainly is not the Social Security trust fund, which actually runs an annual surplus—last year $61 billion.

I could go on with other statements about how Members of the other body talked about the balanced budget amendment. They do not want Social Security to be affected by the balanced budget amendment. They are right. It should not be.

What my amendment does, Mr. President, is put into writing what we have now only as an oral promise. This disagreement that is the subject matter of this debate seems to center on how best to protect those trust funds. I believe that if I were trying this case to a jury of my peers, the jury would return a verdict in favor of this amendment in a matter of minutes. This would not be one where the jury was hung up or one where they deliberated a long period of time. I would suggest that the debate clearly favors, and will favor, the amendment that the Senator from Nevada has offered, along with 14 of his colleagues.

Why, Mr. President, do we need to express exemption? Very simple. Anything less would be insufficient. If we want to take this off budget and exempt it from efforts to balance the budget, it must be done in a binding fashion. I suggest that burying it in implementing legislation, as was suggested last week in another debate, is like passing a sense-of-the-Senate resolution; it has no binding effect. It makes us feel good but, essentially, it is a nonbinding resolution. This language will specifically exclude Social Security.

I also submit, Mr. President, that we will hear some debate here on this amendment that will be offered by the senior Senator from Alabama. He, having been former chief justice of the Alabama Supreme Court, is a person who has had long experience on the Judiciary Committee of the Senate and somebody we look to for legal advice. He is the Judiciary Committee's legal scholar. He is going to tell this body why this amendment is essential. If we do not have this amendment—you will hear from the Senator from Alabama—Social Security must be included in the receipts that will be necessary to balance the budget.

Hiding a Social Security exemption in implementing legislation, as I said, is like playing a shell game with the American people. It is the proverbial smoke and mirrors trickery. It is the fig leaf that we have heard so much about, or whatever other words that you can connote that is a coverup. That is what, in effect, implementing legislation would be.

Some want to have their cake and eat it, too. They want to say, ''Well, we are going to protect Social Security, but we are also going to vote for the balanced budget amendment.'' I am not going to do that.

Some want to be able to go home and tell their constituents that they voted against touching Social Security. And they may even get by with it for a year or two, but it will not be long, because you will have to go after Social Security. And we know that, even if it is more than a sense-of-the-Senate resolution but a statute that says you want Social Security, you have the argument from my friend from Alabama, the senior Senator, but you also have the argument that there is no place to go. You would have to do that.

So, it sounds good, but it is really not what I believe is factual.

So I predict the majority of the American people will see through this what I believe is a charade and recognize this proposal, in fact, in implementing legislation is offered as a real fig leaf.

I want people within the sound of my voice to understand a little bit about the history of Social Security.

Mr. President, I first learned about Social Security as a little boy. I was born and raised in a very small town in the southern tip of the State of Nevada, a place called Searchlight, Nevada. When I grew up, it was a town of less than 250 people. A lot of the Reids lived there. We made up a significant number of the people that lived there. One of the Reids that lived there during that period of time was my grandmother. Her name was Harriet Reid. She was born in England.

My grandmother—I can picture her very clearly in my mind's eye, even though she has been dead for many years—was a very short woman and very, very fat. She had trouble walking, and to do her work was very difficult. She had raised eight or nine children.

Now, Mr. President, I was a little boy in the late 1940's, but my grandmother got, every month, her old age pension check. That is what she called it, ''My old age pension check.'' That check gave my grandmother, Harriet Reid, it gave her dignity, it gave her independence. Even though she had children that would help her, that check was a message to everyone that she could make it on her own. She deserved to make it on her own. She worked hard.

So I see Social Security in the eyes of my grandmother. And I believe that this amendment is offered on behalf of Harriet Reid and other grandmothers and grandfathers to be.

I believe it is important that we understand the reasons for placing this exemption on this balanced budget amendment. My reason, as I have just explained, stems from personal reasons and a deeply held conviction that the integrity of the Social Security system will be violated unless we do this.

(Mrs. HUTCHISON assumed the Chair.)

Mr. REID. In 1935, Social Security passed. It passed, Madam President, because the American people wanted it to pass. It was really at that time, perhaps, an experiment. We did not know if it really worked, but it did work.

I believe we have heard a lot about the Contract With America. I think that most all the items that my friends are talking about with the Contract With America are good and will help the country.

But let us be realistic. The real, valid first contract with America was Social Security. That program has been in existence for 60 years. That is the real contract. And it is a contract that has worked and we should do everything we can to protect the Social Security trust funds.

We should do that, Madam President, not only for the Harriet Reids of the world, but also for those children that are now in their beginning years, because we need to provide security for them in their old age, also.

President Roosevelt and Members of Congress recognized in 1935 that by financing the program by earmarked payroll taxes, we would ensure that a future President and Congress could not morally or politically repeal or mutilate the character of the program.

Interestingly, Madam President, President Roosevelt's fears were realized in the early part of the 1980's, when there were attempts made to make sweeping cuts in Social Security. Those cuts were repulsed by Congress. But Congress came back right away, came back quickly and solved the problems that they were having with Social Security.

It was truly a bipartisan commission—Claude Pepper, the man who was known for protecting Social Security; Tip O'Neill, President Reagan, all these people got together and figured out a way to save the Social Security old age pension. And they did a good job. Social Security was not damaged in any way. It was renovated. It was revamped.

And we are now celebrating the benefits of that, recognizing that last year there was over $60 billion in surplus, this year over $70 billion in surplus, and those surpluses will continue to increase.

So the arguments for defending the Social Security trust funds are rooted in the history of the program and that is what is truly unique about our Social Security system. I believe that, in part, it is because of the structure of the system that Social Security is really like a contract. This is not a giveaway program. This is not welfare that Social Security recipients receive. But, in fact, the employers and the employees pay in about 12.5 percent of their salary to put into a trust fund so that they have some moneys in their later years. So, it is their money. They have earned it. They have paid their dues. They have played by the rules.

And if you want to know why those of us in Government refer to this as the so-called third rail of politics, that is why. People trust that their funds will be there upon their retirement. It is understandable why so many are willing and have fought so hard and so long to maintain the integrity of this trust fund.

As they used to say in an old advertisement—I believe it was Smith–Barney, or one of those companies that sells stocks and bonds—they make their money the old fashioned way, they earn it. That is, in effect, what Social Security recipients do and have done.

So our obligation as Members of Congress is to recognize the contractual nature of the system and take the necessary steps to honor that agreement.

Madam President, our contractual obligation to the people of this country as it relates to Social Security is similar to the obligation—of course, our obligation is on a much larger scale—that I had when I practiced law.

I had to set up a separate trust fund to put my clients' money in. When I did that, I could not draw any of that money out for anything other than my clients' needs. I could not pay my rent, could not pay my car payment, house payment, rent on the office. I could only use those moneys for my clients. I had a fiduciary duty to my clients to protect those moneys.

While lawyers, people who work in banks, and insurance companies recognize the consequences of a fiduciary duty, attorneys are well aware of the consequences they face for breaching this duty.

Any person who violated this fiduciary trust, if they were an attorney, would be disbarred. If they were an insurance agent, they could have their license taken away. A real estate agent, the same thing. Or they could go to prison. They could go to jail. We have an obligation to protect the integrity of the Social Security trust funds. We, too, have fiduciary duty to protect the integrity of these funds, not only as I have mentioned for the seniors of this country, but for all working men and women.

Madam President, what is this word we are throwing around—fiduciary duty? What does it mean? Why does it describe Congress' role in maintaining the Social Security trust fund? I thought it would be educational to me—and it gave me an opportunity to look at one of my old law books—to talk about from a level perspective, what is a fiduciary duty? It means a person holding the character of a trustee with respect to the trust and confidence involved in it and the scrupulous good faith and candor which it requires; a person having a duty created by his undertaking to act primarily for another's benefit in matters connected with such undertaking. This came from Black's Law Dictionary.

It explains that a breach of fiduciary responsibility would make the trustee—and that is what we are—liable to the beneficiaries for any damage caused by such breach.

So, Madam President, what penalties do we face for breaching this duty? I am sorry to say, not much. I will not be disbarred. I will not have a complaint filed against me with the National Bar Association. The only opportunity that someone has to get back at a Member for breaching our fiduciary duty is in the ballot box.

I think they need more protection. I think there needs to be more stringent control of the Social Security trust funds than somebody saying, ''If you violate your fiduciary trust, we will vote against you.''

My amendment expressly exempts the Social Security trust fund from any calculation of Federal deficit. Absent an expressed exemption included in the constitutional balanced budget amendment, we, the guardians of the Social Security trust fund, will be in breach.

Unfortunately, Madam President, for the tens of millions of beneficiaries who have paid into this system most all their working lives, they will have no remedy. They can have recourse at the ballot box. Sometimes that comes too late. That will not compensate them in dollars for their lifelong contribution to the Social Security trust fund if we, in effect, raid this fund to balance the budget. It certainly will not help their retirement. The cold, hard fact of the matter is the beneficiaries have a right, but are without a remedy, to ensure that that right is enforced.

I have said the real contract with America is Social Security. And it is like a contract. There are many good reasons why the protection of the Social Security trust fund is so important to all Americans. Social Security is a unique Government program. The program is not, however, difficult to comprehend. Yet its simplicity, I think, Madam President, masks the strong undercurrents of emotions so often espoused when discussing this Social Security system.

People feel so strongly about this issue. Why? Because it involves a contractual agreement that they know that they have with the Government. The Government and the American people. That is the contract.

How many Members have been at town hall meetings where people stand up and say, ''Are you going to protect Social Security?'' How many times have people stood up at Social Security meetings and they say, ''I am not on welfare. I have worked hard all my life. I want to be able to draw my Social Security. Are you going to protect that?''

Why is it a contract? This is a word that has been thrown around by people in Government and pundits over the last several months. If we stop and think about it, Social Security, I repeat, is best described as the true contract with America. It is a contract, or, in other terms, an agreement, that benefits all Americans.

I have mentioned how we pay into that system. I have mentioned how people who receive that money are not receiving a Government giveaway. They are not collecting money for no reason. I am sure that no one enjoys the Social Security payroll deductions that we suffer through on our paychecks. It is a lot of money. There is an understanding that in many ways this produces a greater good. We are, in effect, building. We are being forced to build a nest egg provided for us in our golden years. That does not seem to be stretching the point at all.

To attack Social Security as another Government giveaway program is a straw man. It is a self-financing, self-sustaining, publicly administered contributory retirement program. This program requires personal sacrifice. Through the Federal Insurance Contributions Act, which we call FICA, workers are required to contribute, as we have talked about, 6.2 percent, which is matched by another 6.2 percent by the employers, for 12.4 percent. That is a lot of your paycheck.

By law, the funds are required to be held by the Federal Government in trust. The key to understanding this system, however, rests in the recognition that all of these dollars that are amassed, the billions and soon to be trillions of dollars do not belong to the Federal Government. They are contributions workers and employers are paying in and the workers expect to get back.

Our role as Members of this august body is to ensure that there be a continued vitality of these funds. I believe, in this respect, our greatest obligation is to ensure that retirees receive their

just compensation. That could apply to people who are 5 or 6 years old. We have to ensure that they receive their moneys, as we do someone that is presently drawing Social Security. I say again that unless we expressly exempt the Social Security trust funds from any calculation of Federal deficit, we may not be able to meet that obligation. Social Security, Madam President, does not contribute to the Federal deficit.

Throughout this debate we have talked about rights and obligations, both present and future. I support a balanced budget amendment to the Constitution of the United States because I believe that we have an obligation to do a better job of balancing the budget than we have been doing. This obligation is owed importantly to future generations of future Americans.

The balanced budget amendment must ultimately provide for a government to act in a more fiscally responsible manner. If we do not handle this amendment properly, and my belief if we do not exclude Social Security, we will be not only violating a fiduciary violation that we have, we will be fiscally irresponsible. We must not, through this amendment, loot the Social Security trust fund in order to eliminate the Federal deficit. This is not fair to the generation which has paid into the system their entire lives, nor is it fair to the generations in the future that will pay into the system their entire lives.

In short, because Social Security does not contribute to the Federal deficit in any way, it should not be used to eliminate the Federal deficit.

Madam President, we have a chart here. I referred to it as the Government looting chart, and we have another entitled the same. There have been some who have suggested that the Social Security trust fund should be referred to as the Social Security slush fund. But without name calling, we will look at this chart. This chart shows the surpluses as they will accumulate until the year 2002, significant amounts of money, over $700 billion.

We can look at this chart in a different way. It will accomplish the same fact and perhaps it is a little more graphic, Madam President, to see the dollar amounts here.

What we would do is show it in this manner. This is how those funds are going and should be allowed to accumulate. If we do not have an exemption—that is, if my amendment does not pass—in 2002 we will pull this chart out and it will be all white because the moneys will have been used to balance the budget. That will be a shame.

There is no question that the Social Security trust fund surpluses are masking the true size of the deficit. In 1995—that is this year—we will take in about $70 billion more than we pay out in benefits out of the Social Security trust fund.

By the year 2003, Social Security will be running surpluses far in excess of $100 billion a year. By not exempting Social Security in the constitutional balanced budget amendment, the smoke and mirror games of Congress would simply hide the true deficit problem. Again, the key here is that to the extent that Social Security does not add to the deficit, it ought not be used to eliminate it.

I, again, refer to this chart that shows what should accumulate, if nothing else happens, in the next 7 years and the amount of money, Madam President, that will accumulate during those 7 years in dollar amounts—over $700 billion, almost a trillion dollars. That should not be used to balance the budget.

I stated an hour ago on this floor, and I will state again, some have said, ''We will have implementing legislation that we are not going to do it,'' and in the House what they did, they had a concurrent resolution saying, ''We won't affect Social Security. Why won't you just accept it as our word?'' I say that every person who voted for that in the House of Representatives, they certainly have no intention, I hope, of raiding the Social Security trust fund, but the resolution they passed is meaningless.

Why am I concerned about Social Security? I am concerned about Social Security because that is where the money is, that is where we have looked before to help balance the budget. I repeat, Willie Sutton, a famous bank robber, got out of jail and they asked him, ''Why did you rob banks?'' And he said, ''That's where the money is.''

Social Security is where the cash cow is for this Government. Funds are running in surplus. We have an obligation to protect that cash cow so when people draw down on the Social Security trust fund, they will be able to have a check rather than an IOU.

If we do not pass this amendment, this really is a case of robbing Peter to pay Paul. Further raiding will certainly occur unless we protect this trust fund.

In the late seventies and early eighties, Congress changed the way Social Security was financed. I mentioned that—Claude Pepper, Tip O'Neill, President Reagan. The change was a result of Congress' recognition of the large demand on the system that would be created.

I should include that the Republican leader was in on that. He was at that time the majority leader of the Senate. This change is the result of Congress' recognition of a large demand on the system that would be created by the retirement of the baby boomer generation. Accordingly, the Social Security system was changed from a pay-as-you-go system to a system that accumulated large surpluses now to prepare for the vast increase in the number of retirees later.

Unfortunately, rather than saving these large surpluses, Congress has used them to finance the deficit. This fiscally irresponsible behavior is putting us on a collision course toward catastrophe.

Madam President, during the Vietnam war, for the first time, the Social Security moneys were used to mask the deficit being developed as a result of that very unpopular war. So we have had experience in Congress of using Social Security moneys to mask the deficit.

In the year 2012, Social Security—maybe a little after that, maybe 2015, maybe 2020—Social Security is going to have to start drawing down. We need to accumulate these huge surpluses now for payout later. I served on the Entitlement Commission, a bipartisan group that was charged to look at entitlements, chaired by Republican Senator Danforth and Democratic Senator KERREY from Nebraska. We all know that Social Security is going to need some adjustment, but let us do it on the basis of Social Security, let us do what we have to do with Social Security, and not have it when we get around to needing to do something and there is no money there.

The problem we are facing is clear. Unless we begin saving Social Security surpluses, unless we begin addressing the needs of the system as it stands on its own, we will be leading, I believe, to financial Armageddon. That is where we are going if we do not exempt Social Security from the balanced budget amendment.

Specifically exempting Social Security does not mean that we are sweeping under the rug, under the carpet, any problem. In fact, we are making the situation very clear. The situation is this: We want to balance the budget; we want to exclude Social Security trust funds. We are saying the reason we need a balanced budget amendment is because we are not strong enough, we do not have the courage to do what we have the right to do under the law presently.

If we are saying that, and that is one of the reasons that is being put forth and has been put forth for a long time as to why we need a balanced budget amendment, it seems to me that that same logic would dictate that, Members of Congress, you had better protect Social Security because otherwise you will not have the courage not to spend those moneys. It would be a lot easier to spend Social Security surpluses than to raise taxes or to cut programs.

So we are not sweeping anything under the rug. In fact, we are making very apparent what our problem is.

There are few people who will deny that Social Security has some problems that we need to take care of in the long run, but it is in the long run not the short run. Including Social Security in a balanced budget amendment may further exacerbate its already identifiable problem. How should we treat Social Security under the Federal budget?

Congress has been struggling with the problems associated with Social

Security for many years. Historically, however, Madam President, there seems to be strong congressional intent to protect Social Security. An example of this is how Social Security is treated in the Federal budget.

In 1990, Congress excluded Social Security from calculations of the budget and largely exempted it from the procedures for developing and controlling the budget. Its removal from the budget has not changed how its funds are handled.

Since Social Security's inception, its taxes have been deposited in a Federal Treasury and expenditures have been paid from the Treasury. The surplus is credited to trust funds.

As I have already mentioned, Social Security has not always been considered off budget. In 1969, Social Security and other programs that operated through trust funds were counted officially in the budget. It was a tax bookkeeping gimmick. This was done administratively and not by an act of Congress because we did not have a budgetmaking process at the time. Today, there is strong speculation that the reason it was placed on budget is the reason I have already stated, that in 1969 when the Vietnam war was escalating and it was costing a lot of money, we needed to mask that deficit.

There were new changes in how Social Security was treated under the budget in 1974. Under the Congressional Budget Impoundment and Control Act, Congress adopted procedures for setting budget goals through passage of an annual budget resolution. Like the budgets prepared by the President—like the one that we received yesterday or the day before—these resolutions were to reflect a unified budget that included trust fund programs such as Social Security.

By the late seventies, Social Security, as we already talked about, faced some new financial problems, and Congress had to deal with the increasing cost to the program. So in 1980, 1981, and ultimately in 1983, there were benefit cutbacks. At the same time, though, the Federal budget deficit remained very large. There was growing concern that the cuts in Social Security were being proposed for budgetary purposes rather than for programs that needed to be maintained.

Congress responded to these concerns by passing a series of measures in 1983, 1985, and 1987. In addition to other things, we made Social Security a more distinct part of the budget. Points of orders were allowed to be raised against budget bills containing Social Security changes. This was a large step forward.

By the end of the eighties, Social Security began realizing surpluses, as we talked about earlier today. As a result, Congress passed the Omnibus Reconciliation Act of 1990. This excluded Social Security from the calculations of the budget and exempted it from procedures for controlling spending.

The 1990 Budget Enforcement Act put an end to abuse of Social Security trust funds by declaring them off budget.

I think it is interesting to note, Madam President, that that legislation to exclude Social Security trust fund calculations from deficit calculations passed by a vote in this body of 98 to 2. That is not a close call. This body went on record in October 1990 to exclude Social Security trust funds from the deficit calculations by a vote of 98 to 2.

Putting Social Security on budget contradicts clearly Congress' intent. It is clear that Social Security's treatment under the Federal budget has been complex; I acknowledge that, and at times confusing; I acknowledge that, but Congress has recognized that it is a misuse of the Social Security trust fund to place it on budget. It is a misuse because it jeopardizes the integrity of the program.

Now, off-budget status of these funds is clearly set forth in the 1990 Budget Act that notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts or deficit or surplus for purposes of anything we deal with regarding money, in effect. So it is difficult to examine this section plus the 98-to-2 vote and House Joint Resolution 1, the underlying legislation that is before this body, and not conclude that Social Security is being placed back on budget.

Let me tell you why I say that. We are going to have a chart here, Madam President, that will show what House Joint Resolution 1 says. And if you look at that, it says in section 7 and section 8:

> Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.

That is about as clear as it can be, that this should not be exceeded.

Does this not necessarily include Social Security? If so, does this not run against Congress' historical treatment of Social Security off budget? Would it not overturn Congress' recent decision to confirm the off-budget status of Social Security? This overturns the vote we took by 98 to 2 to keep Social Security from any way of determining what the deficit is. I respectfully submit that the underlying legislation will force Congress and the President to include Social Security in balancing the budget. I believe that any court reading this all-inclusive language would have to conclude that Social Security would be on budget and thus fair game for being used to balance the budget.

The only way to guarantee the integrity of the Social Security trust fund is to exempt it from this balanced budget amendment. We would not have to worry about any of these questions if we passed the balanced budget amendment and excluded Social Security. That is the amendment now pending before this body.

I believe this would be consistent with Congress' previous actions including the 98-to-2 vote in October 1990. It would be a reaffirmation of Congress' intent to guarantee the integrity of the trust funds.

Conversely, the absence of an expressed exemption would result in inclusion of the trust funds in the calculation of the deficit. It would yield a radical departure from Congress' longstanding defense of the integrity of the trust funds. I do not want to be a part of that. We must exempt expressly Social Security to ensure that that fund is maintained in its entirety. So that there is no ambiguity, every Member of this body needs to support the specific exemption for Social Security. It is the only way we can ensure that there will not be an injustice perpetrated on the American people.

I also want to preempt something that I know will come up because I have heard some comments on this floor about this, that my amendment will create a loophole in the Constitution.

That is poppycock. That is diversionary. It will do no such thing. This amendment is narrowly drawn. It is an exemption that applies to a readily identifiable program. So do not be fooled by those who scream and shriek and yell and say you are placing the statute in the Constitution. Once it becomes part of the Constitution, it is no longer a statute.

If we are all in agreement that Social Security should not be included for purposes of balancing the budget, then where better to enshrine the commitment than in the amendment itself. The fact is there is no other alternative. If we leave this out of the balanced budget amendment, it will go on budget. That is a fact. It will assuredly be looted, and that is a fact.

Exemption in enabling legislation is insufficient protection. There are some opponents who have stated on this floor previously and who will argue that they, too, oppose balancing the budget by including Social Security trust funds. They believe and they will state that the proper place to address this issue is in implementing legislation. Let us think about that. We have a constitutional amendment that scholars like the senior Senator from Alabama and others say, if it passes as it is written, Social Security will have to be part of the balance. It will not be discretionary with the Congress. It will have to be used to balance the budget.

But let us assume that we are not going to use that, we are not going to present that argument. What we are going to say is that we are going to have a statute that will say you are not going to touch Social Security.

Well, you have two problems. One, it does not supersede what is in the Constitution that says you must include it. And secondly, that statute can be changed any time. We can pass a bill in this body today and we can repeal it tomorrow. We can pass a bill in this

body today and change it next year, the year after. So implementing legislation will not do it.

I respectfully suggest that passing a balanced budget amendment to the Constitution is unprecedented. They are talking about offering my amendment as being unprecedented. All we are dealing with in this body until we dispose of this balanced budget amendment is unprecedented. This is the first time we have put fiscal policy in the Constitution. So we better get it right.

It is unprecedented to place our Nation's fiscal policy in our Constitution. If we are going to do so, we must recognize that Social Security is also part of our Nation's fiscal policy. We are binding ourselves to a commitment that will require drastic changes in the immediate future. As a matter of equity, as a matter of fairness, we cannot bind ourselves to a commitment that puts at great risk a trust fund that millions of Americans have paid into all their working lives.

Advocates of addressing this issue in enabling legislation contend that the trust funds will be adequately protected if we proceed statutorily. This, Madam President—I do not know how to say it any differently—is not true. What about future Congresses?

If my friend who is managing the bill today at this time, the junior Senator from Utah, gave me his word he would not violate Social Security, I would take him at his word. He is a man of integrity. But what about his successors? They are not bound by any statement that he makes or any oath that he takes or any commitment he makes. The fact is this resolution as it is presented in this body presents no protection for Social Security. The only way to give it protection is to vote for this amendment that is presented by the Senator from Nevada and 14 others. Assuming, though, that those who say they are going to protect it follow through on their words, there is nothing to prevent, as I have already indicated, another Congress from coming along and amending the statute that they have already passed to say you cannot use Social Security.

I believe that there are some who are going to go after Social Security. I know it to be the case. I was on a national program yesterday with former Senator Tsongas, and he candidly stated Social Security moneys should be used to balance the budget.

It is unfortunate but true, there are some who believe, to paraphrase our former colleague, Senator Goldwater, that extremism—this is a play on words on something that Senator Goldwater said on one occasion, that: Extremism in defense of balancing the budget is no vice.

I do not believe that. Some do.

As I mentioned, I am in favor of balancing the budget. However, a line in the sand must be drawn on the issue of Social Security. I am willing to go back to the people of the State of Nevada and say I voted against a balanced budget amendment because it did not exclude Social Security. I believe in the integrity of the Social Security System enough to take that chance. I believe if we do not do that, we are taking a chance on Social Security, and that is not a chance I want to take. I believe if we do not separate Social Security, it would put us on a road toward undermining one of the most fundamental agreements we have with the American people. Again, we can only avoid this by passing the amendment before this body.

Advocates of a rigid balanced budget amendment say, ''Trust us. We will take care of Social Security in the implementing legislation.'' I have been through that. It will not happen. You cannot do that in the enabling legislation or in the implementing legislation. What if a challenge is made a few years down the road and the court looks into congressional intent? What will they see?

If my amendment is defeated, a court will probably make the determination that Congress intended Social Security to be kept on budget. Why? Because specific proposals to exempt Social Security were voted down. They would not even have to look at the implementing legislation. Congressional intent would be evidenced by these votes. That is why it is even more important that this amendment pass. A vote against it sends the courts a message that congressional intent was to allow Social Security to be included in the budget.

It would appear we all agree, I hope—I should say the vast majority agree. We know over 90 percent of the American public agree that Social Security should be exempt from the balanced budget amendment. There are a few, including Republican strategist William Kristol, who conceded the other day on Fox Morning News that there should be an inclusion of Social Security to balance the budget. But the record of support for protecting Social Security is overwhelmingly bipartisan in spite of Mr. Kristol and in spite of Mr. Tsongas.

Again, I think this may well be due to the recognition that Social Security represents an unbreakable contract with the American people. This also explains why the issue is considered to be the third rail of politics.

I do not wish to impugn the statements of those who publicly state they oppose touching Social Security but are unwilling to support an express exemption. They are Members of the freshman class in the other body, and I read the names of some of them, who are literally trampling over themselves to announce their opposition to including Social Security in the budget. The strong rhetoric emanating from the mouths of many should be matched, I believe, by unconditional support for legislation that expresses their concern.

The only thing we have had that will exempt Social Security from this balanced budget amendment is the amendment that is being offered by the Senator from Nevada with 14 others.

Those who are watching this debate should not be under any illusions. There is a significant difference between exempting Social Security in the balanced budget amendment and exempting it in the enabling legislation. The former means you get a new car, fully loaded with all the warranties. The latter is like buying a used car without even looking under the hood.

My point, then, is that this is not some arcane legal distinction. Exempting Social Security in the enabling legislation is not without merits. What it offers is protection of a political kind, and I can understand that. It is a fig leaf for those who wish to publicly defend Social Security, and I understand that. They know as far as perceptions are concerned, supporting this fig leaf allows them, perhaps, to have their cake and eat it, too.

My friend, the senior Senator from Utah, mentioned on this floor last week that he supported this because placing an exemption in the amendment itself would result in the creation of an enormous loophole. He suggested if my amendment were included, the balanced budget amendment would not be worth the paper it is printed on. Senator HATCH, the senior Senator from Utah, I know what a fine trial lawyer he was. I know, in trying cases, sometimes the best defense is a good offense. I recognize that is probably what my friend from Utah was doing.

I disagree with his statement. I disagree with this, and respectfully suggest it is just the opposite. The real loophole would be created unless this issue is addressed in the amendment. It is a loophole that will allow future Congresses to loot the Social Security trust funds. The only thing that will not be worth the paper it is written on is the Social Security cards that American workers carry around with them. The real Contract With America, the Social Security agreement we all participate in throughout our working lifetimes, will be worth very little. If you really want to close the loopholes, if you really want to ensure the continued viability and value of the Social Security System, then you will support the amendment expressly exempting Social Security.

To accept anything less is an attempt to pull the wool over the eyes of the American public.

I do not think many people will be hoodwinked by these types of maneuvers. I am confident they will recognize this enabling legislation for what it really is, and that is something to cover, a fig leaf. The stakes are very high here for people who are involved in these programs. To understand the importance of this debate, we have to move forward beyond all our talk of the Constitution and all the legal arguments associated with this debate. I

am referring now to senior citizens and the groups that represent them.

I have here a number of letters from various groups, advocating on behalf of senior citizens. I have here a letter from the National Alliance of Senior Citizens. This letter states, among other things: ''On behalf of the National Alliance of Senior Citizens, this letter is to express our strong support for the Reid balanced budget amendment.''

This was written last year. I have here a letter from the American Association of Retired Persons. They, too, Madam President, state their support. The American Association of Retired Persons believes the amendment I am offering is a step in the right direction. They are opposed to the balanced budget amendment. But they recognize that a step in the right direction is my amendment.

We also have the Committee to Preserve Social Security, which strongly supports legislation that is now before this body.

The American Association of Retired People states that, ''We applaud your commitment to protecting Social Security.'' This letter is addressed to me.

We also have a statement from the National Committee to Preserve Social Security, and they state without reservation or hesitation that this amendment should be passed.

These three letters that I have referred to from these interest groups represent millions of senior citizens. I respectfully suggest that we should listen to what they are saying in behalf of their constituents. These people who are receiving these benefits are playing by the rules. Their lifetime of labors went into making this Nation the envy of the world not only for today but for generations past. They have contributed to the Social Security System throughout their lives, and they do not deserve to have the rug, in effect, pulled out from under their feet.

For many of our Nation's seniors, Social Security is the sole source of their income. For some it is supplemental, but for many it is all they have. We have all had instances where seniors are depending on Social Security, and literally every penny is of importance to them. We have been through the debates where we have had seniors who are depending on Social Security who are eating cat food, who are really desperate for money. We must protect this Social Security trust fund. The contribution made by employers and employees is something that we must protect.

Madam President, I am not going to go into a lot of detail. I have already told my friend, the senior Senator from Utah, that I spread on the RECORD on a previous occasion my remarks about the seniors' coalition. If in fact the seniors' coalition gets involved in this debate, I will refer in more detail to the seniors' coalition, and I will reserve the right at some subsequent time to seek the floor to talk about them, if necessary, in some detail, a group that does not truly represent the seniors of this country.

Madam President, I voted in favor of the amendment that was just defeated because I would like to have known where these cuts are going to come from. I, in fact, cosponsored the amendment that was put forward by the Democratic leader.

I am concerned, however, for a balanced budget. As of today we have not seen the hard numbers of evidence of a working formula for getting us into balance. But I am willing to accept that. It was an up-or-down vote, and we lost. But I am not willing to accept a defeat of this amendment unless I can certainly spread on the RECORD of this body that I cannot, in good conscience, support a balanced budget amendment that includes Social Security moneys to balance the budget. Without a detailed formula, I have no idea what is going to happen to Social Security. So why not just exclude it?

Without a detailed formula, there is no guarantee that a restricted enforcement of the balanced budget amendment will not result in the wholesale looting of the Social Security trust funds. I believe there will be no choice but to lose the trust funds. In the absence of the details, I suggest emphatically that it is even more imperative that we expressly exempt Social Security from the balanced budget amendment. Without truth in budgeting, we are placing at risk the entire Social Security program. Promises are not sufficient. We are talking about amending the U.S. Constitution. Promises will always be preempted by the Constitution, and that is why my amendment ought to be supported.

I repeat that 1935 was the beginning of this Contract With America, the original contract with America. We have established in the Social Security legislation a trust fund that must be protected. We have a fiduciary relationship. We have an obligation of trust to make sure that those moneys are collected and that they are disbursed for the purposes for which they were collected. Social Security does not contribute one iota to the Federal deficit.

Mr. President, I ask unanimous consent to include Senator FEINGOLD as a sponsor of this amendment.

The PRESIDING OFFICER (Mr. CRAIG). Without objection, it is so ordered.

Mr. REID. Mr. President, there are these huge surpluses that are building up in the Social Security trust fund that I believe we must protect. Failure to save the surplus could undermine Social Security. We must be concerned how Social Security is treated in the budget. We know that just a few years ago we, by a vote of 98 to 2, said we are not going to put Social Security in any of the problems we have with deficit spending. We cannot reverse that now. That would be unfaithful on our behalf. We would be unfaithful. Social Security will be treated very stringently in this budget. That is why it is important that Social Security be excluded.

I see in this Chamber the junior Senator from South Carolina, a man with a wide range of experience, who was Governor of a State. He understands budgeting. If our side had seniority, he could be chairman of the Budget Committee as we speak; a man who I remember when running for President talked about budget deficit problems, many years ago. He is someone who has a lot of wisdom about numbers. But I would bet, although I am not certain, the great southern State of South Carolina would have the ability when they balance their budgets to have some things off budget. They can have some capital expenditures that are done through bonding at the State level.

Mr. President, this budget, if it passes, likely will not have a capital budget in it. It is, therefore, all the more important that we protect Social Security because this balanced budget amendment that is before this body is the strictest I have ever seen. It is a lot stricter than most everyone treats their own budget because in your own budget you have your house off budget. You make payments on that. You have your car off budget. You make payments on that, and the refrigerator and other large items. They now have programs where you can have your children's education off budget. You can make payments on that.

So this balanced budget amendment that is now pending before this body—and I accept it—is going to be very stringent and tough. But let us exclude Social Security because putting Social Security on budget contradicts congressional intent. Expressed exemption is the only guarantee. Exemption in the enabling legislation simply is insufficient.

We must do this to protect the integrity of the Social Security trust fund. We have heard a great deal about our responsibilities, Mr. President, to future generations. All of us are aware of our moral obligation to provide our children and our grandchildren with a healthy economy free of debts, especially which they did not incur.

This, in part, is why I support the idea of amending the Constitution to balance the budget. Another obligation we all share, however, is to ensure that we provide for the younger generation of yesterday, or, more accurately, today's senior citizens. We must ensure that they too be treated in an equitable manner. We honor their lifelong sacrifices of honoring the Social Security agreement we made, the original contract with America. We honor their sacrifices by ensuring that the trust funds they paid into all their working lives are not used for other purposes. We must honor their sacrifices by exempting the Social Security trust fund from the balanced budget amendment.

I plead with my colleagues to listen to the debate that will ensue in the

next couple of days, and to have this vote take place not only with your heart, but with your head. The Social Security trust fund should be exempted from the balanced budget amendment.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I have listened to my colleague from Nevada give his statement, and tell us again and again and powerfully of his commitments to protect the Social Security trust fund.

As I have listened to him, I have come to the conclusion that there could be nothing more devastating to the stability and the future of the Social Security trust fund than the amendment offered by the Senator from Nevada. I will share that reasoning with you.

I know that is not his intent. I know he is acting out of the purest of motives. But I must say as strongly as I can in response to what he has said that the route he is suggesting that we go in an effort to support the Social Security trust fund is indeed the most dangerous way we could possibly go, if we in fact want to preserve that trust fund.

Before I give that detail, let me make this comment about the overall debate. I remember last Congress the then-majority leader, the Senator from Maine, Mr. Mitchell, made one of his typically well-reasoned and eloquent statements in defense of the purity of the Constitution. He reminded us all that we were taking an oath to uphold and defend the Constitution when we entered this body, and he said in a pleading voice: Do not do anything that would jeopardize the Constitution. You are writing into the Constitution—I am paraphrasing rather than a direct quote—you are writing into the Constitution matters that should be left to policy, that should be left to legislation, and you are changing the nature of the Constitution, which is our basic law, by proposing this amendment. He pled with us not to do that, on the basis of sound constitutional theory.

Frankly, Mr. President, I was somewhat moved by the majority leader in that case, and I found myself questioning whether or not we really did need to amend the Constitution to get this taken care of. I have talked about how I resolved those differences at another time on the floor, so I will not repeat them here. But I find it very interesting that when we had, as the principal reason why we should defeat this amendment last year, the plea to keep policy matters out of the Constitution, we now have before us, as the principal thing that we must do in order to make this amendment viable, an amendment that writes policy matters into the Constitution, that flies right in the face of the advice of the former Senator from Maine, Mr. Mitchell, when he was opposing this 2 years ago.

We are going to write statutory language into the Constitution if we adopt the Reid amendment and it gets ratified by the States. I think that is foolish. I think that changes the nature of the Constitution tremendously and, as I say, I think it is tremendously dangerous to Social Security. Why? Well, I have before me the language of the Reid amendment, and let us read it. It is very simple, very straightforward. It says:

> The receipts and outlays of the Federal old age and survivors insurance trust fund and the Federal disabilities insurance trust fund used to provide old age survivors and disability benefits shall not be counted as receipts or outlays for the purpose of this article.

My colleague, the senior Senator from Utah, has already talked about the inappropriateness of writing into the Constitution titles of existing legislation. Let us assume for just a moment, however, that that is an appropriate thing to do. I do not believe for a moment that it is, but let us assume that it is. Then we say, all right, ''the funds used to provide old age survivors and disabilities benefits shall not be counted for the purposes of this article.''

Mr. President, what is a survivor? The answer to that is very clear. A survivor is whatever Congress says it is. So if we want to, in the language of the senior Senator from Nevada, use the implementing language of statutes to change the system, Congress can change the definition of survivor and be within the Constitution and loot the trust funds. Suppose Congress says a survivor, for the purpose of this amendment, is anyone who is alive. You have survived and, by definition, therefore, we can give you any benefit we want out of this fund and we are not violating the Constitution, we are not violating the Reid amendment to the balanced budget amendment. Congress can define a survivor as anyone who is over 21. Congress can define as a survivor anyone who has a driver's license and who has lived for 6 months after having driven. Having driven with some teenagers, I can accept that definition. Maybe you are a survivor if you stay alive for 6 months after receiving your license.

Disability benefits. Mr. President, what is a disability? The answer is very clear. A disability is whatever Congress decides a disability would be. So Congress could decide, as indeed some groups in our society already have, that to be a woman is a disability in our society. Therefore, the money that is in this fund which under the Constitution is to be used for disability benefits can be spent on behalf of women and not men. There are others who will then say, oh, no, it is not a disability to be a woman, it is a disability to be overweight. So we are going to use the money to take care of everybody who is fat. No, it is a disability if you are too short. It is a disability if you are too tall. We have the American With Disabilities Act that outlines a whole bunch of disabilities, none of which are currently covered under Social Security or the disability insurance trust fund. If you are in a wheelchair, we are going to use the funds out of this fund to take care of you. We are going to use these funds to buy you a wheelchair or build you a ramp in your house, or whatever it is Congress decides to do.

Mr. President, obviously, the examples I am giving are outlandish; I realize that. I make the point to show that there is, in fact, no restriction whatsoever on future Congresses to make whatever outlandish definitions they may choose. The one we think we all know is old age. What is old age? Old age is whatever Congress says it is. Right now, Congress says old age is 65—unless you happen to be a Federal employee with a sufficient amount of service to your credit, and then you can retire at age 50. Suppose some future Congress says that old age, to keep it all straight, is 50. We can go into the Federal disability insurance trust fund and the old age and survivors insurance trust fund and we can take that money to do things for anybody who is 50.

The Senator from Nevada has said implementing legislation will not do it, we can pass a bill to change it. Yes, we can pass a bill to change the definitions that are under this proposed amendment, and we can, if we want to, gut the Social Security trust fund any time we want to. To hold out to somebody the promise that passage of the Reid amendment will guarantee that Social Security will never change and will never be in jeopardy is to hold out a promise that is false. To hold out that idea, which is well-intentioned, Mr. President, frankly, is misleading.

The Senator from Nevada tells us that this is narrowly drawn and says that it will preserve the Social Security trust fund because it is narrowly drawn. I have not gone to law school, so I suppose I cannot argue with him in legal terms. But I do understand the English language, and I do believe that which I have said demonstrates that it is not narrowly drawn; indeed to the contrary, it leaves the door wide open for future Congresses to do all of the things that the Senator from Nevada suggested that some future Congress might do. He said if we just leave it as it is, future Congresses could raid the fund. That is true. Future Congresses could also abolish it. That is true. Future Congresses could, under his amendment, say that there will be no taxes connected with and no outlays made from the Federal old age and survivors insurance trust fund and cut it off at that point and leave these lines a dead letter in the Constitution. Future Congresses could do all of these things. There is simply no assurance in the Reid amendment that future Congresses will behave as he believes they will.

Now he has said to us—and I accept it in the spirit in which it is offered—that

those of us who say we do not want to attack Social Security in the present circumstance are acting in good faith and have good motives. And I am grateful to him for his willingness to accept our good faith. I accept his good faith.

But he raises the specter of future Congresses acting irresponsibly. And I suggest to you, Mr. President—indeed, I am convinced, Mr. President—that if future Congresses do decide to act irresponsibly, they can do so just as easily under his amendment as they can now. And, indeed, in the matters I have pointed out, they have a greater temptation to do so if the Reid amendment is adopted, because all they need to do, as I have said, is change the definition of a disability, change the definition of a survivor, change the definition of old age, and they have those funds then available to them to do with whatever they see fit.

Mr. President, I would like to return to the basic issue that I raised in the beginning before I got that specific about the Reid amendment. I wanted to be specific about the Reid amendment because of the time and care with which he took to address his argument and I wanted to respond as quickly as I could.

Let us go back to the comments that I recall being made by the then majority leader, George Mitchell, when he pleaded with us not to fool around with the Constitution on this matter, when he told us, in effect: We can do this by statute. If we had the political will, we could balance the budget without changing the Constitution. Why do we want to put a policy matter, a normal legislative issue, into constitutional language?

Well, Mr. President, I have been troubled by that argument, as I have said. I was moved by Senator Mitchell and his comments in that regard. I have such tremendous regard and respect for the Constitution that I think it should be amended only rarely and only in extremis.

I agree with the argument that we could do this without a constitutional amendment requiring it. Why am I, therefore, standing here as a convert to the balanced budget amendment and defending it?

I have resolved this issue in my mind from this analogy.

As you know, Mr. President, and as Members of this body probably get tired of hearing me say, I am a businessman and I come out of the business environment. That is where I get most of my analogies.

When a business is established, the first thing that is required, at least under the laws of the States where I have established businesses, is the filing with the State authorities of the bylaws. The bylaws lay out in clear pattern the constitutional authority, if you will, of the business. It says what management can do and cannot do. It lays out the structure. Just as the Constitution of the United States says there will be two Houses of Congress and how many Members there will be in each House, two from each State for the Senate, by population for the House, and so on, the bylaws of the business say how many members there will be on the board of directors, what the power of the board of directors shall be, and so on and so forth.

It is never contemplated in the bylaws that the organizers of the business will lay out a specific business plan. That is left up to management. The idea is always that annual projections will be made by management. Management will be held accountable. Management will have to file appropriate accounting reports. Management will have to file tax returns and do all of the other things. The bylaws of the business say how management is to operate, but never get into the specifics of the business plan.

What we are talking about here is an amendment to the bylaws. And, once again, we find a disconnect, we find an interesting paradox. We are being told, on the one hand, we cannot adopt this particular bylaw—this particular amendment to the Constitution—unless it is accompanied by a detailed business plan, stretching out for 7 years, giving to the last dollar everything that will be done.

If you were to say that to an organizer of business, ''We are going to require you, before you amend the bylaws of the corporation, to give us a 7-year business plan showing how you will operate under this new amendment,'' management would resign. It would say, ''Under no circumstances can we live with that kind of a requirement.''

Now, what is this bylaw saying? Is it indeed a policy statement that belongs in the area of management that should be kept out of the Constitution?

We are hearing a lot of concern over the three-fifths requirement; over the requirement that Congress has to vote three-fifths if it is going to have a budget that is not in balance. And we are being told, indeed, I have been told in hearings before the Joint Economic Committee by Members who are opposed to this amendment, ''No business in the world would ever adopt anything like the balanced budget amendment. No business would ever put its management in that kind of a straitjacket where a minority could block the business plan.''

Well, I said in the Joint Economic Committee, and I repeat here, I think I know something about business, and I can identify plenty of businesses who do indeed put themselves into this kind of circumstance.

Again, the analogy, Mr. President: Suppose you had a business and it adopted as one of its bylaws that the business could not go into long-term debt without the approval of 60 percent of the members of the board of directors. That would not be an unusual kind of circumstance. The shareholders would feel they would be more protected if the members of the board had to come up with not just a majority to put the corporation into debt but a supermajority to put the corporation into debt. That would be an appropriate bylaw. If it were adopted, eyebrows would not go up.

Indeed, I have served in circumstances where the board of directors did not require a supermajority before going into an area of long-term debt, they required unanimity. That is unusual, but it exists. We are not asking for that here.

We are simply saying the board of directors—in this case, the two Houses of Congress—must have a sufficient level of support to gain 60 percent of both Houses before that board of directors will allow the corporation to increase its long-term debt, a very reasonable requirement in a set of corporate bylaws.

So, once again, the arguments come in and they do not connect with each other, the first one saying, ''You shouldn't be putting anything like this in the Constitution at all.''

''Why?''

''Because this is something that is taken care of through legislation.''

And then there is the other argument, saying, ''Oh, no; you should not adopt this amendment unless it has legislation in it.'' The two simply do not match.

Then the statement, ''Oh, you cannot adopt this balanced budget amendment until you give us all of the details.'' And then, back on the first amendment, ''But the Constitution is not the place where you talk about details.''

What comes through to me, Mr. President, is that these arguments that are being raised against it have the flavor of an old story that I remember where two neighbors in a frontier circumstance were meeting. The first neighbor said to the second: ''I have some work to do around my place. I have dropped my ax on a rock and it cut a chip out of the blade of the ax and it is worthless to me. I would like to borrow your ax to help me break up some wood.''

The second neighbor thought for a minute and said, ''I am sorry, I can't loan you my ax. I need it to shave with.'' The first fellow went away. After he was gone, the wife of the second fellow said, ''What did you tell him that for? That is a silly excuse. You do not shave with your ax.'' And he said ''Well, I didn't want to loan it to him because I was afraid I wouldn't get it back. But I didn't want to offend him so I did the next best thing.''

I think many of the arguments that are being raised are, in fact, being raised because some of the people raising them really do not want to put the Government in a circumstance where it is forced to confront the reality of a balanced budget discipline. But rather than offend their voters by being upfront about it, they are looking around for excuses like, ''I'm going to use the ax to shave with.''

Now, I do not suggest that that is the case with my friend from Nevada. I think he genuinely and with good intentions supports this amendment and believes that it would, indeed, help save the Social Security system. I hope I have made it clear that it would not save the Social Security system from the things that he has suggested.

Now, Mr. President, we will address the basic question of whether or not balancing the budget makes sense. There are those who say this is one of those mirages that is always in the future and no matter how far you move toward it, you never get to it. The balanced budget will always be in the future; we will never, ever, want to do it.

I have spoken about this before, but I return to it because it is the fundamental question underlying this whole debate. As I have said, I am a reluctant convert to this debate. I am very reluctant to make changes in the Constitution. I look back on our history and say we have gone for over 200 years without a balanced budget amendment. We have done just fine. Why do we need it now?

Further, I accept the idea that it does come close to introducing legislative and policy issues into the Constitution rather than dealing strictly with fundamental law. I hear all those arguments. I am sympathetic to many of them. I come to the conclusion that we must have a statement in our basic bylaws—in our case, in our Constitution—that says we will resist the historic destabilizing influence in all democracies. The Senator from Arizona [Mr. KYL] quoted the historian who said that democracies ultimately disintegrate when the people discover that they can vote themselves largess. That is, when people discover that they can use their power in a democracy to use Government power to pay themselves more than is really there, they ultimately destroy their country.

We are not at that point yet. But we are beginning to get so far down that road that I am getting nervous. We need a statement in the Constitution that says we will not do that. Thomas Jefferson was afraid of that. That is why he raised the balanced budget amendment as an idea back in the beginning. They shied away from it. As I say, we have gone for 200 years without needing it. But we are getting there and we are getting there more and more as we go down this slippery slope to entitlements.

Mr. President, I suggest that we can have entitlements and we can have a balanced budget. The two can coexist. But it will take a redefinition of the word ''entitlement'' in order to get America there.

Let me share this observation that comes out of my personal experience. I hesitate to raise it, lest some misunderstand its source, but I raise it nonetheless because commentators outside of Utah who have had no religious backing to their point of view have raised it. I think, therefore, it is appropriate.

I want to talk briefly about the welfare program of the Church of Jesus Christ of Latter-day Saints, of which I am a member. We have an entitlement as members of the church under the welfare program. Any member of the church who falls in need is entitled to receive help from the church. As an official of the church, I have been involved in dispensing that help. I have seen how it works. I have given vouchers to members of my congregation who turned those vouchers into food and clothing. I have signed checks to members of my congregation who have turned those checks into rent payments or money for their children or other vital necessities in their lives.

If anything should ever happen to me, I am entitled to go before my church leaders and say, ''I want some food. I want some clothing. I want some cash to take care of my shelter.'' I am entitled to that as a member of the church if I need it. That is the qualifying phrase to that—entitled. I am entitled to it if I need it.

Where does the entitlement come from? The same place that the Senator from Nevada spoke of—the people who pay into Social Security. I am entitled to that from my church because I have gone down to the cannery on my own, without being paid for it. I have canned peaches. I have cut up pears. I have peeled tomatoes. Frankly, I did not do it very expertly, to be sure, but I have done it, and my family has done it. I have gone to the farm out here in Maryland and I have worked on the farm and I have shoveled hay and I have shoveled what was politely called ''used hay.''

I have participated in the programs, and that has created for me a sense that I am entitled. I would walk in and face my Mormon bishop without a moment's hesitation and say to him, this is what has happened to me. I am in need. I am entitled to help. And I would walk out with my head held high. If I received that help I would not consider it charity. I have paid into that. I have contributed to it. I am entitled to receive it.

The difference between that attitude and what we have going on in the Government is this. What is happening to the entitlement programs in the Government is we are saying, ''You are entitled to it whether you need it or not.''

We are in the midst of a baseball strike. We see baseball players whose average salary is $1 million a year. One of those baseball players could receive disability insurance even if his contract continued to pay him $1 million a year, because under our program he is entitled to it. And because we provide it for him, we cannot provide it in the degree, perhaps, that we should to other people who need it far more.

We have reached the point where we have said, ''You are going to be paid back out of your own funds in the name of entitlement programs, Government largess, if you just vote for us.'' This is the pattern that has been established years ago. No one Congress is solely responsible. No one Member of Congress is solely responsible. It has built up over the years. It has gone forward over the years.

Eventually we get into a circumstance where people are saying, ''I want mine. I want it now.'' You look at them and say, ''Wait a minute, you do not need it. Why do we not save that for someone who does?'' And they say, ''I want it because I am entitled to it whether I need it or not.''

That, Mr. President, I think, is the key to getting the budget under control. Yes, we have to cut defense. Yes, we have to get rid of the waste, fraud, and abuse in the Government. Yes, we have to have leaner and tighter departments. Yes, we have to do a whole number of things to get the Government smaller.

But if we learned nothing from the entitlement commission—and Senator KERREY of Nebraska has courageously and honestly and forthrightly portrayed this in his statements that have been reported clearly in the press—we have learned that if we do not get the overall entitlement monster under control, we will succumb to the fate that was outlined for us by that historian. Democracy fails when people discover they can vote themselves largess, and when we get in that context and in that circumstance, we are going to be in trouble.

How do we deal with it? As I say, I have come to the conclusion, after thinking it through, that the way we deal with it is to put into our basic bylaws—in our case, our Constitution—a statement that says we will not go down that road. I am not sure that if I were acting alone I would have drafted the balanced budget amendment as it is currently worded. The democratic process requires that we all get together and we get a consensus or we at least get a majority as to how it is done.

I might argue with this phrase or that phrase, but I cannot, finally, argue with the notion that it does, indeed, belong in the Constitution.

Indeed, I have come to the conviction that it belongs nowhere else, because if the Constitution is going to lay down the fundamental concepts of our country and what we believe, it is going to lay down our fundamental rights as individuals in this country and the fundamental structure of our Government in this context; it is flawed and diminished if it does not have in that list of fundamental structural patterns and fundamental rights a statement that says we will not allow the Government to spend ourselves into bankruptcy.

I can think of nothing more fundamental. I can think, as I say, of no place more logical for that statement to be than in the Constitution.

So, Mr. President, I have wandered from responding to the senior Senator

from Nevada and his amendment, which is before us, to an overall statement of the underlying resolution that is before us and given you my reasons as to why I am in support of that.

I conclude by returning to the issue that is directly before us and summarizing, once again, my conviction that adoption of the Reid amendment would create the temptation on the part of future Congresses to do the very thing that the senior Senator from Nevada is concerned about: That it would create the temptation for future Congresses to give us legislation that would raid the Social Security trust funds.

He said our successors are not bound. Absolutely our successors are not bound. Our successors might easily decide to redefine what is a survivor, redefine what is a disability benefit, redefine what is old age in such ways as to use those trust funds for virtually any purposes.

My colleague, the senior Senator from Utah, Senator HATCH, calls this a giant loophole. The senior Senator from Nevada refers to that as poppycock. I will let the two senior Senators argue that one back and forth on a semantic level, but I find myself persuaded that the language in the Reid amendment does, indeed, provide such wide latitude for future Congresses that I would come down in agreement with my senior colleague from Utah that it would, indeed, be a huge loophole through which future Congresses could drive gigantic appropriations if they were so inclined.

So, Mr. President, I leave the issue with these observations and trust that they will have contributed something to this particular debate. I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York [Mr. MOYNIHAN] is recognized.

Mr. MOYNIHAN. Mr. President, I would like to speak briefly to the amendment that has been offered by my good friend and colleague, the Senator from Nevada, Senator REID, which states that receipts, including attributable interest and outlays of the Federal old age and survivors insurance trust fund and the Federal disability insurance fund, shall not be counted as receipts or outlays for the purposes of this article—that being the proposed amendment to the Constitution.

In what I hope will not be the outcome of this debate, which is to say the Senate approving such an amendment to the Constitution, at the very least, the Reid provision provides hope for the Social Security system. It is a slim prospect, given the extraordinary fiscal turmoil and tumult, that will follow the adoption of this proposed amendment to the Constitution. But it does declare the interest of the Congress and then of the States in the preservation of Social Security, an issue which becomes—in my time in the Senate, I have seen one fully-agreed-upon, solidly financed, well-administered program, the most successful social program in the 20th century go from being a given to being a problem and to being problematic. We refer to it as an entitlement.

I make the point that the very able majority leader of the House, Mr. ARMEY, corrects us all when he says it is a ''fiduciary responsibility'' of the Federal Government, which is to say these funds are not ours to dispose of as we will. We hold them in trust. They are called trust funds.

The revenue stream will continue in surplus—cash surplus—until the year 2012, as we now expect. We can add a year, plus or minus; there is that possibility. Social Security began as a pay-as-you-go system in the depth of the 1930 depression. That you take more out of the economy than you put in seemed to be unwise and it would have been, and we had difficult consequences even so.

The 1937 recession was probably, in part, triggered by the 1935 payroll tax. But in any event, near a half-century goes by and the Social Security amendments of 1937. Seeing the peculiar demography of the baby boomers and their eventual retirement, that great increase in births that followed the long, slow level of the 1930's and the Second World War, we put in place a partially funded system. I was a member of the Finance Committee. I was a member of the committee on conference.

We put in place, Mr. President, a cash surplus which, over the period, would extend—to give you a sense of the proportion, it would buy the New York Stock Exchange. It still flows in cash surplus and will for the better part of 15 to 20 years, in prospect. So great praise and thanks to the Senator from Nevada for his effort in this regard—reserving always the point that I would like to make at some time that the amendment itself is a huge mistake that I hope we will not make.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me compliment our distinguished colleague from Utah. He certainly attracted my attention when he spoke of the Mormon Church. I had the distinct pleasure, with a group of Senators, of visiting with his revered father, former Senator Wallace Bennett, to the Mormon Temple here in Washington, DC.

Various members of my staff have been members of the Mormon Church. Their dedication and hard work have been a tremendous inspiration to me. A female staffer of mine was making good money, but left to fulfill her 2-year commitment to the church by going overseas. She paid for her own transportation and, at a very young age, solicited membership for the church for 2 years. I would have hesitated allowing my daughter to do that, but she did and did it with courage and commitment.

So I have the greatest respect for the comments of the Senator from Utah, but I do find them in some measure strange.

For example, when he claims that the Reid amendment creates a loophole by allowing Congress to redefine the word ''survivor.'' If that is true, can't we change what is an ''outlay,'' what is a ''receipt,'' what is an ''estimate,'' what is ''appropriate legislation''? These phrases are already in House Joint Resolution 1, the joint resolution proposing a balanced budget amendment to the Constitution of the United States. All of the terms in the underlying joint resolution can be changed. There is no question about that.

The balanced budget amendment to the Constitution is really proposed as a sort of gun to the head of the Congress to bring about discipline. As experience has told me and much to my dismay, Mr. President, it brings about creativity.

This morning at the Budget Committee I had the pleasure of questioning the distinguished Director of the Office of Management and Budget, Dr. Alice Rivlin. I noted that Dr. Rivlin, as the Director of our Congressional Budget Office, had been the one individual who more than any other gave integrity and credibility to the budget process. She did an outstanding job then, and I think she is doing an outstanding job in the Clinton administration. But I noted that even with her watchful eye, there is a penchant in budget process for creativity.

For example, in the President's budget, the majority of proposed tax cuts are paid for by cuts in discretionary spending. Under existing budget law, tax cuts can only be offset either by tax increases or by entitlement cuts. Thus, the President's budget would cause OMB to initiate a sequester.

Additionally, the President's budget counts the sale of assets as receipts. Under procedures that the Congress uses in scoring, using assets sales to comply with pay-as-you-go laws subjects a budget resolution to another point of order.

Third, the President's budget artificially adjusts the discretionary caps upward for inflation and then claims savings by lowering the caps to their existing levels. In contrast, the Congressional Budget Office in the past has not interpreted the law in this way and may not recognize these savings.

Lastly, the reestimation of Medicare and Medicaid outlays in the President's budget seems overly optimistic. In fact, their estimate by 2000 is $54 billion less than the level projected by CBO. In raising these issues, I am not trying to criticize the President's budget, I am merely trying to talk about the slippery game of budget estimates from a standpoint of experience.

When the distinguished Senator from Utah cites Jefferson, it brings to mind another quote by James Madison in The Federalist Papers. He said:

But what is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place oblige it to control itself.

Thus, 207 years ago, Madison saw the very evil that brings us to the floor of the Senate today. We are out of control. I congratulate my distinguished colleague, the Senator from Nevada, Senator HARRY REID. He brings up an important and absolutely necessary amendment to this joint resolution.

As Governor of South Carolina, I had to struggle to balance the budget. I knew in the early days that industry was not going to come from New York and invest in Podunk unless our fiscal house was in order. We had to pay the bills. I put in a device which was the forerunner of Gramm-Rudman-Hollings whereby expenditures had to be within receipts with quarterly reports to the Governor. If we failed to meet these targets, we would cut straight across the board. With this discipline, I got the first AAA credit rating of any State, from Texas right on up to Maryland.

Since then I have continued to work in the vineyards. In 1984, I ran for President on the ''FRITZ freeze,'' as many called it. My colleague, Senator Alan Cranston, ran on the nuclear freeze. We had to tell him that down home in South Carolina, they thought that the nuclear freeze was a dessert.

The people of America know what is needed in our land. If you talk to your pollster, they scream:

''Oh, don't bring up deficits. The people don't want to hear about it. It is confusing. There's no story. They're not interested.''

Thus, we have tax increases that no one wants to speak about—a tax increase of $1 billion a day on automatic pilot. The debt has gone up to $4.804 trillion. Before long, it will be $5 trillion. The gross interest cost for 1995 will be $339 billion and by next year will surpass $1 billion for every day.

There are two things you cannot avoid. One is death and the other is taxes. As far as this Congress and this Senate and this Government goes, you cannot avoid those interest costs. They are the first thing off the table that we spend.

Incidentally, I might well mention that the gross interest cost in 1981, when President Ronald Reagan was elected, pledging to balance the budget and put us in the black in 1 year, was $95 billion. As I said earlier, it is now in excess of $339 billion. If you subtract it, you have $244 billion added to the interest costs. The deficit this year has been scheduled for $244 billion. Thus, without this tremendous overhang of debt, the Federal budget would be in balance.

The Republicans talk about promises. If the distinguished former President had carried through on his promise, we would not be in this pickle. He came to town and said: ''Whoops, I never realized it was as bad as this. I cannot do it in a year. It is going to take 2 or 3 years.'' that is how we moved from 1-year to 3-year budgeting. Gramm-Rudman-Hollings pushed us out to 5-year budgets. And now, you ought to talk about creativity. Now, in the balanced budget amendment we are talking about 7 years. The next Congress will talk about 10 years.

Mister President, HARRY REID, the Senator from Nevada, has a very, very important provision here—one that sheds some light on the enormous challenges we face in balancing the budget. I started down this road of a balanced budget amendment with the distinguished Senators from Texas and New Hampshire in Gramm-Rudman-Hollings. That was a balanced budget amendment. We got a majority of the Democrats on 14 up-and-down votes to go along with the Republican leadership at that time in 1985. We reduced the deficit in the first full year of Gramm-Rudman-Hollings from $221 billion down to $150 billion. We were supposed to reduce the deficit further by increments of $36 billion. But then, we began to stray from the targets until in 1990 we did away with fixed targets.

Likewise, a balanced budget amendment to the Constitution does not give discipline; it gives creativity. That is the hard experience of this gentleman.

Now, I wish to yield. I wish to hasten along because really the authority on the subject of Social Security, none other than our senior Senator for New York, Senator MOYNIHAN knows the subject intimately. He has a tremendous sense of history, which I admire.

He and I realized that many were tempted by the tremendous surpluses in the Social Security trust fund. So the distinguished Senator from New York authored, even though I offered it as an amendment, in the Budget Committee and in later in the Chamber, what we called a Social Security Preservation Act—take it off budget. In 1990, we had a vote in the Budget Committee, and the vote was 20 to 1, the 1 being my leader under Gramm-Rudman-Hollings, Senator GRAMM from Texas.

I can say advisedly I was not surprised, because I went to Senator GRAMM in the initial stages of Gramm-Rudman-Hollings when his initial proposal was to cut all entitlements including Social Security.

I said, wait a minute. No. 1, you are cutting the program that we just voted the taxes to pay for. It is paid for and is in the black. No. 2, it breaches the trust that we created in 1935 and that we have represented to the senior citizens of America. I am not going to breach that trust, and furthermore, you will not get a single Democratic vote to sequester Social Security.

We got him to change his tune on that point. But when he voted against my amendment in the Budget Committee, and when he introduced his own legislation to balance the budget, he went back to his former position. On February 16, 1993, he introduced legislation which, in one pertinent section, read:

Exclusion From Budget, Section 13301 of the Budget Enforcement Act of 1990, as amended, by adding at the end thereof the following: ''This subsection shall not apply to fiscal years beginning with fiscal year 2001.''

He had taken the section that I enacted into statutory law by a vote of 98 to 2 and attempted to change it in order to use the trust funds to lessen the chore of balancing the budget.

We act like we are not the Government. It is like the San Francisco 49ers coming into Miami, running up into the grandstand, and hollering, ''We want a touchdown, we want a touchdown.''

It is incumbent upon them to get down on the field and score the touchdown. It is incumbent on Members of Congress to stop the charades.

So, when the distinguished majority whip, the distinguished Senator from Mississippi, just 2 days ago says, and I quote, ''Nobody—Republican, Democrat, conservative, liberal, moderate—is even thinking about using Social Security to balance the budget.''—I say, respectfully: False.

The experience of this Senator is Members of Congress will try to find a way to use these funds. If you do not include this amendment in the balanced budget amendment, you have effectively voided the Hollings statute. That is the statute on books this minute. But I have found out the hard way now, after 5 years, that it is sometimes easier to get a statute on the books than to get people to follow it. It is like old John Mitchell, the Attorney General, used to say, ''Watch what we do, not what we say.'' That is the situation we are in.

So I would say to my colleagues that I strongly support the Reid amendment. It is very simple. It is very clear. We have a contract, as of 1935. It is an original contract predating Speaker GINGRICH's Contract With America. We have one of Roosevelt's contracts for America, back since 1935, that we must honor.

Before I close, Mr. President, I ask unanimous consent to have printed in the RECORD this document, including the different cuts, spending cuts and receipts and all for the 7-year budget.

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

SENATOR HOLLINGS ON TRUTH IN BUDGETING

Reality No. 1: $1.2 trillion in spending cuts necessary.

Reality No. 2: Not enough savings in entitlements. Yes, welfare reform but job program will cost; savings questionable. Yes, health reform can and should save some, but slowing 10 percent growth to 5 percent—not

enough savings. No, none on social security; off-budget again.

Reality No. 3: Hold the line budget on Defense—no savings.

Reality No. 4: Savings must come from freezes, cuts in domestic discretionary—not enough to stop hemorrhaging interest costs.

Reality No. 5: Taxes necessary to stop hemorrhage in interest costs.

	1996	1997	1998	1999	2000	2001	2002
Deficit CBO Jan. 1995 (using trust funds)	207	224	225	253	284	297	322
Freeze discretionary outlays after 1998	0	0	0	−19	−38	−58	−78
Spending cuts	−37	−74	−111	−128	−146	−163	−180
Interest savings	−1	−5	−11	−20	−32	−46	−64
Total savings ($1.2 trillion)	−38	−79	−122	−167	−216	−267	−322
Remaining deficit using trust funds	169	145	103	86	68	30	0
Remaining deficit excluding trust funds	287	264	222	202	185	149	121
5 percent VAT	96	155	172	184	190	196	200
Net deficit excluding trust funds	187	97	27	(17)	(54)	(111)	(159)
Gross debt	5,142	5,257	5,300	5,305	5,272	5,200	5,091
Average interest rate on the debt (percent)	7.0	7.1	6.9	6.8	6.7	6.7	6.7
Interest cost on the debt	367	370	368	368	366	360	354

Note.—Does not include billions necessary for middle class tax cut.

Here is a list of the kinds of nondefense discretionary spending cuts that would be necessary now as a first step to get $37 billion of savings and put the country on the road to a balanced budget:

Nondefense discretionary spending cuts	1996	1997
Cut space station	2.1	2.1
Eliminate CDBG	2.0	2.0
Eliminate low-income home energy assistance	1.4	1.5
Eliminate arts funding	1.0	1.0
Eliminate funding for campus based aid	1.4	1.4
Eliminate funding for impact aid	1.0	1.0
Reduce law enforcement funding to control drugs	1.5	1.8
Eliminate Federal wastewater grants	0.8	1.6
Eliminate SBA loans	0.21	0.282
Reduce Federal aid for mass transit	0.5	1.0
Eliminate EDA	0.02	0.1
Reduce Federal rent subsidies	0.1	0.2
Reduce overhead for university research	0.2	0.3
Repeal Davis-Bacon	0.2	0.5
Reduce State Dept. funding and end misc. activities	0.1	0.2
End P.L. 480 title I and III sales	0.4	0.6
Eliminate overseas broadcasting	0.458	0.570
Eliminate the Bureau of Mines	0.1	0.2
Eliminate expansion of rural housing assistance	0.1	0.2
Eliminate USTTA	0.012	0.16
Eliminate ATP	0.1	0.2
Eliminate airport grant in aids	0.3	1.0
Eliminate Federal highway demonstration projects	0.1	0.3
Eliminate Amtrak subsidies	0.4	0.4
Eliminate RDA loan guarantees	0.0	0.1
Eliminate Appalachian Regional Commission	0.0	0.1
Eliminate untargeted funds for math and science	0.1	0.2
Cut Federal salaries by 4 percent	4.0	4.0
Charge Federal employees commercial rates for parking	0.1	0.1
Reduce agricultural research extension activities	0.2	0.2
Cancel advanced solid rocket motor	0.3	0.4
Eliminate legal services	0.4	0.4
Reduce Federal travel by 30 percent	0.4	0.4
Reduce energy funding for Energy Technology Develop	0.2	0.5
Reduce Superfund cleanup costs	0.2	0.4
Reduce REA subsidies	0.1	0.1
Eliminate postal subsidies for nonprofits	0.1	0.1
Reduce NIH funding	0.5	1.1
Eliminate Federal Crop Insurance Program	0.3	0.3
Reduce Justice State-local assistance grants	0.1	0.2
Reduce Export-Import direct loans	0.1	0.2
Eliminate library programs	0.1	0.1
Modify Service Contract Act	0.2	0.2
Eliminate HUD special purpose grants	0.2	0.3
Reduce housing programs	0.4	1.0
Eliminate Community Investment Program	0.1	0.4
Reduce Strategic Petroleum Program	0.1	0.1
Eliminate Senior Community Service Program	0.1	0.4
Reduce USDA spending for export marketing	0.02	0.02
Reduce maternal and child health grants	0.2	0.4
Close veterans hospitals	0.1	0.2
Reduce number of political employees	0.1	0.1
Reduce management costs for VA health care	0.2	0.4
Reduce PMA subsidy	0.0	1.2
Reduce below cost timber sales	0.0	0.1
Reduce the legislative branch 15 percent	0.3	0.3
Eliminate Small Business Development Centers	0.056	0.074
Eliminate minority assistance, score, Small Business Institute and other technical assistance programs, women's business assistance, international trade assistance, empowerment zones	0.033	0.046
Eliminate new State Department construction projects	0.010	0.023
Eliminate Int'l Boundaries and Water Commission	0.013	0.02
Eliminate Asia Foundation	0.013	0.015
Eliminate International Fisheries Commission	0.015	0.015
Eliminate Arms Control Disarmament Agency	0.041	0.054
Eliminate NED	0.014	0.034
Eliminate Fulbright and other international exchanges	0.119	0.207
Eliminate North-South Center	0.002	0.004
Eliminate U.S. contribution to WHO, OAS, and other international organizations including the U.N.	0.873	0.873
Eliminate participation in U.N. peacekeeping	0.533	0.533
Eliminate Byrne grant	0.112	0.306
Eliminate Community Policing Program	0.286	0.780
Moratorium on new Federal prison construction	0.028	0.140
Reduce Coast Guard 10 percent	0.208	0.260
Eliminate Manufacturing Extension Program	0.03	0.06
Eliminate Coastal Zone Management	0.03	0.06
Eliminate National Marine Sanctuaries	0.007	0.012
Eliminate climate and global change research	0.047	0.078
Eliminate national sea grant	0.032	0.054
Eliminate state weather modification grant	0.002	0.003
Cut Weather Service operations 10 percent	0.031	0.051
Eliminate regional climate centers	0.002	0.003
Eliminate Minority Business Development Agency	0.022	0.044
Eliminate public telecommunications facilities, program grant	0.003	0.016
Eliminate children's educational television	0.0	0.002
Eliminate National Information Infrastructure grant	0.001	0.032
Cut Pell grants 20 percent	0.250	1.24
Eliminate education research	0.042	0.283
Cut Head Start 50 percent	0.840	1.8
Eliminate meals and services for the elderly	0.335	0.473
Eliminate title II social service block grant	2.7	2.8
Eliminate community services block grant	0.317	0.470
Eliminate rehabilitation services	1.85	2.30
Eliminate vocational education	0.176	1.2
Reduce chapter 1, 20 percent	0.173	1.16
Reduce special education, 20 percent	0.072	0.480
Eliminate bilingual education	0.029	0.196
Eliminate JTPA	0.250	4.5
Eliminate child welfare services	0.240	0.289
Eliminate CDC Breast Cancer Program	0.048	0.089
Eliminate CDC AIDS Control Program	0.283	0.525
Eliminate Ryan White AIDS Program	0.228	0.468
Eliminate maternal and child health	0.246	0.506
Eliminate Family Planning Program	0.069	0.143
Eliminate CDC Immunization Program	0.168	0.345
Eliminate Tuberculosis Program	0.042	0.087
Eliminate Agricultural Research Service	0.546	0.656
Reduce WIC, 50 percent	1.579	1.735
Eliminate TEFAP—Administrative	0.024	0.040
Commodities	0.025	0.025
Reduce Cooperative State Research Service 20 percent	0.044	0.070
Reduce Animal Plant Health Inspection Service 10 percent	0.036	0.044
Reduce Food Safety Inspection Service 10 percent	0.047	0.052
Total	36.941	58.402

Note.—Figures are in billions of dollars.

Mr. HOLLINGS. Mr. President, I ask the Senator from Utah to come forward, or any Senator to come forward with a 1-year budget that puts us on a glide path to zero. Earlier today, Republicans were berating Dr. Rivlin, the Director of the Office of Management and Budget for her lack of budget cuts in the President's 1996 budget. But back on December 18, when they were feeling real bullish, Mr. KASICH, the distinguished chairman of the House Budget Committee now, said: ''In January we will really spell this out. In January I am going to bring to the floor a revised budget resolution.'' Further down he says: ''We will provide spending savings. You already have outlined them. In the menu list we already have two or three budgets.''

They did not care about President Clinton or what the Director of the Office of Management and Budget was even thinking about. And then he continues:

When that is done * * * at the same time we are going to move on the glidepath to zero * * * We will take the savings by cutting spending first and we are going to put them in the bank so nobody across the country, nobody on Main Street, no one on Wall Street is going to think we are going to do is we're going to give out the goodies without cutting government first.

So I look in the bank, in the lock box. And there is one thing I find, Mr. President. I have the lock box that the chairman of the Budget Committee referred to. But the only thing it contains so far are a pile of Social Security IOU's.

Mr. President, let us do like Madison admonished, let us begin to control ourselves. We can begin.

As President Reagan said: If not us, who? If not now, when?

I yield the floor.

Several Senators addressed the Chair.

Mr. D'AMATO. Mr. President, I know my distinguished colleague, the senior Senator from New York, is waiting to speak. I think he is going to yield me up to 10 minutes?

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I know my distinguished friend, the chairman of the Committee on Banking and Urban Affairs, has an important statement he wishes to make. I know it is not directly on our subject, but I know it is important. I want to hear him. I am sure the Senate will as well.

I am happy to yield my place to him at this point.

The PRESIDING OFFICER. The Senator from New York has the floor.

MEXICO

Mr. D'AMATO. Mr. President, last week, the President of the United States went around the will of the people to bail out a mismanaged Mexican Government and global currency speculators. That was wrong.

I am outraged that American taxpayers are being forced to do something they did not want to do. The President went around the people knowing that Congress would not approve a $40 billion bailout of Mexico.

Never before has a president used $20 billion from our exchange stabilization fund to bail out a foreign country. The ESF is not the President's personal piggy bank. This fund is supposed to be used to stabilize the dollar, not the peso. The President was wrong, and I am outraged.

The President has used scare tactics to justify going around Congress to bail out Mexico. The President claimed that world stock markets would crash and floods of illegal immigrants would cross our borders. The President was wrong, and I am outraged.

As former FDIC Chairman Bill Seidman testified last week, Mexico's credit crunch can be solved by letting the market work. Mexico and its creditors should be forced to renegotiate its debt. That's the capitalist way. Investors in Mexico might get 50 or 60 or even 70 cents on the dollar. That is fair. Investors in Mexico took a gamble. If they wanted a United States-guaranteed investment, they should have put their money into a 6-percent C.D., not a 20-percent Mexican pesobono.

The President has given in to economic blackmail. Will American taxpayers have to send Mexico $40 billion next time to protect our borders from illegal immigration? I am outraged that the President has used our exchange stabilization fund to pay blackmail to Mexico.

The President has set a terrible precedent. What happens next time the peso collapses? What happens when some other country's currency collapses? The American taxpayer cannot afford to be the world's banker. We cannot afford to bail out global currency speculators every time a foreign currency collapses.

The President should not be sending $20 billion to Mexico when Congress must cut United States domestic programs to put our own economic house in order. The Governor of my home State has to cut $5 billion from the state budget. We should send $20 billion to New York or Florida or California or other States that are in need before we send it to Mexico.

Make no mistake about it. Two years from now. Five years from now. I predict that this bailout will go down as one of the President's biggest blunders.

I predict that this bailout will not work. It is a quick fix and will come back to haunt American taxpayers. They will wind up paying.

Let us look at the facts.

Mexican political bosses got into this mess to win the August 1994 election. They printed pesos at an outrageous rate. They created the illusion that the Mexican economy was still thriving, and then they devalued the peso. That was wrong. It hurt poor and middle-class Mexicans. We should not bail out mismanaged foreign governments.

The President's plan will not force Mexico's ruling party to make needed economic or political reforms. Once our money is shipped to Mexico, we will have no leverage.

Let us look at some of the promises Mexico has made for the $20 billion of American taxpayers' money—promises Mexico cannot keep.

Mexico has promised to keep inflation low. But they cannot do that. The peso's devaluation has set off 20 to 30 percent inflation, and the Mexican Government will have to keep printing pesos to prevent more unrest in Chiapas.

Mexico has promised to cut spending and to maintain a budget surplus. But that is impossible. Mexico must pay sky-high interest on more than $160 billion in debt and faces a recession.

Mr. President, let me ask the question. If we cannot balance our budget here, here we are promising $20 billion to Mexico, not a loan guarantee. We are going to give it to them. We say as one of the conditions we expect you to have a budget surplus. I ask, is that realistic? We cannot balance a budget here. We are not saying Mexico is going to have a budget surplus. That is ridiculous. It is ludicrous. And no one could promise you that would take place.

Mexico has promised to raise $12 to $14 billion through privatizations. But who is going to invest in Mexico now? How are they going to bring about privatization?

I am outraged that the President's bailout of Mexico will leave American taxpayers holding the bag. Now, when we have to make painful cuts in the Federal budget, is not the time to be risking American taxpayers' money.

The administration assumes that Mexico will pay off its debt. But Mexico could not pay back United States banks in 1982.

The President claims that assured sources of repayment exist. But if assured sources of repayment really existed, banks and private investors would provide money to support Mexico's debt.

The President has not obtained real collateral. Mexico has already pledged its oil reserves as collateral for its existing debt.

The President relies solely on a security mechanism involving the New York Fed. But this security mechanism is a mirage. It goes into effect only after a default. Mexico can sell oil only to customers who do not pay through the New York Fed.

When Congress provided $1.5 billion in loan guarantees to New York City and Chrysler, Congress demanded much more collateral. I am shocked and outraged that the President has not demanded more collateral from Mexico for $20 billion.

What will the President do if Mexico refuses to pay us back? Will the President send in the 82d Airborne to seize the oilfields? Of course not. It is preposterous. Will he try to raise U.S. taxes to replenish our exchange stabilization fund?

The President's bailout will not win us friends south of the border. Already the Mexican people resent the fact that we are making those moneys available on conditions that they speak about. Most Mexicans oppose the $40 billion bailout.

The administration says that it was taken totally by surprise when Mexico set off this crisis by devaluating the peso on December 20. But the signs of serious trouble in Mexico were present months ago. Congress must determine what the administration knew about Mexico and when.

The New York Times, January 24, 1995, reports that the CIA advised the administration in July 1994—6 months before the peso's devaluation in December—that Mexico's ruling party was borrowing and spending at a furious pace.

We have an obligation to investigate whether the administration's inaction or silence caused this crisis. We must find out if the administration advised Mexico to devaluate the peso. Devaluation was a terrible mistake. We all admit that now. But who was there and when? What advice did this administration give, if any, to the Mexican Government?

On January 26, Senators DOLE, LOTT, MACK, and ABRAHAM asked for documents concerning the administration's advice to Mexico on currency devaluation. Twelve days later, we still have not received this critical documents.

Why have we not received these documents? When will we get them? What is the administration hiding? The American people have a right to know.

The Banking Committee will hold oversight hearings on the administration's use of the ESF to bail out Mexico.

Senator MACK and I will introduce a sense-of-the-Senate resolution that the Treasury should, in conjunction with the minority reports required by the ESF statute, provide the Banking Committee with monthly information on: First, economic conditions in Mexico,

and second, how Mexico is spending the $20 billion.

American taxpayers have the right to know whether their money is being wasted in Mexico. They have the right to know if the Mexican Central Bank has slowed the peso printing press. They have a right to know if Mexico has stopped spending and balanced its budget.

We must hold the administration's feet to the fire. We must blow the whistle if the administration does not make Mexico live up to its commitments—to stop the peso press, to balance its budget and to privatize. We must fight for middle-class American taxpayers, not for mismanaged foreign governments and global currency speculators.

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

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Massachusetts.

Mr. KENNEDY. I thank the Chair.

(The remarks of Mr. KENNEDY pertaining to the introduction of S. 376 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

Mr. HATCH. Mr. President, opponents of the balanced budget amendment have raised the specter that the balanced budget amendment may somehow endanger Social Security. This simply is wrong.

First, the balanced budget amendment does not write any particular mix of spending cuts or tax increases into the Constitution. It merely forces Congress to come up with a plan to balance the budget by a date certain and to continue to balance the budget yearly in the future.

Why do we need to do that? Because if you look at the Balanced Budget Amendment Debt Tracker—this chart right here—just look at what has happened during these 10 days we have been on the amendment. We have gone from $4.8 trillion of national debt with an increase the first day of $829 million and each day thereafter right up to where we are now up to $8,294,400,000 additional debt from when we started on day 10. While we are debating this amendment, the debt is going up almost $1 billion a day.

(Ms. SNOWE assumed the chair)

Mr. HATCH. Madam President, I have to tell you if we keep doing that, Social Security is going to be very, very badly harmed.

I have always maintained that I would personally oppose Social Security benefit cuts. I believe we have made an obligation to our retirees that we must keep.

What the balanced budget amendment does is to force Congress to choose between spending options constrained by the amount of available funds. This means Congress will have to set priorities in a way it does not now do. I have no doubt that Social Security is well protected in today's political world and would compete well against all other spending.

But the balanced budget amendment does not require any particular cuts. Suggestions that it would result in Social Security cuts are simply scare tactics by those who wish to defeat the balanced budget amendment by any means.

Second, those worried about the security of the Social Security trust fund should support the balanced budget amendment. Robert J. Myers, who has worked in many capacities for the Social Security Administration for nearly four decades, including Chief Actuary and Deputy Commissioner said, ''the most serious threat to Social Security is the government's fiscal irresponsibility.'' Mr. Myers suggests our current profligacy will result either in the Government raiding the trust fund or printing money, either of which will reduce the real value of the trust funds.

The real threat to Social Security, our mounting national debt, is the problem we have to face. Although the trust fund is running a surplus now, it will not for long. Under current projections, the trust fund will grow until the year 2019, at which point it will begin to deplete its savings. At that point the fund begins living on the principal and interest built on past principal. In the year 2029, the trust fund will be completely insolvent, having used up all capital and interest earned. At that point Social Security will worsen the national deficit picture substantially and seniors will either have to receive benefits from increased payroll taxes or from general Treasury funds, or simply go without. If Congress continues to borrow at current rates, it is not clear how able it would be able to borrow or tax enough more to cover Social Security deficits.

Furthermore, seniors or others living on fixed incomes would be hardest hit if the predictions of many noted economists result from our huge national debt. If the country should ever decide to monetize the debt, that is, simply print more money to cover its interest payments, the resulting inflation would hit hardest those living on fixed incomes. The Federal Reserve Board would probably avoid that, but if we should ever go down that path, seniors would bear a large part of that burden. If inflation returns in any other form because of our debt burden, seniors would again be hit very hard.

Third, the money in Social Security trust funds is invested in Government bonds. What this means is the trust fund is simply full of IOU's from Congress's increasing debt. In other words, the Government is using Social Security taxes to fund our growing deficits, and leaving the IOU's in the trust fund. The trust fund reserves are in large degree only a claim on the general Treasury funds, with no capital backing up that claim. If the country ever gets to the point of defaulting on its debts, the Social Security trust fund would be one of the hardest hit.

The country will not be able to pay off that stack of paper that builds up every day and every month as we borrow from the trust funds to pay for the daily running of Government programs. For this reason alone Social Security recipients, both current and future, and those who are concerned about them, should strongly support this balanced budget amendment—the only opportunity we have, and frankly the only real opportunity in history to really do something about these budgetary deficits that are running us into bankruptcy.

We must get our entire fiscal house in order and keep it that way for seniors, for their children, and for their grandchildren.

Mr. President, I would now like to address the exemption proposed by the Senator from Nevada. As politically attractive as this exemption amendment may be—I am talking about the Reid amendment—it will harm, rather than help, senior citizens and thwart the balanced budget amendment. So I urge its defeat for five reasons.

First, the Constitution is not the place to set budget priorities. A constitutional amendment should be timeless and reflect a broad consensus, not make narrow policy decisions. We should not place technical language or insert statutory programs into the Constitution and undercut the simplicity and universality of the amendment.

Second, exempting Social Security would open up a loophole in the amendment, which could avoid the purpose of the amendment or endanger Social Security. What do I mean by that? Congress could pass legislation to fund any number of programs off-budget through the Social Security trust fund. The budget could be balanced simply by shifting enough programs into the Social Security trust fund. Moreover, if this amendment succeeded in exempting Social Security from the balanced budget rule, as the trust funds begin running deficits, as they are projected to do, there would be no requirement that the trust fund remain solvent and no incentive to make it solvent. Under a balanced budget requirement, however, the trust funds would be protected because the Government would be required to have enough revenues to meet its obligations, including those who rely on the trust funds.

Third, exempting Social Security would tempt Congress and the President to take irresponsible actions that threaten the integrity of Social Security. If Social Security is off-budget, Congress would be tempted to slash Social Security taxes to trade off other taxes hikes or shift the cost of other programs into the Social Security Program to avoid a three-fifths vote to unbalance the budget. Exempting the Social Security trust fund would create an incentive for Congress to use the trust fund as an instrument of countercyclical stimulus or social policy or other uses other than as a retirement program, threatening the ability of the trust fund to fulfill its obligations to retirees.

Fourth, Exempting Social Security from the amendment is unnecessary because it preserves the ability of Congress to protect Social Security, which is politically well-protected.

Does anybody doubt that Social Security would compete with any and all other Federal programs? I do not think anybody doubts that.

The current statutory protections for Social Security would not be eliminated by the amendment. Congress would be able to further protect Social Security in implementing legislation. Given political realities, Congress almost certainly would choose to protect Social Security.

The fifth reason why we should not go this route is that the concerns underlying this exemption are misplaced. The motivation for exemptions like this is to ensure that Social Security benefits will not be cut. This concern is misplaced for two reasons. First, passage of the balanced budget amendment does not in any way mean Social Security benefits will be reduced. It only requires Congress to choose among competing programs, and Social Security will compete very well. Second, the biggest threat to Social Security is our growing debt and concomitant interest payments, both because the effects of debt-related inflation hurt those on fixed incomes and because the Government's use of capital to fund debt slows productivity and income growth. They way to protect Social Security benefits is to support the balanced budget amendment and balance the budget so that the economy will grow, thereby fostering growth in Social Security tax revenues, and by requiring that the government have revenues to meet its obligations, including obligations to retirees.

For these reasons I urge the amendment be defeated.

Mr. MOYNIHAN. Mr. President, on Monday I spoke to the Senate at some length describing the economic policies of the Kennedy, Johnson, and Nixon administrations which were directed to the problems associated with persistent budget surpluses. It will no doubt surprise many persons now proposing to amend the Constitution so as to deal with the problem of persistent budget deficits to learn that only a few decades ago our tendencies appeared to be just the opposite of those of the last decade or so.

On Monday, I spoke to the long tradition that democracies were inherently disposed to vote themselves largess, a majority would abuse its responsibilities in one way or the other. But, in fact, two centuries of the American experience has not produced that, save for this particular time. It happened that, this morning, our hugely gifted Secretary of the Treasury, Mr. Robert Rubin, came before the Finance Committee with the President's budget and he showed the effect of the deficit reduction program which we put in place in this floor in moments of high drama in July, 1993, when we provided $500 billion in deficit reductions which, in turn, brought about a lowering of the deficit premium that had been riding on top of interest rates, such that in the end we had a cumulative effect of about $625 billion in deficit reduction.

That effect could be shown right here. This is Secretary Rubin's chart. It says, ''Spending on Government programs is less than taxes for the first time since the 1960's.'' A large event.

Now, when he says spending on Government programs, that is all Government programs excepting payment on the debt, which is not a program but a requirement.

With that provision, in 1994 to 1995, we will have a budget surplus of a little less than 1 percent, six-tenths of 1 percent, but a surplus for the period.

Now, that is in blue, as the distinguished Presiding Officer can see, as are these two blue bars over on the left side of the chart, which is the surplus of 1962 to 1965 under Presidents Kennedy and Johnson; 1966 to 1969, and that is President Johnson; and there was a slight surplus and then a slight deficit in the period 1970 to 1973 under President Nixon.

Our Government then ran surpluses, which its principal financial officer considered to be a major problem to the economy, that being an obstacle to full employment, which, under the Employment Act of 1946, was to be the largest economic goal of the country.

On Monday, I cited the Office of Management and Budget's explanation of the budget for fiscal 1973. This was written by George P. Schultz, then director of the newly established OMB, George Shultz, who was later a most eminent Secretary of the Treasury and Secretary of State. He stated as such:

> Budget policy. The full-employment budget concept is central to the budget policy of this Administration. Except in emergency conditions, expenditures should not exceed the level at which the budget would be balanced under conditions of full employment.

Which is to say he had built a deficit into the budget which was the difference between outlays and that would equal revenues at full employment and the actual revenues which came in from less than full employment. We were coping with surpluses, a lag in the revenues that come into the Government in the upward slope of the business cycle, and our disposition to spend, if you will, those revenues here in the Congress.

And once again this surplus in revenues as against programs has appeared. It comes miraculously, if you will, but not accidentally. That seems an oxymoron. But I do now know how many really believe that what we did in 1993 would have this result. But it has done, and there it is.

And my purpose in all this has been plain enough. I make the point that there is nothing inherent in American democracy that suggests we amend our basic and abiding law to deal with the fugitive tendencies of a given moment.

These are the tendencies, Mr. President. And, again, by sheer happenstance, I prepared these remarks to be given this afternoon. This morning the Secretary of the Treasury presented us this chart which shows us these tendencies. Right here goes the deficit of the period from the late 1970's to the early 1990's.

I rise today to provide documentation as to how a series of one-time events of the 1980's led to our present fiscal disorders even as events in the 1990's point to a way out of them; and, again, to state I prepared these remarks before I saw this chart. And, indeed, there you see that emergent surplus.

On January 26, at the request of Chairman BOB PACKWOOD, the Congressional Budget Office, in the person of Director Robert D. Reischauer, presented the Finance Committee with data comparing current economic forecast and budget projections with those made by CBO before the enactment of the Economic Recovery Tax Act of 1981, ERTA as it is generally known. Here is Dr. Reischauer's testimony.

> Unlike the current ''Economic and Budget Outlook'', CBO's budget reports issued before enactment of the 1981 tax cuts routinely projected that a continuation of current tax and spending laws would lead to large budget surpluses. CBO also warned that such levels of taxes and spending would act as a drag on the economy.

Mr. President, that is a direct continuation, that view, of the view that went from Walter Heller, as chairman of the Council of Economic Advisers in 1961 under President Kennedy, to Arthur Okun, as chairman under President Johnson, to Herbert Stein, as chairman under President Nixon, and budget directors such as Kermit Gordon and George Shultz. They saw the problems of the American Government very much in terms of persisting surpluses that depressed economic growth.

I continue Dr. Reischauer's testimony:

> The primary reason for those projections was that high inflation was expected to drive up revenues dramatically. Because key features of the Federal individual income tax were not automatically adjusted for inflation, periods of high inflation—such as the late 1970s and early 1980s—pushed individuals into higher tax rate brackets and caused revenues to increase rapidly. In response, policymakers cut taxes every few years on an ad hoc basis—five times in the 1970s, for instance.

Again, to try to reach back to a period which we seem to have forgot—and, in fairness, probably no more than a fifth of the Members of the House right now and somewhat more of the Senate were here in the 1970's who could remember that—but we cut taxes five times in the 1970's just to keep the surplus from growing too large.

Note the continuity of the problems faced by our analysts at the outset of

the 1980's with those faced at the outset of the 1960's. The Federal Government was running an unacceptable surplus; a sure remedy was to cut taxes. Dr. Reischauer continued:

Illustrating this dilemma, in its February 1980 report Five-Year Budget Projections: Fiscal Years 1981–1985, CBO projected that revenues collected under current tax law would climb from about 21 percent of GNP in 1981 to 24 percent by 1985. Simple arithmetic pointed to enormous surpluses in the outyears. For example, current-law revenues exceeded outlays by a projected $98 billion for 1984 and $178 billion for 1985. Similarly, in its July 1981 report Baseline Budget Projections: Fiscal Years 1982–1986, CBO projected budget surpluses of between $148 billion and $209 billion for 1986, depending on the economic assumptions used.

In the same report, CBO estimated that the 1981 tax cuts and other policies that were called for in May 1981 budget resolution would generate a balanced budget or a small deficit, roughly $50 billion by 1984—again, depending on the economic assumptions employed.

That budget background led to the 1981 tax cuts. Given the best information available at that time, the Congress and the Administration reasonably thought that significant budget surpluses loomed under current law. Analysts differed, however, on whether the 1981 tax cuts would put the government on a balanced-budget footing or would lead to small budget deficits.

The Economic Recovery Tax Act of 1981 passed the Senate by an overwhelming 67-to-8 vote. I voted for it with the same measure of confidence that had led me to support earlier tax cuts. This was a familiar situation; well enough understood.

So I and others thought. We were ruinously wrong. At a hearing of the Finance Committee on January 31, Dale Jorgenson, professor of economics at Harvard University, called the 1981 tax cut a fiscal disaster because the Federal Government stopped raising the revenue it needed.

In an instant, deficits, not surpluses, because our problem.

For certain, two things happened—beyond the bidding war that accompanied the enactment of ERTA, with Democratic Members of Congress seeking to outdo the new Republican administration. The first is the action of the Federal Reserve designed to bring down the double-digit inflation of the late 1970's. In a not unfamiliar sequence, the Fed brought down the economy with it. A deep, deep recession commenced. In 1982, the unemployment rate reached 9.7 percent, the highest rate recorded since the Employment Act of 1946. Revenues fell off precipitously, largely the result of recession, but more steeply owing to the 1981 rate cut.

Now to a second, and to my view, more important event. Beginning in the 1970's a body of opinion developed, principally within the Republican Party, which held that Government at the Federal level had become so large as to be unacceptably intrusive, even oppressive. There is a continuity here. All those years trying to spend down surpluses had indeed brought about a great increase in the size of Government. Of a sudden, deficits, if sizeable enough, gained a new utility. They could be used to reduce the size of Government.

This was a powerful idea. Indeed, in July 1980, I contributed an article to the New York Times which argued that, the Republicans had become the party of ideas and thus that ''could be the onset of the transformation of American politics.'' I argued:

Not by chance, but by dint of sustained and often complex argument there is a movement to turn Republicans into Populists, a party of the People arrayed against a Democratic party of the State.

This is the clue to the across-the-board Republican tax-cut proposal now being offered more or less daily in the Senate by Dole of Kansas, Armstrong of Colorado and their increasingly confident cohorts.

* * * * *

The Republicans' dominant idea, at least for the moment, seems to be that the social controls of modern government have become tyrannical or, at the very least, exorbitantly expensive. This oppression—so the strategic analysis goes—is made possible by taxation, such that cutting taxes becomes an objective in its own right, business cycles notwithstanding.

Similarly, ''supply-side'' economics speaks to the people as producers, as against the Government as consumer.

Within the Republican Party this is put forth as populism and argued for as such * * *. Asked by a commentator whether an across-the-board tax could rally lead to the needed increase in savings, a Republican Senator replied that he took for granted that the people would know what to do with their own money.

Then came the revolution.

Some 4 months after I wrote that article, a new Republican President was elected, himself much committed to this view, and his White House staff fair to obsessed with it. They welcomed deficits for reasons wholly at odds with their Democratic, or for that matter, Republican predecessors.

From the early 1980's, I found myself often on this Senate floor, and on several occasions in print, making the point that in the Reagan White House and Office of Management and Budget, a huge gamble was being made. A crisis was being created by bringing about deficits intended to force the Congress to cut back certain programs.

I encountered great difficulty getting this idea across. No one believed what I was saying. The intentional nature of the Reagan deficits was not understood or admitted at the time, nor has it been very widely acknowledged since. Yet it did happen, and it has been well documented.

In a television speech 16 days after his inauguration, President Reagan clearly stated it:

There were always those who told us that taxes couldn't be cut until spending was reduced. Well, you know we can lecture our children about extravagance until we run out of voice and breath. Or we can cut their extravagance by simply reducing their allowance.

The person principally involved, Mr. David Stockman, who was President Reagan's Director of the Office of Management and Budget, wrote a memoir of his time in Washington entitled, ''The Triumph of Politics.'' He described in detail what happened and how it went wrong: how the Reagan Revolution—as based on the immutability of the Laffer curve—had failed. According to Stockman, President Reagan's top economic advisers knew from the very beginning that supply-side economics would not and could not work.

That superb journalist and historian, Haynes Johnson, wrote of this in his wonderful book, ''Sleepwalking Through History: America Through the Reagan Years,'' published in 1991. Johnson writes that the Reagan team saw:

* * * the implicit failure of supply-side theory as an opportunity, not a problem * * *. [The] secret solution was to let the federal budget deficits rise, thus leaving Congress no alternative but to cut domestic programs.

I will simply quote a footnote on page 111, where Johnson says of this Senator:

[Stockman's] former mentor Moynihan was the first to charge that the Reagan Administration ''consciously and deliberately brought about'' higher deficits to force congressional domestic cuts. Moynihan was denounced and then proven correct, except that the cuts to achieve balanced budgets were never made and the deficits ballooned even higher.

David Stockman writes in his book, ''If I had to pinpoint the moment when I ceased to believe that the Reagan Revolution was possible, September 11, 1981 * * * would be it.'' It was then that Stockman realized that no huge spending cuts would ever come. He pleaded with the President and his colleagues in the Cabinet to do something. But nothing was done. The President had claimed he would use his pen to veto big spending appropriations bills. But of the reality, Stockman wrote:

* * * the President's pen remained in his pocket. He did not veto a single appropriations bill * * *. Come to think of it, he did use his pen—to sign them * * *. The 1983 deficit had * * * already come in at $208 billion. The case for a major tax increase was overwhelming, unassailable, inescapable, and self-evident. Not to raise taxes when all other avenues were closed was a willful act of ignorance and grotesque irresponsibility. In the entire twentieth-century fiscal history of the Nation, there has been nothing to rival it.

And so, President Reagan became the biggest spender of them all.

By the mid-1980's the Reagan transportation budget in constant dollars topped Jimmy Carter's best year by 15 percent, Johnson's by about 40 percent, and Kennedy's by 50 percent. Big Government? That was something for the speechwriters to fight as long as they didn't mention any names * * *. Spending continued largely unabated in all cases.

I recall George Will speaking to a group of businessmen at breakfast in about 1984 and saying, ''I have a door prize of a toaster for anyone who can name one program that President Reagan promised to cut during his 1984

Presidential campaign.'' Everyone in the room started looking around at his or her neighbor, clearly wondering, ''Why can't I remember one?'' Whereupon Mr. Will came to their rescue, ''Don't feel bad about your memory. There was none.''

They created a crisis. We indulged ourselves, in the early 1980's, in a fantasy of young men who perhaps had too much power and too little experience in the real world. They thought they could play with fire, create a crisis. Well, the fire spread, and the numbers—the damages—are well known to all of us. On January 20, 1981, the Federal debt stood at $940.5 billion, which was no great cause for concern. Eight years later, it was $2.86 trillion. What had taken our Nation nearly two centuries to amass had been tripled in just 8 years. By the end of 1992, it was just over $4 trillion.

On December 31, 1983, I published an article in the New Republic entitled, ''Reagan's Bankrupt Budget,'' in which I noted, ''The projected 8-year growth is $1.64 trillion, bringing us to a total debt, by 1989, of $2.58 trillion.'' As it turned out, the total debt in 1989 was $2.86 trillion. Not bad shooting. Four years later it was a little over $4 trillion.

I have spoken of two events of the 1980's. First, the tax cuts of 1981 followed by the severe recession of 1982. Next, the development within the incumbent administration of a grand strategy of using deficits to bring about a reduction in the size of Government, followed by a disinclination to cut specific programs. Mr. Stockman's memoirs provide graphic examples of this latter development, including the celebrated counsel he gave the President on how much to cut them. Let me in passing mention a possible third event which led in part to the great increase in debt during the 1980's. This was recently alluded to by Lawrence J. Korb in an article in the Washington Post. Mr. Korb, now at the Brookings Institution, contends that ''the Reagan buildup'' of the military was part of a deliberate strategy of engaging the Soviet Union in an arms race that would leave them bankrupt. The buildup, Mr. Korb continues:

> * * * was based not on military need but upon a strategy of bankrupting the Soviet Union. If the Reagan administration had budgeted only for military purposes, the 1985 budget would have been some $80 billion less. The 1995 defense budget is still at about 85 percent of its average Cold War level, and actually higher [even in inflation adjusted dollars] than it was in 1955 [under Eisenhower] and in 1975 [under Nixon], when the Soviet Empire and Soviet Union were alive and well.

It is difficult to have been in Washington in those times and not to have been aware of such thinking in the environs of the White House. For the first 4 years of the Reagan administration, I was vice chairman of the Senate Select Committee on Intelligence, and one heard such thoughts. By this time, I was convinced that the Soviet Union would soon break up along ethnic lines and largely in consequence of ethnic conflict, and so was perhaps more attentive than some. Certainly, Raymond L. Garthoff, in his study, ''The Great Transition, American-Soviet Relations and the End of the Cold War'' [Brookings, 1994] holds to the view that something of this sort took place.

He writes:

> A final element in President Reagan's personal view was that not only was the Soviet system ideologically bankrupt and therefore vulnerable, but that it was also stretched to the utmost by Soviet military efforts and therefore unable to compete in an intensified arms race. As he put it in a talk with some editors, ''They cannot vastly increase their military productivity because they've already got their people on a starvation diet . . . if we show them [we have] the will and determination to go forward with a military buildup . . . they then have to weigh, do they want to meet us realistically on a program of disarmament or do they want to face a legitimate arms race in which we're racing. But up until now, we've been making unilateral concessions, allowing ours to deteriorate, and they've been building the greatest military machine the world has ever seen. But now they're going to be faced with [the fact] that we could go forward with an arms race and they can't keep up.'' The Soviet system was indeed under growing strain, as would become increasingly evident throughout the 1980s. But most of the premises underlying Reagan's viewpoint were highly questionable: that the United States had not also been active in the arms competition and had been making unilateral concessions, that the Soviet Union was unable to match adequately a further American buildup, and that the Soviet Union would respond to such a buildup by accepting disarmament proposals that the United States would regard as ''realistic'' (that is, would favor the United States more than the SALT II Treaty that had been produced under the strategic arms limitations talks [SALT] conducted by the three preceding administrations but not ratified). But whatever their merit, they represented the thinking of the new president and his administration.

Just how much this thinking deepened the deficits of the 1980's is difficult to assess. It is now more a matter for historians. But it can hardly have helped. And so we come to a compound irony. The great struggles over the nature of the American economic system that dated from the Progressive Era to the New Deal ended in a quiet acceptance of the private enterprise economy so long as government could pursue policies that produced relatively full employment. Hardly a revolutionary notion, but surely an honorable undertaking. Even so, for the first time, it disposed American government toward deficit financing. Nothing huge; nothing unmanageable; but real.

In 1965, in the first article in the first issue of The Public Interest entitled, ''The Professionalization of Reform,'' I set forth the now somewhat embarrassing proposition that Keynesian economics in combination with the statistical feats such as those of the National Bureau of Economic Research, founded by Wesley C. Mitchell at Columbia University, invested us with unimagined powers for social good. I was not entirely wrong.

> Governments promise full employment—and then produce it. (in 1964 unemployment, adjusted to conform more or less to United States' definitions, was 2.9 percent in Italy, 2.5 percent in France and Britain, and 0.4 percent in Germany. Consider the contrast with post-World War I.) Governments undertake to expand their economy at a steady rate—and do so. (In 1961 the members of the Organization for Economic Cooperation and Development, which grew out of the Marshall Plan, undertook to increase their output by 50 percent during the decade of the 1960's. The United States at all events is right on schedule.)
>
> The ability to predict events, as against controlling them, has developed even more impressively—the Council of Economic Advisers' forecast of GNP for 1964 was off by only $400 million in a total of $623 billion; the unemployment forecast was on the nose.

And yet I did not entirely see—did not at all see—the serpent lurking in that lovely garden.

> The singular nature of the new situation in which the Federal government finds itself is that the immediate supply of resources available for social purposes might actually outrun the immediate demand of established programs. Federal expenditures under existing programs rise at a fairly predictable rate. But, under conditions of economic growth, revenues rise faster. This has given birth to the phenomenon of the ''fiscal drag''—the idea that unless the Federal Government disposes of this annual increment, either by cutting taxes or adding programs, the money taken out of circulation by taxes will slow down economic growth, and could, of course, at a certain point stop it altogether.

Which is to say, deficit spending as public policy. How that would have troubled FDR. On election night of 1936, he was at Hyde Park surrounded by friends and overwhelmed by the electoral returns. The New Deal was triumphant. And so, as Alan Brinkley notes in his forthcoming study, ''The End of Reform: New Deal Liberalism in Recession and War,'' a few days later, boarding a train to return to Washington, he told well-wishers, ''Now I'm going back * * * to do what they call balance the budget and fulfill the first promise of the campaign,'' which in 1932 had been to balance the budget.

In much this manner, the great struggle with the Marxist-Leninist vision of the future, and its concrete embodiment in the Soviet Union, ended with the most assertively conservative administration of the post-New Deal, assertively opposed to deficit spending of any kind, more or less clandestinely pursuing just the opposite course.

And yet, may we not agree that both these tendencies are now abated, if not altogether spent? A post-Keynesian economics is no longer as confident of fiscal policy as was an earlier generation. A post-cold-war foreign policy has no need to concern itself with bankrupting the Soviet Union: the region is quite bankrupt enough, and indeed, receives American aid. Can we not then look upon our present debt much as the Truman and Eisenhower administrations looked upon the debt incurred

during World War II. Pay it off and get on with the affairs of the Nation. World War II, and the cold war were fought, in a legitimate sense, to defend the Constitution of the United States against all enemies, foreign and domestic. It would be awful if in this moment of victory we should choose to mutilate the basic law of the land for which so much was sacrificed.

Mr. HATCH. I have much more to say. But I am prepared, if the majority leader is willing, to bring the Senate today to a close.

So I will suggest the absence of a quorum and see if we can get that done.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. HATCH. Madam President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak therein for not to exceed 5 minutes each.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE NATIONAL EMERGENCY WITH IRAQ—MESSAGE FROM THE PRESIDENT—PM 12

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 Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of August 2, 1994, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq), then or thereafter located in the United States or within the possession or control of a United States person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. United States persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order No. 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

Executive Order No. 12817 was issued on October 21, 1992, to implement in the United States measures adopted in United Nations Security Council Resolution 778 of October 2, 1992. Resolution No. 778 requires U.N. Member States temporarily to transfer to a U.N. escrow account up to $200 million apiece in Iraqi oil sale proceeds paid by purchasers after the imposition of U.N. sanctions on Iraq, to finance Iraqi's obligations for U.N. activities with respect to Iraq, such as expenses to verify Iraqi weapons destruction, and to provide humanitarian assistance in Iraq on a nonpartisan basis. A portion of the escrowed funds will also fund the activities of the U.N. Compensation Commission in Geneva, which will handle claims from victims of the Iraqi invasion of Kuwait. Member States also may make voluntary contributions to the account. The funds placed in the escrow account are to be returned, with interest, to the Member States that transferred them to the United Nations, as funds are received from future sales of Iraqi oil authorized by the U.N. Security Council. No Member State is required to fund more than half of the total transfers or contributions to the escrow account.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Orders Nos. 12724 and 12817 (the ''Executive orders''). The report covers events from August 2, 1994, through February 1, 1995.

1. There has been one action affecting the Iraqi Sanctions Regulations, 31 C.F.R. Part 575 (the ''Regulations''), administered by the Office of Foreign Assets Control (FAC) of the Department of the Treasury, since my last report on August 2, 1994. On February 1, 1995 (60 Fed. Reg. 6376), FAC amended the Regulations by adding to the list of Specially Designated Nationals (SDNs) of Iraq set forth in Appendices A (''entities and individuals'') and B (''merchant vessels''), the names of 24 cabinet ministers and 6 other senior officials of the Iraqi government, as well as 4 Iraqi state-owned banks, not previously identified as SDNs. Also added to the Appendices were the names of 15 entities, 11 individuals, and 1 vessel that were newly identified as Iraqi SDNs in the comprehensive list of SDNs for all sanctions programs administered by FAC that was published in the Federal Register (59 Fed. Reg. 59460) on November 17, 1994. In the same document, FAC also provided additional addresses and aliases for 6 previously identified Iraqi SDNs. This Federal Register publication brings the total number of listed Iraqi SDNs to 66 entities, 82 individuals, and 161 vessels.

Pursuant to section 575.306 of the Regulations, FAC has determined that these entities and individuals designated as SDNs are owned or controlled by, or are acting or purporting to act directly or indirectly on behalf of, the Government of Iraq, or are agencies, instrumentalities or entities of that government. By virtue of this determination, all property and interests in property of these entities or persons that are in the United States or in the possession or control of United States persons are blocked. Further, United States persons are prohibited from engaging in transactions with these individuals or entities unless the transactions are licensed by FAC. The designations were made in consultation with the Department of State. A copy of the amendment is attached to this report.

2. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. The FAC continues its involvement in lawsuits, seeking to prevent the unauthorized transfer of blocked Iraqi assets. There are currently 38 enforcement actions pending, including nine cases referred by FAC to the U.S. Customs Service for joint investigation. Additional FAC civil penalty notices were prepared during the reporting period for violations of the International Emergency Economic Powers Act and the Regulations with respect to transactions involving Iraq. Four penalties totaling $26,043 were collected from two banks, one company, and one individual for violations of the prohibitions against transactions involving Iraq.

3. Investigation also continues into the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to FAC's listing of individuals and organizations determined to be SDNs of the Government of Iraq.

4. Pursuant to Executive Order No. 12817 implementing United Nations Security Council Resolution No. 778, on October 26, 1992, FAC directed the Federal Reserve Bank of New York to establish a blocked account for receipt of certain post August 6, 1990, Iraqi oil sales proceeds, and to hold, invest, and transfer these funds as required by the order. On October 5, 1994, following payments by the Governments of Canada ($677,756.99), the United Kingdom ($1,740,152.44), and the European Community ($697,055.93), respectively, to the special United Nations-controlled account, entitled ''United Nations Security Council Resolution 778 Escrow Account,'' the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $3,114,965.36 from the blocked account it holds to the United Nations-controlled account. Similarly, on December 16, 1994, following the payment of $721,217.97 by the Government of the Netherlands, $3,000,891.06 by the European Community, $4,936,808.84 by the Government of the United Kingdom, $190,476.19 by the Government of France, and $5,565,913.29 by the Government of Sweden, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $14,415,307.35 to the United Nations-controlled account. Again, on December 28, 1994, following the payment of $853,372.95 by the Government of Denmark, $1,049,719.82 by the European Community, $70,716.52 by the Government of France, $625,390.86 by the Government of Germany, $1,151,742.01 by the Government of the Netherlands, and $1,062,500.00 by the Government of the United Kingdom, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $4,813,442.16 to the United Nations controlled account. Finally, on January 13, 1995, following the payment of $796,167.00 by the Government of the Netherlands, $810,949.24 by the Government of Denmark, $613,030.61 by the Government of Finland, and $2,049,600.12 by the European Community, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $4,269,746.97 to the United Nations-controlled account. Cumulative transfers from the blocked Federal Reserve Bank of New York account since issuance of Executive Order No. 12817 have amounted to $157,542,187.88 of the up to $200 million that the United States is obligated to match from blocked Iraqi oil payments, pursuant to United Nations Security Council Resolution 778.

5. The Office of Foreign Assets Control has issued a total of 533 specific licenses regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Since my last report, 37 specific licenses have been issued. Licenses were issued for transactions such as the filing of legal actions against Iraqi governmental entities, legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, food intended for humanitarian relief purposes, the execution of powers of attorney relating to the administration of personal assets and decedents' estates in Iraq, and the protection of preexistent intellectual property rights in Iraq.

6. The expenses incurred by the Federal Government in the 6-month period from August 2, 1994, through February 1, 1995, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national, emergency with respect to Iraq are reported to be about $2.25 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near East Affairs, the Bureau of Organization Affairs, and the Office of the Legal Adviser), and the Department of Transportation (particularly the U.S. Coast Guard).

7. The United States imposed economic sanctions on Iraq in response to Iraq's illegal invasion and occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions. Security Council resolutions on Iraq call for the elimination of Iraqi weapons of mass destruction, the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third-country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, the return of Kuwaiti assets stolen during Iraq's illegal occupation of Kuwait, renunciation of terrorism, an end to internal Iraqi repression of its own civilian population, and the facilitation of access of international relief organizations to all those in need in all parts of Iraq. More than 4 years after the invasion, a pattern of defiance persists: a refusal to account for missing Kuwaiti detainees; failure to return Kuwaiti property worth millions of dollars, including weapons used by Iraq in its movement of troops to the Kuwaiti border in October 1994; sponsorship of assassinations in Lebanon and in northern Iraq; incomplete declarations to weapons inspectors; and ongoing widespread human rights violations. As a result, the U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continues to violate basic human rights of its own citizens through systematic repression of minorities and denial of humanitarian assistance. The Government of Iraq has repeatedly said it will not be bound by United Nations Security Council Resolution 688. For more than 3 years, Baghdad has maintained a blockade of food, medicine, and other humanitarian supplies against northern Iraq. The Iraqi military routinely harasses residents of the north, and has attempted to ''Arabize'' the Kurdish, Turcomen, and Assyrian areas in the north. Iraq has not relented in its artillery attacks against civilian population centers in the south, or in its burning and draining operations in the southern marshes, which have forced thousands to flee to neighboring States.

In 1991, the United Nations Security Council adopted Resolutions 706 and 712, which would permit Iraq to sell up to $1.6 billion of oil under U.N. auspices to fund the provision of food, medicine, and other humanitarian supplies to the people of Iraq. The resolutions also provide for the payment of compensation to victims of Iraqi aggression and other U.N. activities with respect to Iraq. The equitable distribution within Iraq of this humanitarian assistance would be supervised and monitored by the United Nations. The Iraqi regime so far has refused to accept these resolutions and has thereby chosen to perpetuate the suffering of its civilian population. More than a year ago, the Iraqi government informed the United Nations that it would not implement Resolutions 706 and 712.

The policies and actions of the Saddam Hussein regime continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. The U.N. resolutions require that the Security Council be assured of Iraq's peaceful intentions in judging its compliance with sanctions. Because of Iraq's failure to comply fully with these resolutions, the United States will continue to apply economic sanctions to deter it from threatening peace and stability in the region.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 8, 1995.*

REPORT ON THE OPERATION OF THE ANDEAN TRADE PREFERENCE ACT—MESSAGE FROM THE PRESIDENT—PM 13

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 Finance.

To the Congress of the United States:

I hereby submit the first report on the Operation of the Andean Trade Preference Act. This report is prepared pursuant to the requirements of section 203 of the Andean Trade Preference Act of 1991.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 8, 1995.*

MESSAGES FROM THE HOUSE

At 11:43 a.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 bill, in which it requests the concurrence of the Senate:

H.R. 665. An act to control crime by mandatory victim restitution.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 665. An act to control crime by mandatory victim restitution; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–391. A communication from the chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notice relative to a lease with the Government of Brazil; to the Committee on Armed Services.

EC–392. A communication from the Deputy Assistant Secretary of Defense (Installations), transmitting, pursuant to law, a report entitled ''The Performance of Department of Defense Commercial Activities''; to the Committee on Armed Services.

EC–393. A communication from the Secretary of Housing and Urban Development's Designee to the Federal Housing Finance Board, transmitting, pursuant to law, the annual report on enforcement for calendar year 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC–394. A communication from Secretary of Transportation, transmitting, pursuant to law, the report of recommendations from the National Transportation Safety Board; to the Committee on Commerce, Science, and Transportation.

EC–395. A communication from the Administrator of the Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report entitled ''Train Dispatchers Follow-up Review''; to the Committee on Commerce, Science, and Transportation.

EC–396. A communication from the Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of the official boundary for the Clarks Fork Wild and Scenic River; to the Committee on Energy and Natural Resources.

EC–397. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–398. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the annual report of activities under the requirements of the Architectural Barriers Act; to the Committee on Environment and Public Works.

EC–399. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report on implementation of the Support for East European Democracy Act for fiscal year 1994; to the Committee on Foreign Relations.

EC–400. A communication from Director of the Office of Personnel Management, transmitting, pursuant to law, the report on locality pay for officers of the Secret Service Uniformed Division; to the Committee on Governmental Affairs.

EC–401. A communication from the Special Assistant to the President for Management and Administration, Director of the Office of Administration, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–402. A communication from the Executive Director of the National Capital Planning Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–403. A communication from the Vice Chairman and Chief Financial Officer of the Potomac Power Company, transmitting, pursuant to law, the report of the uniform system of accounts for calendar year 1994; to the Committee on Governmental Affairs.

EC–404. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–405. A communication from the Secretary of Labor, transmitting, pursuant to law, the report on the administration and enforcement of the Job Training Partnership Act for the period July 1, 1993 through June 30, 1994; to the Committee on Labor and Human Resources.

EC–406. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, the report on the American Red Cross for the period July 1, 1993 through June 30, 1994; to the Committee on Labor and Human Resources.

EC–407. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a report of proposed regulations; to the Committee on Rules and Administration.

EC–408. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a report of recommendations for legislative action; to the Committee on Rules and Administration.

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. HEFLIN:

S. 369. A bill to designate the Federal Courthouse in Decatur, Alabama, as the ''Seybourn H. Lynne Federal Courthouse'', and for other purposes; to the Committee on Environment and Public Works.

S. 370. A bill to provide guidelines for the membership of committees making recommendations on the rules of procedure appointed by the Judicial Conference, and for other purposes; to the Committee on the Judiciary.

S. 371. A bill to make administrative and jurisdictional amendments pertaining to the United States Court of Federal Claims and the judges thereof in order to promote efficiency and fairness, and for other purposes; to the Committee on the Judiciary.

S. 372. A bill to provide for making a temporary judgeship for the northern district of Alabama permanent, and creating a new judgeship for the middle district of Alabama; to the Committee on the Judiciary.

By Mr. BREAUX:

S. 373. A bill to amend the Solid Waste Disposal Act to provide for State management of solid waste, to reduce and regulate the interstate transportation of solid wastes, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KOHL:

S. 374. A bill to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes; to the Committee on the Judiciary.

By Mr. ABRAHAM:

S. 375. A bill to impose a moratorium on sanctions under the Clean Air Act with respect to marginal and moderate ozone nonattainment areas and with respect to enhanced vehicle inspection and maintenance programs, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KENNEDY:

S. 376. A bill to resolve the current labor dispute involving major league baseball, and for other purposes; read the first time.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEFLIN:

S. 369. A bill to designate the Federal Courthouse in Decatur, AL, as the ''Seybourn H. Lynne Federal Courthouse,'' and for other purposes; to the Committee on Environment and Public Works.

SEYBOURN H. LYNNE FEDERAL COURTHOUSE

Mr. HEFLIN. Mr. President, I rise today to introduce legislation designating the Federal courthouse in Decatur, AL, as the ''Seybourn H. Lynne Federal Courthouse.'' Judge Seybourn Harris Lynne was appointed to the Federal bench by President Harry S. Truman in 1946, and he is the most senior judge in the Federal court system. He has dedicated over 53 years of distinguished service to the judicial system, with 46 of those years spent on the U.S. District Court for the Northern District of Alabama.

Judge Lynne is a native of Decatur, AL, and Auburn University—at that time known as the Alabama Polytechnic Institute—where he graduated with highest distinction. He earned his law degree from the University of Alabama in 1930. While in law school, he served as track coach and assistant football coach at the university. Upon graduation from law school, Judge Lynne practiced law in a partnership formed with his father, Mr. Seybourn Arthur Lynne.

In 1934, Seybourn Lynne was elected judge of Morgan County court. He remained in that position until January 1941, when he took over the duties of judge of the Eighth Judicial Circuit of Alabama. In December 1942, he resigned from the bench to voluntarily enter the military. After earning the rank of lieutenant colonel, he was relieved of active duty in November 1945 and

awarded the Bronze Star Medal for gallant service against the enemy.

When an opening occurred on the Federal bench, Alabama Senators Lister Hill and John Bankhead were called up to recommend an appropriate individual to be considered by the White House for judgeship. In January 1946, President Truman appointed Judge Lynne to the U.S. District Court for the Northern District of Alabama. In 1953, he became the chief judge, and in 1973, the senior judge.

As chief judge for the northern district of Alabama, Judge Lynne has been known as an outstanding leader. His knowledge and management skills ensured a solid, working relationship between the Federal bench and the bar. The northern district has not been burdened with a stale and over-ripe docket, and the court's caseload was kept timely and current, thanks to the Judge Lynne's leadership.

In addition to his leadership responsibilities, Judge Lynne worked hard and carried a full caseload. In fact, even in senior status, he continues to work long hours and keeps a complete docket of cases. Over the years, Judge Lynne has been recognized as an outstanding mediator who often was able to reconcile competing interests in order to forge a thoughtful compromise. A number of businesses and individuals in Alabama are growing and thriving today due to his abilities as an arbiter who was able to settle complex and difficult disputes.

The judge has also been a notable community leader, serving in church, civic, and professional activities. He is a lifetime deacon, Bible class teacher, and a trustee of Southside Baptist Church. He has served both the crippled children's clinic of Birmingham and the Eye Foundation Hospital of Birmingham as trustee. In 1967, he served as the president of the University of Alabama's Alumni Association.

Mr. President, it is indeed fitting to honor Judge Lynne for his many years of tireless work on behalf of the State and Federal benches. He shines as a living example of the late President Truman's rich legacy, and designating the Federal courthouse in Decatur, AL in his honor will remain generations to come of his service to our country.

By Mr. HEFLIN:

S. 370. A bill to provide guidelines for the membership of committees making recommendations on the rules of procedure appointed by the Judicial Conference, and for other purposes; to the Committee on the Judiciary.

U.S. JUDICIAL CONFERENCE LEGISLATION

Mr. HEFLIN. Mr. President, sections 2071 through 2077 of title 28 of the United States Code are the cluster of statutory provisions authorizing the Supreme Court to issue the rules under which the various Federal courts function. While there have been many amendments to these sections over the years, the group is commonly referred to as the Rules Enabling Act. The original act, adopted in 1934, did not provide for committees to aid the Supreme Court in exercising this responsibility, but Chief Justice Hughes decided to appoint an advisory committee, whose original membership consisted of 13 members. Former Attorney General William Mitchell chaired the committee, which contained four law professors and eight very distinguished lawyers, including the president of the American Bar Association and the president of the American Law Institute. Between 1935 and the final promulgation of the rules in 1938, there were some changes in the personnel. Four practicing lawyers, two professors, and one district court judge became members of the committee. For the stupendous impact on the legal system of America, no subsequent rules have had the dynamic quality of those original rules.

Over time, Congress has refined the system. The assistance of the committees is now regularized by statute—see 28 U.S.C. section 2073(a)(2)—and this section of the statute provides that the various committees, like the early committee, ''shall consist of members of the bench and the professional bar and trial and appellate judges.'' The members are appointed by the Chief Justice of the United States.

The rulemaking system, as spread over the various branches of the court system with rules of civil, criminal, appeals, evidence, bankruptcy, and so forth, has on the whole worked fairly well. Suffice it to say that today the rules pass from advisory committees to a central standing committee, and from there go to the Judicial Conference of the United States, which does in fact exercise a meaningful supervisory function. For example, last year the conference deleted a rule which had been recommended to it by the committee structure in the civil field. After the conference approves a rule, it then passes to the Supreme Court of the United States, whose members have somewhat differing views as to what function they can be expected actually to perform; there is some sentiment for letting the process stop with the Judicial Conference. Next, the rules pass to Congress, and if it does not disapprove them within 180 days, they become effective.

I turn now to the exact matter at issue. I can most easily do so by quoting from a statement by the American Bar Association, dated March 28, 1994, to the relevant committee of the Judicial Conference:

> In 1935, when work was begun on the Federal rules, the advisory committee that did the drafting was comprised of nine lawyers and four academics; there were no judges involved. In 1960, when the advisory committee was reconstituted, a majority of its members were practicing lawyers. As late as 1981, 40 percent of the advisory committee were practitioners. Today, no more than 4 members of the key panel of 13 civil rules drafters are trial lawyers. While the inclusion of judges in the process has had undoubted benefit, the near-total exclusion of practicing trial lawyers has skewed the process and its product. We are not confident, as a consequence, that the process has produced rules that respond to the concerns of litigants and the lawyers who represent them in court. This trend must be reversed and lawyers restored to a position of real responsibility in the rules drafting process. In order to do this most effectively, and to benefit from the positive and valuable contributions of practicing lawyers to the rules process, the membership on all the advisory committees should be expanded to include more bar representation.

I believe this position is well taken. Clearly a gulf has arisen between the rulemakers and the bar, which must live under those rules. In connection with the civil rules of last year, the Judiciary Subcommittee on Courts and Administrative Practice, which I chair, held hearings on the proposed rules changes, and we were overwhelmed by representatives of the bar strenuously objecting to several of the proposed rule changes. Both the House and Senate relevant committees concluded that the bar protests should be honored and that the rules should be changed; however, tangles in our own procedures prevented the more objectionable proposals from being deleted and all of the proposed changes went into effect on December 1, 1993.

The bill I offer today will restore the composition of these committees which existed from the original rules in 1935 until approximately 1980 and which have been altered only in very recent times.

This bill provides that a majority of all the rules committees shall be drawn from the practicing bar. It by no means diminishes the valuable role of academics and of judges, but it would restore to the bar a voice of responsibility.

At the present time, under our statutes, the rules committees conduct extensive hearings. These become so crowded that individual presentations are necessarily brief, but they are balanced in the sense of giving broad scope to those who may participate. What is presented at those hearings, what is developed by the committee reporters and staff, and what is proposed by the various committee members themselves are all put into a mix which must be finally shaped by the committee itself. In my judgment, those committees are seriously lacking in balance. Their work product goes to the Judicial Conference, by definition composed entirely of judges; and assuming that the Supreme Court stays in the process, then to that body which is of course composed entirely of judges. Somewhere in the process, making rules under which the courts shall function and the bar of the country shall do its business, there should be more room for the effective voice of the bar itself.

My proposal does not limit the broad discretion of the Chief Justice of the United States, who will continue to select the membership of the various

committees subject only to the restriction that a majority should be members of the bar. I comfortably leave it to his good judgment as to how to achieve balanced committees.

I offer this bill, to provide that the majority of the various committees shall be composed of practicing lawyers, in order to restore that balance, and I urge its consideration by my colleagues in the Senate. Mr. President, I request unanimous consent that the text of the bill be included in the RECORD.

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

S. 370

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

SECTION 1. MEMBERSHIP OF COMMITTEES MAKING RECOMMENDATIONS ON RULES OF PROCEDURE.

Section 2073(a)(2) of title 28, United States Code, is amended by striking out the second sentence and inserting in lieu thereof ''Each such committee shall have a majority of members of the practicing bar, and also shall have members of the bench (including trial and appellate judges) and academics.''.

By Mr. HEFLIN:

S. 371. A bill to make administrative and jurisdictional amendments pertaining to the United States Court of Federal Claims and the judges thereof in order to promote efficiency and fairness, and for other purposes; to the Committee on the Judiciary.

FEDERAL CLAIMS ADMINISTRATION ACT

Mr. HEFLIN. Mr. President, I rise today to introduce legislation to amend title 28 of the United States Code to improve the Federal Claims litigation process before the United States Court of Federal Claims and to assist the court in providing complete justice in cases that come before it. This legislation will also insure fair treatment for the regular and senior judges of the court by providing certain benefits equivalent to those available to other Federal trial judges. Enactment of this bill will provide the citizens of the United States with a more fair and complete remedy and the United States with a more effective forum for the resolution of claims against the Government.

The Court of Federal Claims is the Nation's primary forum for monetary claims against the Federal Government. The court has jurisdiction to entertain suits for money against the United States that are founded upon the Constitution, an act of Congress, an Executive order, a regulation of an executive department, or contract with the United States and that do not sound in tort. The court hears major patent cases, Government contract suits, tax refund suits, fifth amendment takings cases and Indian claims, among other types of lawsuits. This national court and its judges hear cases in every State and territory of the United States for the convenience of the litigants, the witnesses and the Government. This benefits our judicial system and Nation by making the promise of fair dealing a reality.

The legislation that I am introducing today will make administrative and jurisdictional changes with the result that the court's resources are preserved and utilized to the maximum extent and the jurisdiction of the court is clarified for the benefit of all. The ultimate result will be a more user-friendly forum which gets to the merits of controversies faster. In a moment, I will comment on all of the various sections of the bill, but first I would like to take this opportunity to comment on the need for the jurisdictional provisions of the bill.

A potential litigant should be able to examine chapter 91 of title 28, United States Code, which commences with the Tucker Act, section 1491, and to determine whether the court has jurisdiction of his claim and what relief is available. Of course, there are miscellaneous other provisions extending jurisdiction to the Court of Federal Claims, for example, 28 U.S.C. section 1346(a)(1), tax refund suits; 42 U.S.C. section 300aa–11, Vaccine-injury compensation cases; and 50 U.S.C. app. section 1989b-4(h), Japanese internment compensation appeals.

Chapter 91 of title 28 should be sufficiently clear so that even lawyers throughout the country who rarely handle claims against the Government could consult the code and find reliable answers. Regrettably, this is not the current situation. Instead, a typical claimant is met with a barrage of assertions that the court lacks jurisdiction to address the claim and/or lacks power to award relief requested even in those cases where jurisdiction is conceded.

The amendments relating to jurisdiction in section 8 of the bill will result in clarity that will make access to the courts less costly by permitting the court to get to the real merits of the cases, rather than waste resources dealing with preliminary and peripheral issues, and these changes will result in real civil justice reform.

The legislation that I am introducing today will repeal 28 U.S.C. 1500, which has heretofore denied Court of Federal Claims jurisdiction over any claim with respect to which the plaintiff has pending a suit in any other court. Although, on its face, section 1500 may appear to prevent wasteful duplication, in practice it has had precisely the opposite effect. Elimination of this jurisdictional bar to suits related to cases in other courts will eliminate much wasteful litigation over nonmerits issues and will leave the court free to deal with potential duplication through the discretionary means of staying arguable duplicative litigation, if the matter is being addressed in another forum, or of proceeding with the case, if the matter appears to be stalled in the other forum.

As currently construed section 1500 does not permit duplication of suits even if the Court of Federal Claims action was filed first and has received concentrated attention over a number of years. This situation can result in a major waste of resources by litigants and the court. Repeal of section 1500 will also allow the plaintiff to protect itself against the running of the statue of limitations by the wrong initial choice in this confusing area.

In this day of electronic communication, computer tracking of cases and centralized docket control by the justice department, the Government will always know if a related claim is pending in two different courts and can request exercise of discretion by one or both courts to prevent duplicative litigation. Repeal of section 1500 would save untold wasted effort litigating over such marginal issues as whether a claim in the district court really is the same as one in the Court of Federal Claims.

Further, in cases which constitute review of administrative agency action, the potential litigant should be able to know with absolute certainty what standard of review will be applied. In the proposed bill, the standard of review in the Administrative Procedure Act of 1946 will be made explicitly applicable. Although one would naturally assume from the face of 5 U.S.C. section 706 that these standards already apply in the Court of Federal Claims, there is some doubt and confusion over precisely which standards apply and the source of such standards. The proposed bill will end this confusion so that potential and actual litigants can know with certainty which standards will apply and where to find them.

No legitimate interests are served by having the parties guess and litigate about the extent of the court's jurisdiction and powers or over the standard of review applicable in agency-review cases. Enactment of this bill will end such waste and keep everyone's focus on the merits of a given case and effective steps toward resolution of controversy. It will instill confidence that in the Court of Federal Claims, and every litigant, including the Government, will receive prompt and efficient justice.

Let me provide a brief summary of my bill:

Section 1 states that this act shall be cited as the ''Court of Federal Claims Administration Act.''

Section 2 will provide that in the event a judge is not reappointed, the judge will nonetheless remain in regular active status until his or her successor is appointed and takes office, thus insuring that the court will always have a full compliment of regular active judges.

Section 3 will provide that judges of the Court of Federal Claims shall have authority to serve on the territorial courts when, and only when, their services are needed and are requested by or on behalf of such courts.

Section 4 will simply clarify what is already assumed by all concerning the official duty station of retired judges on senior status. It will provide that the place where a retired judge of the Court of Federal Claims maintains his or her actual residence shall be deemed to be his or her official duty station. This is consistent with the current provision applicable to other Federal trial courts.

Section 5 will provide for Court of Federal Claims membership on the Judicial Conference of the United States. Currently, there is no Court of Federal Claims representation on the judicial conference, even though the court is within the jurisdiction of the conference and derives its funding and administrative support from the administrative office of the U.S. courts which in turn operates under the supervision and direction of the judicial conference.

Section 6 will provide that the chief judge of the Court of Federal Claims may call periodic judicial conferences, which will include active participation of the bar, to consider the business of the court and improvements in the administration of justice in the court. This will make explicit the authority which has traditionally been assumed and exercised by the court in conducting its business.

Section 7 will amend section 797 of title 28 to provide that the chief judge of the Court of Federal Claims is authorized to recall a formerly disabled judge who retires under the disability provisions of court's judicial retirement system if there is adequate demonstration of recovery from disability. This provision will match one currently applicable to formerly disabled judges of other Federal courts and will ensure maximum use of all available resources to deal with the court's caseload.

Section 8 makes several modifications to statutory provisions pertaining to Court of Federal Claims jurisdiction in order to save recurring litigation regarding where claims should be filed, to define what judicial powers the court may exercise, and to specify what standards of review will apply in certain cases. Together, these changes will save untold resources of litigants and the court, and will make the court a more efficient forum for lawyers and parties to litigate their monetary claims against the Government.

In addition, this section would extend to the court ancillary jurisdiction under the Federal Tort Claims Act when such a claim is directly related to one otherwise plainly within the subject-matter jurisdiction of the court. This will avoid wasteful and duplicative litigation by authorizing the Federal Claims Court to address and dispose of the entire controversy in cases within its jurisdiction when a related claim, although sounding in tort, may fairly be deemed to arise from the same operative facts as the primary claim within the court's jurisdiction.

Section 9 will ensure that Court of Federal Claims judges over age 65 who are on senior status will receive the same treatment as other Federal trial judges on senior status insofar as Social Security taxes and payments are concerned.

Section 10 amends title 28 to clarify that the judges of the Court of Federal Claims are judicial officers eligible for coverage under annuity, insurance, and other programs available under title 5 of the United States Code and will extend to those judges the opportunity to continue Federal life insurance coverage after retirement in the same manner as all other Federal trial judges in the judicial branch.

In summary, this bill will make the Court of Federal Claims more efficient and productive, resulting in benefits to the litigating public, the Government and the country as a whole. The United States Court of Federal Claims is an important part of the Federal court system. The creation of this court by the Congress responds to a very basic democratic imperative—fair dealing by the Government in disputes between the Government and the private citizen. As Abraham Lincoln noted: ''It is as much the duty of the Government to render prompt justice against itself, in favor of citizens, as it is to administer the same, between private individuals.'' These amendments will allow it to better comply with its mandate and assist it in providing improved service to litigants and to the entire country.

I urge my colleagues to support this legislation.

Mr. President, I request unanimous consent that the text of the bill be included in the RECORD.

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

S. 371

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 ''Court of Federal Claims Administration Act of 1995''.

SEC. 2. EXTENDED SERVICE.

Section 172(a) of title 28, United States Code, is amended by adding at the end thereof the following new sentence: ''If a judge is not reappointed, such judge may continue in office until a successor is appointed and takes office.''.

SEC. 3. SERVICE ON TERRITORIAL COURTS.

Section 174 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

''(c) Upon request by or on behalf of a territorial court and with the concurrence of the chief judge of the Court of Federal Claims and the chief judge of the judicial circuit involved based upon a finding of need, judges of the Court of Federal Claims shall have authority to conduct proceedings in the district courts of territories to the same extent as duly appointed judges of those courts.''.

SEC. 4. RESIDENCE OF RETIRED JUDGES.

Section 175 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

''(c) Retired judges of the Court of Federal Claims are not subject to restrictions as to residence. The place where a retired judge maintains the actual abode in which such judge customarily lives shall be deemed to be the judge's official duty station for the purposes of section 456 of this title.''.

SEC. 5. JUDICIAL CONFERENCE PARTICIPATION.

Section 331 of title 28, United States Code, is amended—

(1) by inserting in the first sentence of the first undesignated paragraph ''the chief judge of the United States Court of Federal Claims,'' after ''Court of International Trade,'';

(2) by inserting in the first sentence of the third undesignated paragraph ''the chief judge of the United States Court of Federal Claims,'' after ''the chief judge of the Court of International Trade,''; and

(3) by inserting in the first sentence of the third undesignated paragraph ''or United States Court of Federal Claims,'' after ''any other judge of the Court of International Trade,''.

SEC. 6. COURT OF FEDERAL CLAIMS JUDICIAL CONFERENCE.

(a) IN GENERAL.—Chapter 15 of title 28, United States Code, is amended by adding at the end thereof the following new section:

''§ 336. Judicial Conference of the Court of Federal Claims

''(a) The chief judge of the Court of Federal Claims is authorized to summon annually the judges of such court to a judicial conference, at a time and place that such chief judge designates, for the purpose of considering the business of such court and improvements in the administration of justice in such court.

''(b) The Court of Federal Claims shall provide by its rules or by general order for representation and active participation at such conference by members of the bar.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections of chapter 15 is amended by adding the following new item:

''336. Judicial Conference of the Court of Federal Claims.''.

SEC. 7. RECALL OF JUDGES ON DISABILITY STATUS.

Section 797(a) of title 28, United States Code, is amended—

(1) by inserting ''(1)'' after ''(a)''; and

(2) by adding at the end thereof the following new paragraph:

''(2) Any judge of the Court of Federal Claims receiving an annuity pursuant to section 178(c) of this title (relating to disability) who, in the estimation of the chief judge, has recovered sufficiently to render judicial service, shall be known and designated as a senior judge and may perform duties as a judge when recalled pursuant to subsection (b) of this section.''.

SEC. 8. JURISDICTION.

(a) CLAIMS AGAINST THE UNITED STATES GENERALLY.—Section 1491(a) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting ''for monetary relief'' after ''any claim against the United States''; and

(B) by striking out ''or for liquidated or unliquidated damages'';

(2) in paragraph (2)—

(A) by inserting ''(A) In any case within its jurisdiction, the Court of Federal Claims shall have the power to grant injunctive and declaratory relief when appropriate.'' after ''(2)'';

(B) by striking out the last sentence; and

(C) by adding at the end thereof the following new subparagraph:

''(B) The Court of Federal Claims shall have jurisdiction to render judgment upon any claim by or against, or dispute with, a contractor arising under section 10(a)(1) of

the Contract Disputes Act of 1978 (41 U.S.C. 609(a)(1)), including a dispute concerning termination of a contract, rights in tangible or intangible property, compliance with cost accounting standards, and other nonmonetary disputes on which a decision of the contracting officer has been issued under section 6 of that Act (41 U.S.C. 605).''; and

(3) by adding at the end thereof the following new paragraphs:

''(4) In cases otherwise within its jurisdiction, the Court of Federal Claims shall also have ancillary jurisdiction, concurrent with the courts designated in section 1346(b) of this title, to render judgment upon any related tort claim authorized by section 2674 of this title.

''(5) In cases within the jurisdiction of the Court of Federal Claims which constitute judicial review of agency action, the provisions of section 706 of title 5 shall apply.''.

(b) PENDING CLAIMS.—(1) Section 1500 of title 28, United States Code, is repealed.

(2) The table of sections for chapter 91 of title 28, United States Code, is amended by striking out the item relating to section 1500.

SEC. 9. SENIOR STATUS PROVISION.

Section 178 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

''(m) For the purposes of applying section 3121(i)(5) of the Internal Revenue Code of 1986 and section 209(h) of the Social Security Act (42 U.S.C. 409(h)), the annuity of a Court of Federal Claims judge on senior status after age 65 shall be deemed to be an amount paid under section 371(b) of this title for performing services under the provisions of section 294 of this title.''.

SEC. 10. MISCELLANEOUS PROVISION.

(a) IN GENERAL.—Chapter 7 of title 28, United States Code, is amended by adding after section 178 the following new section:

''§ 179. Court of Federal Claims judges as officers of the United States

''(a) For the purpose of applying the provisions of title 5, a judge of the United States Court of Federal Claims shall be deemed to be an ''officer'' as defined under section 2104(a) of title 5.

''(b) For the purpose of applying chapter 87 of title 5, a judge of the United States Court of Federal Claims who is retired under section 178 of this title shall be deemed to be a judge of the United States as defined under section 8701(a)(5)(ii) of title 5.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 7 of title 28, United States Code, is amended by adding at the end thereof the following new item:

''179. Court of Federal Claims judges as officers of the United States.''.

SEC. 11. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

By Mr. HEFLIN:

S. 372. A bill to provide for making a temporary judgeship for the northern district of Alabama permanent, and creating a new judgeship for the middle district of Alabama; to the Committee on the Judiciary.

JUDGESHIPS FOR U.S. DISTRICT COURTS LEGISLATION

Mr. HEFLIN. Mr. President, I rise today to offer a bill to provide for making a temporary judgeship for the northern district of Alabama permanent, and creating a new judgeship for the middle district of Alabama. The need for these judgeships has arisen pursuant to an increase in cases filed in both of these districts, as well as the filings as projected in the future. Further, the need is intensified by the judges, who are currently in a senior status in these districts, reducing their caseloads as they move toward full retirement.

Currently the 2 districts are served by 10 permanent district judges; 7 in the northern district and 3 in the middle district. The bill I am introducing would make permanent a temporary judgeship, authorized in 1990, in the northern district. This conversion from a temporary judgeship to a permanent position was approved by the Judicial Conference in September 1994. The addition of one more permanent position to the middle district of Alabama's district court is warranted, among other factors, due to the increased case filings which have been experienced in that district over the past several years.

In the past few years the increasing case filings and caseloads of all of the district court judges has been managed well by the courts using their available judicial resources. As the senior judges take on less cases, the remaining judges find themselves in situations in which they find it more and more difficult to manage their growing dockets in a timely manner. This not only affects the day-to-day operations of the court, but it also will inevitably affect litigants, by lengthening the time for disposition of a case, from what is now one of the fastest disposition periods in the Nation to a significantly slower pace.

I would like to identify several factors which are similar in both districts and will result in loss of judicial expediency unless addressed. First, the reduced role of senior judges has increased the actual volume of cases which each district judge must handle; each district judge will have less time available to spend on each assigned case. Second, the increasing number of case filings will further reduce the capacity of the judges to devote time and attention to each case. And finally, both districts forecast an increase in the total number of criminal felony cases as well as the number of multidefendant criminal felony cases. To maintain the outstanding case management that litigants have come to expect in these courts, and rightly deserve in the all Federal courts, the factors stated above can be dealt with by making permanent the position in the northern district and by creating one new position for the middle district.

Although these two districts have many concerns which are similar, they also are facing problems unique to each respective court. In the northern district of Alabama, we are asking that the temporary judgeship, authorized in 1990, be made permanent. This district had the highest pending cases per judge, according to the latest official data. Furthermore, it had the highest civil filings in the Nation for the 12-month period ending in September 1993. This high number of case filings along with the previous caseloads, actually support a request for a ninth judgeship, but we believe that the conversion of the temporary judgeship to the eight permanent judgeships will enable the district to competently handle its caseload.

The middle district faces substantial problems in caseloads per judge. For the year ending June 30, 1994, the weighted case filing per judge had increased to 556, representing a 12.5-percent increase over a 5-year period. Weighted case filings of 556 cases per judge places that court second within the eleventh circuit and ninth in the Nation. During the statistical year ending June 30, 1994, the judges of the middle district averaged 650 case terminations per judge, which places that court first in the circuit and first in the Nation. With only three full-time judges and the near full retirement of the two senior judges the middle district may soon face dire consequences.

The judges in both the middle and northern districts of Alabama have proven, that even with what some court would consider impossible caseloads, they have had the ability to dispose of cases in periods equal or better than the national average. To allow these district courts to continue their work and avoid substantial impairment in their ability to deliver justice we need to be assured that they have the necessary judicial resources. My bill, which provides for a fourth judgeship in the middle district and conversion of the northern district's temporary judgeship to a permanent position, supplies these resources.

By Mr. BREAUX:

S. 373. A bill to amend the Solid Waste Disposal Act to provide for State management of solid waste, to reduce and regulate the interstate transportation of solid wastes, and for other purposes; to the Committee on Environment and Public Works.

THE STATE REGULATION AND MANAGEMENT OF SOLID WASTE ACT OF 1995

• Mr. BREAUX. Mr. President, I am today introducing—for the fourth Congress in a row—legislation that would grant States the authority to regulate the flow of solid waste across their borders and meet the environmental objectives of increased recycling and waste reduction.

In 1978, the U.S. Supreme Court ruled that the shipment of garbage across State lines for the purposes of disposal is a form of commerce and thus entitled to protection under the commerce clause of the Constitution. Due to the fact that States cannot control shipments of imported garbage, the States have no ability to plan for the disposal of solid waste generated within their own borders or to preserve landfill capacity for their own future needs. The only way for States to regulate the flow of garbage is for Congress to explicitly grant them that authority.

That is what the legislation I am introducing today would do.

For years now, the United States overall landfill capacity has been shrinking. From 1988 to 1991 the number of operating landfills dropped from 8,000 to 5,812, a 27-percent decrease. At the same time, the amount of solid waste that is shipped across State borders for disposal has grown. The more heavily populated regions of the country produce more solid waste and have less capacity for additional landfill sties. These States have been shipping solid wastes out of their own jurisdictions and into landfills in States, like my State of Louisiana, which, for the moment, have some capacity to receive it. However, this capacity will continue to disappear so long as States have no ability to control the amount of waste that comes into their territory for disposal.

My State of Louisiana has had some experiences of its own related to the interstate shipment of municipal wastes. The most infamous incident was that of the so-called poo poo choo choo that brought 63 carloads of municipal waste—in this case stinking sewage sludge—from Baltimore to railroad sidings near Shriever, Labadieville, and Donaldsonville, LA in 1989. These 63 open cars full of rehydrated sludge were to be disposed of in a landfill. Instead, they sat on sidings near these towns for weeks. Finally, the private landfill operator in question found an alternative disposal site and the train cars headed out of town.

The legislation I am introducing today would provide States with the authority they need to regulate incoming shipments of garbage in return for a commitment by the States to plan for the disposal of their own wastes and a commitment to increased recycling and waste reduction efforts. Each State would be required to develop a solid waste management plan that would include a 20-year projection of how solid wastes generated within their own borders would be managed. The plan must demonstrate that solid waste will be managed in accordance with the following priorities; First, States must take steps to reduce the amount of waste generated within their own borders; second, States must encourage recycling, energy and resource recovery. Only as a third and final option should States consider landfills, incinerators and other options of disposal.

Each State will be required to demonstrate that is complies with this waste management hierarchy and has issued all appropriate permits for capacity sufficient to manage their own solid wastes for a rolling period of 5 years.

The Federal Government, working with the States, will be required to provide technical and financial assistance to local communities to meet the requirements of the plan. Any out-of-State wastes must be managed in accordance with State plans and may not impede the ability of States to manage their own solid waste.

Only after a State has an approved plan in place, will it be granted the authority to refuse to accept waste from out-of-State sources and to charge higher disposal fees for a load of garbage based on its State of origin. Half of the proceeds from high out-of-State fees will go the locality where the garbage is being disposed of and may only be used for solid waste management activities.

Mr. President, a number of similar bills have been introduced on this same subject over the last several years. Most of these measures did not adequately address all of the issues surrounding the disposal of solid waste and shipments across State borders. I strongly believe that a planning process and the priorization of waste reduction, recycling and disposal options on a State-by-State basis should be a part of the solution to the ongoing controversy over interstate garbage shipments.

I hope that we will be able to finally dispose of this issue this year. I encourage my colleagues to address it in the comprehensive manner outlined in this legislation. I ask unanimous consent that a copy of the bill appear in the RECORD.

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

S. 373

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 ''State Regulation and Management of Solid Waste Act of 1995''.

TITLE I—GENERAL AMENDMENTS

SEC. 101. FINDINGS.

(a) SOLID WASTE.—Section 1002(a)(4) of the Solid Waste Disposal Act (42 U.S.C. 6901(a)) is amended to read as follows:

''(4) that while the collection and disposal of solid waste should continue to be primarily the function of State, regional, and local agencies, the problems of waste disposal described in this subsection have become a matter national in scope and in concern and necessitate Federal action by—

''(A) requiring that each State develop a program for the management and disposal of solid waste generated within each State by the year 2015;

''(B) authorizing each State to restrict the importation of solid waste from a State of origin for purposes of solid waste management other than transportation; and

''(C) providing financial and technical assistance and leadership in the development, demonstration, and application of new and improved methods and processes to reduce the quantity of waste and unsalvageable materials and to provide for proper and economical solid waste disposal practices.''.

(b) ENVIRONMENT AND HEALTH.—Section 1002(b) of the Solid Waste Disposal Act (42 U.S.C. 6901(b)) is amended—

(1) by striking ''and'' at the end of paragraph (7);

(2) by striking paragraph (8) and inserting the following:

''(8) alternatives to existing methods of land disposal must be developed, because it is estimated that 80 percent of all permitted landfills will close by the year 2015; and'';

and

(3) by adding at the end the following new paragraph:

''(9) the transportation of solid waste long distances across country for purposes of solid waste management and, in some cases, in the same vehicles that carry consumer goods is harmful to the public health and measures should be adopted to ensure public health is protected when the goods are transported in the same vehicles as solid waste is transported.''.

SEC. 102. OBJECTIVES AND NATIONAL POLICY.

(a) OBJECTIVES.—Section 1003(a) of the Solid Waste Disposal Act (42 U.S.C. 6902(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) ensuring that each State has a program to manage solid waste generated within its borders and providing technical and financial assistance to State and local governments and interstate agencies for the development of solid waste management plans (including recycling, resource recovery, and resource conservation systems) that will promote improved solid waste management techniques (including more effective organization arrangements), new and improved methods of collection, separation, and recovery of solid waste, and the environmentally safe disposal of nonrecoverable residues;'';

(2) by striking ''and'' at the end of paragraph (10);

(3) by striking the period at the end of paragraph (11) and inserting a semicolon; and

(4) by adding at the end the following new paragraphs:

''(12) promoting the use of regional and interstate agreements for economically efficient and environmentally sound solid waste management practices, and for construction and operation of solid waste recycling and resource recovery facilities; and

''(13) promoting recycling and resource recovery of solid waste through the development of markets for recycled products and recovered resources.''.

SEC. 103. DEFINITIONS.

Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) is amended—

(1) by striking paragraph (12) and inserting the following:

''(12) The term 'manifest' means the form used for identifying the quantity, composition, and the origin, routing, and destination of solid and hazardous waste during its transportation from the point of generation to the point of disposal, treatment, storage, recycling, and resource recovery.'';

(2) in paragraph (28), by inserting ''recycling, resource recovery,'' before ''treatment,'';

(3) in paragraph (29)(C), by inserting ''recycling,'' before ''treatment'';

(4) in paragraph (32)—

(A) by striking ''means any'' and inserting ''means—

''(A) any'';

(B) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(B) refuse (or refuse-derived fuel) collected from the general public more than 30 percent of which consists of paper, wood, yard wastes, food waste, plastics, leather, rubber, and other combustible materials and noncombustible materials such as glass and metal including household wastes, sludge and waste from institutional, commercial, and industrial sources, but does not include industrial process waste, medical waste, hazardous waste, or 'hazardous substance', as those terms are defined in section 1004 or in section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901).''; and

(5) by adding at the end the following new paragraphs:

''(42) The term 'recycling' means any use, reuse or reclamation of a solid waste.

''(43) The term 'State of final destination' means a State that authorizes a person to transport solid waste from a State of origin into the State for purposes of solid waste management other than transportation.

''(44) The term 'State of origin' means a State that authorizes a person to transport solid waste generated within its borders to a State of final destination for purposes of solid waste management other than transportation.''.

TITLE II—STATE SOLID WASTE MANAGEMENT PLANS

SEC. 201. OBJECTIVES OF SUBTITLE D.

Section 4001 of the Solid Waste Disposal Act (42 U.S.C. 6941) is amended to read as follows:

''SEC. 4001. OBJECTIVES OF SUBTITLE.

''(a) IN GENERAL.—The objectives of this subtitle are to reduce to the maximum extent practicable the quantity of solid waste generated and disposed of prior to the year 2015 by requiring each State to develop a program that—

''(1) meets the objectives set out in section 102;

''(2) reduces the quantity of solid waste generated in the State and encourages resource conservation; and

''(3) facilitates the recycling of solid waste and the utilization of valuable resources, including energy and materials that are recoverable from solid waste.

''(b) MEANS.—The objectives stated in subsection (a) are to be accomplished through—

''(1) Federal guidelines and technical and financial assistance to States;

''(2) encouragement of cooperation among Federal, State, and local governments and private individuals and industry;

''(3) encouragement of States to enter into interstate or regional agreements to facilitate environmentally sound and efficient solid waste management; and

''(4) approval and oversight of the implementation of solid waste management plans.''.

SEC. 202. STATE SOLID WASTE MANAGEMENT PLANS.

(a) MINIMUM REQUIREMENTS.—Section 4003 of the Solid Waste Disposal Act (42 U.S.C. 6943) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''each State plan must comply with the following minimum requirements—'' and inserting ''each State Solid Waste Management Plan must comply with the following minimum requirements:'';

(B) by striking paragraphs (5) and (6) and inserting the following:

''(5) The plan shall identify the quantities, types, sources, and characteristics of solid wastes that are reasonably expected to be generated within the State or transported to the State from a State of origin during each of the 20 years following the year 1995 and that are reasonably expected to be managed within the State during each of those years.

''(6) The plan shall provide that the State acting directly, through authorized persons, or through interstate or regional agreements, will ensure the availability of solid waste management capacity to manage the solid waste described in paragraph (5) in a manner that is environmentally sound and that meets the objectives of this subtitle.''; and

(C) by adding at the end the following new paragraphs:

''(7) When identifying the quantity of solid waste management capacity necessary to manage the solid waste described in paragraph (5), the State shall take into account solid waste management agreements in effect upon the date of enactment of this paragraph that exist between a person operating within the State and any person in a State or States contiguous with the State.

''(8) The plan shall provide for the identification and annual certification to the Administrator concerning—

''(A) how the State has met the objectives of this subtitle;

''(B) whether the State has issued permits consistent with all the requirements of this Act for capacity sufficient to manage the solid waste described in paragraph (5) for an ensuing 5-year period; and

''(C) identification and approval by the State of the sites for capacity described in paragraph (5) for an ensuing 8-year period.

''(9) The plan shall provide that all solid waste management facilities located in the State meet all applicable Federal and State laws and for the enactment of such State and local laws as may be necessary to fulfill the purposes of this Act.

''(10)(A) The plan shall provide for a program that requires all solid waste management facilities located or operating in the State to register with the State and that only registered facilities may manage solid waste described in paragraph (5).

''(B) Registration of facilities for the purpose of subparagraph (A) shall at a minimum include—

''(i) the name and address of the owner and operator of the facility;

''(ii) the address of the solid waste management facility;

''(iii) the type of solid waste management used at the facility; and

''(iv) the quantities, types, and sources of waste to be managed by the facility.

''(11) The plan shall provide for technical and financial assistance to local communities to meet the requirement of the plan.

''(12) The plan shall—

''(A) specify the conditions under which the State will authorize a person to accept solid waste from a State of origin for purposes of solid waste management other than transportation; and

''(B) ensure that the waste is managed in accordance with the plan and that acceptance of the waste will not impede the ability of the State of final destination to manage solid waste generated within its borders.''; and

(2) by adding at the end the following new subsection:

''(e) PROHIBITION.—Upon the expiration of 180 days after the date of approval of a State's Solid Waste Management Plan required by this section or on the date on which a State plan becomes effective pursuant to section 4007(d), it shall be unlawful for a person to manage solid waste within that State, to transport solid waste generated in that State to a State of final destination, and to accept solid waste from a State of origin for purposes of solid waste management other than transportation unless the activities are authorized and conducted pursuant to the approved plan.''.

(b) PROCEDURE.—Section 4006 of the Solid Waste Disposal Act (42 U.S.C. 6946) is amended by adding at the end the following new subsection:

''(d) SUBMISSION OF PLANS.—Not later than 4 years after the date of enactment of this subsection, each State shall, after consultation with the public, other interested parties, and local governments, submit to the Administrator for approval a plan that complies with the requirements of section 4003(a).''.

(c) APPROVAL.—Section 4007 of the Solid Waste Disposal Act (42 U.S.C. 6947) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

''(1) it meets the requirements of section 4003(a);''.

(B) by striking the period at the end of paragraph (2) and inserting ''; and'';

(C) by inserting after paragraph (2) the following new paragraph:

''(3) it furthers the objectives of section 4001.''; and

(D) by striking the third sentence and inserting the following: ''Upon receipt of each State's certification required by section 4003(a)(8), the Administrator shall determine whether the approved plan is in compliance with section 4003, and if the Administrator determines that revision or corrections are necessary to bring the plan into compliance with the minimum requirements promulgated under section 4003 (including new or revised requirements), the Administrator shall, after notice and opportunity for public hearing, withhold approval of the plan.''; and

(2) by adding at the end the following new subsection:

''(d) FAILURE OF THE ADMINISTRATOR TO ACT ON A STATE PLAN.—If the Administrator fails to approve or disapprove a plan within 18 months after a State plan has been submitted for approval, the State plan as submitted shall go into effect at the expiration of 18 months after the plan was submitted, subject to review by the Administrator and revision in accordance with section 4007(a).''.

TITLE III—INTERSTATE TRANSPORT OF WASTE

SEC. 301. AUTHORITY OF STATES TO CONTROL INTERSTATE SHIPMENT OF SOLID WASTE.

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new sections:

''SEC. 4011. AUTHORITY TO RESTRICT INTERSTATE TRANSPORT OF SOLID WASTE.

(a) IN GENERAL.—Upon the expiration of 180 days after the date on which the Administrator approves a Solid Waste Management Plan required by section 4003 or after the date a State plan becomes effective in accordance with section 4007(d), a State with an approved or effective State plan may prohibit or restrict a person from importing solid waste from a State of origin for purposes of solid waste management (other than transportation).

''(b) LIMITATION.—A State may authorize a person to import solid waste from a State of origin for purposes of solid waste management (other than transportation) only in accordance with section 4003(a)(12).

''SEC. 4012. FEES.

''(a) IN GENERAL.—A State may levy fees on solid waste that differentiate rates or other aspects of payment on the basis of solid waste origin.

''(b) ALLOCATION.—At least 50 percent of the revenues received from the fees collected shall be allocated by the State to the local government of the jurisdictions in which the solid waste will be managed. The fees shall be used by local governments for the purpose of carrying out an approved plan.''.

TITLE IV—FINANCIAL ASSISTANCE

SEC. 401. FEDERAL ASSISTANCE.

Section 4008(a) of the Solid Waste Disposal Act (42 U.S.C. 6948) is amended—

(1) in paragraph (1), by striking ''appropriated'' and all that follows through ''1988'' and inserting ''appropriated $100,000,000 for each of fiscal years 1996, 1997, and 1998''; and

(2) by adding at the end of paragraph (2) the following new subparagraph:

''(E) There are authorized to be appropriated $25,000,000 for each of fiscal years 1996

through 1998 for the purposes of providing grants to States for the encouragement of recycling, resource recovery, and resource conservation activities. The activities shall include licensing and construction of recycling, resource recovery, and resource conservation facilities within the State and the development of markets for recycled products.''.

SEC. 402. RURAL COMMUNITIES ASSISTANCE.

Section 4009(d) of the Solid Waste Disposal Act (42 U.S.C. 6949) is amended—

(1) in subsection (a), by striking ''section 4005'' and inserting ''sections 4004 and 4005''; and

(2) by striking subsection (d) and inserting the following:

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1996, 1997, and 1998.''.●

By Mr. KOHL:

S. 374. A bill to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes; to the Committee on the Judiciary.

THE COURT SECRECY ACT OF 1995

Mr. KOHL. Mr. President, I rise to introduce legislation that I first presented in the last Congress, legislation that addresses the troubling use of secrecy in our courts, which we have been studying in the Judiciary Committee since 1990.

Far too often, the court system allows vital information that is discovered in litigation, and which directly bears on public health and safety, to be covered up: to be shielded from mothers, fathers, and children whose lives are potentially at stake, and from the public officials we have appointed to protect our health and safety.

This happens because of the use of so-called protective orders—really gag orders issued by courts—that are designed to keep information discovered in the course of litigation secret and undisclosed.

Mr. President, these secrecy arrangements are far from benign. Last year, the manufacturers of silicon breast implants agreed to a record $4 billion settlement of product liability claims. Most Americans do not know that studies indicating the hazards of breast implants were uncovered as early as 1984 in litigation. But the sad truth is that because of a protective order that was issued when that case was settled, in the mid 1980's this critical knowledge remained buried, hidden from public view, and from the FDA.

Ultimately, it wasn't until 1992—more than 7 years and literally tens of thousands of victims later—that the real story about silicon implants came out. How can anyone tell the countless thousands of breast implant victims that court secrecy isn't a real problem that demands our attention?

And there are other unfortunate examples of court secrecy. For over a decade, Miracle Recreation, A U.S. playground equipment company, marketed a merry-go-round that caused serious injuries to scores of small children, including severed fingers and feet.

Lawsuits brought against the manufacturer were confidentially settled, preventing the public and the Consumer Products Safety Commission from learning about the hazard. It took more than a decade for regulators to discover the defeat, and for the company to recall the merry-go-round.

There are yet more cases which we have detailed in past hearings. But perhaps the more troubling question is, What other secrets, currently held under lock and key, could be saving lives if they were made public?

Having said all this, we must in fairness recognize that there is another side to this problem. Privacy is a cherished possession, and business information is an important commodity. For this reason, the courts must, in some cases, keep trade secrets and other business information confidential.

But, in my opinion, today's balance of these interests is entirely inadequate. Our legislation will ensure that courts do not carelessly and automatically sanction secrecy when the health and safety of the American public is at stake. At the same time, the bill will allow defendants to obtain secrecy orders when the need for privacy is significant and substantial.

The thrust of our legislation is straightforward. In cases affecting public health and safety, courts would be required to apply a balancing test: They could permit secrecy only if the need for privacy outweighs the public need to know about potential health or safety hazards.

Moreover, courts could not, under the measure, issue protective orders that would prevent disclosures to regulatory agencies. In this way, our bill will bring crucial information out of the darkness and into the light.

I should note that we have made progress in this issue in the past year. A majority of members of the Judiciary Committee voted last year for a court secrecy proposal that was essentially identical to the bill we introduce today. And even the Federal judiciary has attempted to tackle the problem, through the proposal they are now advancing is, in my view, an incomplete solution.

To attack the problem of excessive court secrecy is not to attack the business community. Most of the time, businesses seek protective orders for legitimate reasons. And although some critics may dispute that businesses care about public health and safety, as a former businessman, I know that they do.

In closing, Mr. President, let me note that we in the country take pride in our judicial system for many good reasons. Our courts are among the finest, and the fairest in the world. But the time has come for us to ask: Fair to whom?

Yes, the courts must be fair to defendants, and that is why I support product liability reform. But because the courts as public institutions, and because justice is a public good, our court system must also do its part to help protect the public when appropriate, and not just individual plaintiffs and defendants.

The bill we introduce today helps achieve this important goal; it helps ensure that the public and regulators will learn about hazardous and defective products.

So I look forward to the support of my colleagues—on both sides of the aisle—who believe, as I do, that when health and safety are at stake, there must be reasonable limit to the use of secrecy in our courts.

By Mr. ABRAHAM:

S. 375. A bill to impose a moratorium on sanctions under the Clean Air Act with respect to marginal and moderate ozone nonattainment areas and with respect to enhanced vehicle inspection and maintenance programs, and for other purposes; to the Committee on Environment and Public Works.

CLEAN AIR ACT SANCTIONS MORATORIUM LEGISLATION

Mr. ABRAHAM. Mr. President, today I am introducing a bill that provides a much needed respite for the States from the onerous and inappropriate sanctions of the Clean Air Act. In its bureaucratic fervor to implement regulations and administrative procedures, the EPA has shown a near complete disregard of the States' interests or the actual facts of the situation at hand. This bill prohibits the implementation of these draconian sanctions and will give us time to analyze more fully the Clean Air Act and the method of its implementation.

The Clean Air Act is a well-intentioned attempt to resolve the competing interests of ecological preservation and economic growth. But as is usually the case with complex and patronizing Federal attempts to solve local problems from Washington, it misses the mark. Throughout this country communities are revolting against the EPA's enforcement of the Clean Air Act and their edicts that States and localities must implement a series of centralized automobile tailpipe testing procedures. Unfortunately, the EPA has allowed its enforcement bureaucrats concentrate solely on the means of this act rather than the ends.

A particularly egregious example of this lock of regulatory good sense occurred in my State of Michigan. Three western Michigan counties were previously found by EPA to exceed the national ambient air quality standards for ozone, which is a product of chemical reactions between volatile organic compounds such as petroleum vapors, and oxygenated nitrogen, with summer sun and heat acting as the catalyst. Now I am heartened by EPA Administrator Browner's decision last night to redesignate these counties as in attainment. But I believe it was only the threat of legislative action like this

that forced the EPA to revisit its strategy of enforcement.

Because of these ozone levels, the EPA previously directed Michigan to implement by July 1995 an ozone reduction plan that would reduce by at least 15 percent the ozone producing volatile organic compound emissions. As part of this reduction plan, the EPA determined that only centralized automobile tailpipe exhaust inspection and maintenance procedures—otherwise known as IM240 tests, because the test takes 240 seconds to administer—are 100 percent effective in reducing emissions. These tests require the local citizens to travel as far as 50 miles to testing facilities, then to another facility to repair the exhaust system determined by this test to be defective, and then back to the first testing facility for another test, possibly to start the whole process again.

The EPA unilaterally decided that any State's testing procedure that allows for testing and repair at the same facility is only 50 percent as effective as test-only facility procedures. Their decision was based upon the idea that test-and-repair facilities are rife with corruption and therefore pass automobiles which have defective exhaust systems. But the evidence shows otherwise. In Georgia, where both test-and-repair and test-only facilities operate, the two procedures were shown to have nearly identical rates of properly identifying vehicles with faulty exhaust systems, tampered exhaust systems, and that the test-and-repair facilities effectively discovered tampered vehicles. Furthermore, the General Accounting Office reported in 1992 that 25 percent of the vehicles tested by EPA using the IM240 procedures failed an initial emissions test but passed a second, even though no repairs were made to the vehicles. This phenomenon of flipper vehicles, where the same vehicle can have radically differing emission levels at different times, contributes as much as 20 percent of overall tailpipe emissions. As Douglas Lawson of the Desert Research Institute has determined through exhaustive analysis of I&M procedures, ''As long as there are vehicles with emissions variability on the road, an I/M program that relies upon scheduled testing is likely not be very effective.'' Which brings me to the critical point of analysis which EPA consistently missed: how much do test-only facility procedures actually reduce emissions over test-and-repair facility procedures?

The answer is ''not much.'' In fact, Mr. Lawson's previous comment is consistently supported by the evidence at hand, including a very comprehensive policy analysis by the Rand Corp. It states:

> Existing national data, limited as it is, suggest little difference in measures of effectiveness between centralized and decentralized I/M programs. There is no empirical basis to choose between different program types. And, no single component, be it centralized IM240 or remote sensing technology is likely to be the ''silver bullet'' that lowers emission levels for a significant faction of gross polluting vehicles.

It goes on to point out: ''The centralized/decentralized debate is less significant than a serious effort to rethink the entire Smog Check system and more generally, all programs to enhance Inspection and Maintenance.'' It is not an issue of test-and-repair facilities versus test-only facilities, but rather an issue of the whole inspection and maintenance process mentality.

The EPA nevertheless stuck doggedly by its centralized test-only procedures. When my staff requested a summary of EPA's analysis of this issue, EPA sent 28 pages of data analyzing the differing rates of tampering detection and testing efficiency between centralized and decentralized programs. Only one-half page, however, examined the crucial issue of whether test-only procedures reduced overall emissions. EPA's analysis compared Arizona's emission levels under test-only procedures to Indiana's emission levels with no I&M procedures at all. From the data that Arizona has lower emission levels, the EPA concludes test-only is superior to test-and-repair. These leaps of logic, although convenient for pressing forth undesirable regulations, make for poor public policy.

Such serious breaks in logic highlight the EPA's inability to view this issue in its totality. It is apparently paralyzed in its analysis by an overwhelming desire to implement centralized I&M procedures. Assistant EPA Administrator for Air Mary Nichols said as much before my senior Michigan colleague's hearing on this issue last fall. She stated:

> . . . anybody who has bothered to buy a car that meets current emissions standards is owed an opportunity to have a good inspection test done to make sure that car is maintaining the emissions that it was designed to meet, because if it is not, it should be getting repaired, and if it is repaired, they are likely to experience better performance and better fuel economy.

To the EPA, the only way to create such an opportunity is for the Federal Government to force all car owners to have their cars tested and repaired, so that they can rest assured their cars are operating properly. Once again, members of the Clinton administration are out of touch and are missing the point. We must protect our constituencies and take the action necessary to stop this patronizing and intrusive behavior in the future.

As a result of this convoluted logic, States are forced to adopt centralized test-only programs because the EPA halves the emission reduction credits for decentralized test-and-repair programs within the State's emission reduction programs. If they do not adopt these centralized procedures, the EPA will reject their emission reduction plan and place sanctions on the State. These sanctions include the withholding of millions in Federal highway funds and Federal pollution reduction program grants, Federal takeovers of State emission reduction plans, and two-for-one emission offset requirements where no new emission producing facilities can be constructed unless the expected new emissions are offset by two times that level of emissions at other facilities in the area. I assume no facility operates and produces emissions unless it does so at a profit, so I seriously doubt any facility will be shut down to make way for new facilities. These offsets would have effectively halted industrial growth in the area, and all because EPA wrongly wanted cars tested and repaired at separate facilities.

This situation may even have seemed reasonable, given the existing law, if these areas were at fault for their allegedly high levels of ozone, but that was not the case. Because the emissions that chemically react to create ozone can travel in the air stream, the ozone levels experienced in one area may be the result of emissions from hundreds of miles away. Such was the case with the three counties in western Michigan. The three western Michigan counties of Kent, Ottawa, and Muskegon were all found by EPA to have ozone levels above the national ambient air quality standard of 120 parts per billion. The ozone contributions from the northern Indiana, northern Illinois, and Wisconsin, however, provided over 98 percent of the ozone that resulted in nonattainment. In fact, even if these three counties were to reduce their emission levels to zero, the ozone levels would actually increase as the overwhelming ozone transport from the West drifted into the region. Furthermore, even though the EPA claimed reducing western Michigan emissions would reduce ozone levels in northern Indiana during that four per cent of the year when winds are from the northeast, such emissions are irrelevant to that area. The Lake Michigan Air Directors Consortium executive director Stephen Gerritson told my colleague Senator LEVIN in hearings last fall that western Michigan emissions did not cause ozone nonattainment in northern Indiana. In fact, the area impacted by these very infrequent western Michigan transported emissions is currently in attainment. The regulatory actions of the EPA, in their misguided attempt to solve western Michigan's supposed ozone problem, would have actually made it worse.

In light of this action, the Governor of Michigan halted the further implementation of such an unnecessary program last month. In the face of similarly bold exercises of States' rights, the EPA's Administrator reached out to the Governors in what I believe was an attempt to save the Clean Air Act from full congressional review. The EPA knows it is in trouble. When our loyal opposition held control of the Congress, the EPA would brook no complaints from the States that the EPA's tyrannical regulatory measures were unnecessary or ineffective. Instead, the EPA marched forward with

an agenda to impinge States' rights, halt economic growth and force the citizenry to abide by their ideas as to what was in the citizenry's collective best interest.

We must review the Clean Air Act in it totality. It is based upon bad science, bad procedures, and focuses on the wrong issues. The technology of emission detection, control, and abatement advances exponentially, and any legislation that attempts to protect our environment through invasive command and control techniques favored by anti-industrialist, anti-growth, anti-business forces in the EPA is bound to fail. Such a review, however, will not be quick. The Clean Air Act is the longest, most complex piece of legislation ever passed, and took years to develop. It will take time to develop feasible replacements. Furthermore, as I have stated on this floor before, environmental legislation such as the Clean Air Act is one of the most notorious examples of an unfunded mandate. We must establish a window in which we can review this act and know that our constituents will be safe from egregious EPA action.

This bill establishes such a window. Upon its enactment, the EPA will be prohibited, for 2 years, from imposing sanctions under sections 110(m) or 179 of the Clean Air Act, withhold pollution abatement grants section 105, or federalize a State's program under section 110(c). I explained the sanctions and enforcement actions before, but quickly, the section 100(m) and 179 sanctions include the loss of Federal highway funds and two-for-one emission offsets. These moratoria will apply to actions taken in response to a State's failure to submit or implement a pollution reduction plan in response to marginal or moderate ozone nonattainment. It will also prohibit both the EPA and the Highway Administration from taking similarly adverse action, such as withholding Federal highway funds, for failure to implement enhanced automobile inspection and maintenance procedures. The moratoria would exist for 2 years from enactment but would not apply to sanctions already applied. While these moratoria are in effect, we will have the time and liberty to analyze closely the Clean Air Act, and secure the assurances that our States will not be subject to these outrageous sanctions and actions. Last month, a bipartisan group of 33 State environmental directors, working through the National Association of Governors, called for such a moratorium while the States work with the EPA to define a more workable solution. Governor Engler of Michigan has fully supported such a moratorium.

Although the EPA rectified the problem for my constituents last night, it still remains for other areas, such as in Virginia, Texas, and Rhode Island. Furthermore, there is no assurance that the EPA could not just as easily reverse this decision and put my constituents back in exactly the same quandary as before. I recommend that my colleagues join with me in preventing such a thing from happening.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 376

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

SECTION 1. OZONE NONATTAINMENT AREAS.

(a) IN GENERAL.—During the 2-year period beginning on the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall take no enforcement action with respect to an area designated nonattainment for ozone that is classified as a Marginal Area or Moderate Area under section 181 of the Clean Air Act (42 U.S.C. 7511).

(b) DEFINITION.—In this section, the term ''enforcement action'' means—

(1) the withholding of a grant under section 105 of the Clean Air Act (42 U.S.C. 7405);

(2) the promulgation of a Federal implementation plan under section 110(c) of the Clean Air Act (42 U.S.C. 7410); and

(3) the imposition of a sanction under section 110(m) or 179 of the Clean Air Act (42 U.S.C. 7410(m), 7509).

(c) APPLICABILITY.—Subsection (a) does not preclude the continued application of a sanction that was imposed prior to the date of enactment of this Act.

SEC. 2. ENHANCED VEHICLE INSPECTION AND MAINTENANCE PROGRAMS.

During the 2-year period beginning on the date of enactment of this Act, the Administrator of the Environmental Protection Agency and the Administrator of the Federal Highway Administration of the Department of Transportation may not take any adverse action, against a State with respect to a failure of an enhanced vehicle inspection and maintenance program under section 182(c)(3) of the Clean Air Act (42 U.S.C. 7511a(c)(3)), under—

(1) section 176 of the Clean Air Act (42 U.S.C. 7506);

(2) chapter 53 of title 49, United States Code;

(3) subpart T of part 51, or subpart A of part 93, of title 40, Code of Federal Regulations (commonly known as the ''transportation conformity rule''); or

(4) part 6, 51, or 93 of title 40, Code of Federal Regulations (commonly known as the ''general conformity rule'').

By Mr. KENNEDY:

S. 376. A bill to resolve the current labor dispute involving major league baseball, and for other purposes; read the first time.

BASEBALL STRIKE LEGISLATION

Mr. KENNEDY. Mr. President, President Clinton has submitted legislation to Congress to resolve the baseball strike by establishing a fair and equitable procedure for binding arbitration of the dispute.

The legislation would establish a National Baseball Dispute Resolution Panel composed of three impartial individuals, appointed by the President, with expertise in the resolution of labor-management disputes. The panel would be empowered to take testimony, conduct hearings and compel the production of relevant financial information from all parties. At the conclusion of that process, the panel would issue a decision setting forth the terms of an agreement that would be binding on both sides of this dispute.

Under the terms of the proposed legislation, the panel would be required, in making its decision, to take into account a number of factors, including the history of collective bargaining agreements between the parties, the owners' ability to pay, the impact on communities that benefit from major league baseball, the unique status of major league baseball, and the best interests of the game.

President Clinton and his special baseball mediator, William J. Usery, deserve great credit for the efforts they have made in recent months, and especially in recent days, to achieve a satisfactory resolution of this long and bitter controversy.

Clearly, at this moment in time, Members of Congress are divided about whether legislation is appropriate. A great deal will turn on developments in coming days, especially whether baseball fans across the country feel that action by Congress is needed.

All of us hope that a way can still be found for the parties to resolve this controversy themselves. It is too early to tell whether the events of recent days have given enough new impetus to the parties to reach such a resolution.

If not, then I believe Congress should act, and I look forward to working with others in the Senate and House to achieve the goal that all of us share—to save the 1995 baseball season, to do so in a way that is fair to owners and players alike, and do so in time for opening day—on schedule. Red Sox fans want baseball to begin on opening day as fans do all around the country. We should do all we can to make sure America's pastime goes on as scheduled.

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. BREAUX, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 104

At the request of Mr. D'AMATO, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 104, a bill to establish the position of Coordinator for Counter-Terrorism within the office of the Secretary of State.

S. 198

At the request of Mr. CHAFEE, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 198, a bill to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes.

S. 241

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 241, a bill to increase the penalties for sexual exploitation of children, and for other purposes.

S. 275

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 275, a bill to establish a temporary moratorium on the Interagency Memorandum of Agreement Concerning Wetlands Determinations until enactment of a law that is the successor to the Food, Agriculture, Conservation, and Trade Act of 1990, and for other purposes.

S. 281

At the request of Mr. D'AMATO, the names of the Senator from Alaska [Mr. STEVENS], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 281, a bill to amend title 38, United States Code, to change the date for the beginning of the Vietnam era for the purpose of veterans benefits from August 5, 1964, to December 22, 1961.

SENATE JOINT RESOLUTION 18

At the request of Mr. HOLLINGS, the names of the Senator from Connecticut [Mr. DODD], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of Senate Joint Resolution 18, a joint resolution proposing an amendment to the Constitution relative to contributions and expenditures intended to affect elections for Federal, State, and local office.

AMENDMENTS SUBMITTED

BALANCED BUDGET AMENDMENT

REID (AND OTHERS) AMENDMENT NO. 236

Mr. REID (for himself, Mr. DASCHLE, Mr. DORGAN, Mr. CONRAD, Mrs. FEINSTEIN, Mr. FORD, Mr. HARKIN, Mr. HEFLIN, Mr. GRAHAM, Mr. KOHL, Mr. BAUCUS, Mrs. BOXER, Mr. HOLLINGS, Ms. MIKULSKI, Mr. FEINGOLD, and Mr. LEAHY) proposed an amendment to the joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States; as follows:

On page 3, line 8, after ''principal.'' insert ''The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this article.''.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding an oversight hearing on Thursday, February 9, 1995, beginning at 10 a.m., in room G–50 of the Dirksen Senate Office Building on challenges facing Indian youth.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Wednesday, February 8, 1995, beginning at 9:30 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing on the President's tax proposals in the fiscal year 1996 budget and the administration's views on the Contract With America.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent, on behalf of the Governmental Affairs Committee, to meet on Wednesday, February 8, 1995, at 9:30 a.m. for a hearing on the subject of regulatory reform.

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

COMMITTEE ON THE JUDICIARY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, February 8, 1995, at 2 p.m. to hold a nominations hearing.

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

MEASURE READ THE FIRST TIME—S. 376

Mr. REID. Madam President, I understand that S. 376, Major League Baseball Restoration Act, introduced earlier in the day by Senator KENNEDY, is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read the bill for the first time.

Mr. REID. Madam President, I now ask for its second reading.

Mr. HATCH. I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read on the next legislative day.

ORDERS FOR TOMORROW

Mr. HATCH. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:15 a.m. on Thursday, February 9, 1995; that following the prayer, the Journal of the proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak for not to exceed 5 minutes each, with Senator HATFIELD to be recognized for up to 10 minutes and Senator BIDEN to be recognized for up to 30 minutes; further, that at the hour of 10 a.m., the Senate resume consideration of the House Joint Resolution 1, the balanced budget constitutional amendment.

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

RECESS UNTIL THURSDAY, FEBRUARY 9, 1995, AT 9:15 A.M.

Mr. HATCH. If there is no further business to come before the Senate and no other Senator is seeking recognition, I now ask that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 6:22 p.m., recessed until Thursday, February 9, 1995, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate February 8, 1995:

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

ALTON W. CORNELLA, OF SOUTH DAKOTA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS, VICE PETER B. BOWMAN, TERM EXPIRED.

REBECCA G. COX, OF CALIFORNIA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS. (REAPPOINTMENT.)

GEN. JAMES B. DAVIS, U.S. AIR FORCE, RETIRED, OF FLORIDA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS, VICE BEVERLY BUTCHER BRYON, TERM EXPIRED.

S. LEE KLING, OF MARYLAND, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS, VICE HANSFORD T. JOHNSON, TERM EXPIRED.

BENJAMIN F. MONTOYA, OF NEW MEXICO, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS, VICE ARTHUR LEVITT, JR., TERM EXPIRED.

WENDI LOUISE STEELE, OF TEXAS, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS, VICE HARRY C. MC PHERSON, JR., TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS TO TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

RONALD W. YATES, 000–00–0000

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

HENRY VICCELLIO, JR., 000–00–0000

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

BILLY J. BOLES, 000–00–0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

BILLY J. BOLES, 000–00–0000

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

EUGENE E. HABIGER, 000–00–0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LAWRENCE P. FARRELL, JR., 000–00–0000

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

DONALD F. HAGEN, 000–00–0000

THE FOLLOWING-NAMED CAPTAINS IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

MEDICAL CORPS

To be rear admiral (lower half)

MICHAEL LYNN COWAN, 000–00–0000

SUPPLY CORPS

To be rear admiral

RAYMOND AUBREY ARCHER III, 000–00–0000
JUSTIN DANIEL MC CARTHY, 000–00–0000
PAUL OSCAR SODERBERG, 000–00–0000

CIVIL ENGINEER CORPS

To be rear admiral (lower half)

ROBERT LEWIS MOELLER, 000–00–0000
MICHAEL WILLIAM SHELTON, 000–00–0000

MEDICAL SERVICE CORPS

To be rear admiral (lower half)

HAROLD EDWARD PHILLIPS, 000–00–0000

IN THE AIR FORCE

THE FOLLOWING-NAMED AIR NATIONAL GUARD OFFICERS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE IN THE GRADE INDICATED UNDER THE PROVISIONS OF SECTIONS 12203 AND 12212, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES AS INDICATED.

MEDICAL CORPS

To be lieutenant colonel

THOMAS A. WORK, 000–00–0000
QUAY C. SNYDER, JR., 000–00–0000

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 12203 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 12203 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER).

LINE OF THE AIR FORCE

To be lieutenant colonel

LAWRENCE R. DOWLING, 000–00–0000, 9/21/94
DEBBIE L. HENSON, 000–00–0000, 9/10/94
DAVID C. MOREAU, 000–00–0000, 9/14/94
PHILIP B. SANSONE, 000–00–0000, 9/30/94

JUDGE ADVOCATE GENERALS DEPARTMENT

To be lieutenant colonel

JOAN A. LAWRENCE, 000–00–0000, 9/24/94
STEPHIE K. WALSH, 000–00–0000, 9/15/94

CHAPLAIN CORPS

To be lieutenant colonel

RICHARD C. BEAULIEU, 000–00–0000, 9/9/94
WILLIAM F. EVANS, 000–00–0000, 9/11/94

NURSE CORPS

To be lieutenant colonel

SHARON L. HINKINS, 000–00–0000, 9/18/94
JASPER R. JONES, 000–00–0000, 9/11/94
ELLEN N. THOMAS, 000–00–0000, 9/10/94

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 12203 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 12203 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER).

LINE OF THE AIR FORCE

To be lieutenant colonel

MICHAEL M. ADKINSON, 000–00–0000, 10/19/94
ARNOLD W. BALTHAZAR, 000–00–0000, 10/14/94
ARCHIE D. CUMBEE, 000–00–0000, 10/1/94
NEIL A. CURRIE, 000–00–0000, 9/10/94
ALAN T. GRANGER, 000–00–0000, 10/26/94
RICHARD W. GUNGEL, 000–00–0000, 10/1/94
TERRY K. HARDY, 000–00–0000, 10/15/94
ARTHUR S. HARRISON, 000–00–0000, 10/1/94
HAROLD J. HUDEN, 000–00–0000, 10/21/94
RONALD F. JONES, 000–00–0000, 9/15/94
ROBERT T. KARSLAKE, 000–00–0000, 10/1/94
RICHARD L. MARSH, 000–00–0000, 10/5/94
JOHN M. MURRAY, 000–00–0000, 10/17/94
WILLIAM S. O'KEEFE, 000–00–0000, 10/26/94
PAUL N. PAQUETTE, 000–00–0000, 10/1/94
RICHARD J. RACOSKY, 000–00–0000, 9/24/94
MARTHA V. SMYTH, 000–00–0000, 10/1/94
DANIEL P. SWIFT, 000–00–0000, 9/15/94
STEVEN M. WEDE, 000–00–0000, 10/1/94
ARTHUR N. WERTS, 000–00–0000, 9/10/94
WILLIAM D. WILEY, 000–00–0000, 10/1/94

BIOMEDICAL SERVICES CORPS

To be lieutenant colonel

JEFFREY E. SAWYER, 000–00–0000, 8/17/94

MEDICAL CORPS

To be lieutenant colonel

RICHARD H. WHITE, 000–00–0000, 10/23/94

NURSE CORPS

To be lieutenant colonel

TERESA A. WALLACE, 000–00–0000, 9/29/94
SANDRA J. HIGGINS, 000–00–0000, 9/29/94

DENTAL CORPS

To be lieutenant colonel

SHELDON R. OMI, 000–00–0000, 10/2/94

THE FOLLOWING OFFICERS, U.S. AIR FORCE OFFICER TRAINING SCHOOL, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

NORMAN W. ANDERSON, 000–00–0000
BRADFORD C. BABINSKI, 000–00–0000
WILLIAM C. BAILEY, 000–00–0000
DIANE L. BROWN, 000–00–0000
WAYNE A. CHALK, 000–00–0000
JEFFREY P. DEJOANNIS, 000–00–0000
LAMAR A. EIKMAN, 000–00–0000
PETER V. ELLUM, 000–00–0000
JOHN F. GILLESPIE, JR., 000–00–0000
JEFFRY W. GLENN, 000–00–0000
JUAN M. HIDALGO, 000–00–0000
GRANT L. IZZI, 000–00–0000
GARY L. JACKSON, 000–00–0000
JAMES C. JONES, 000–00–0000
LAURIE D. JURASZEK, 000–00–0000
DAVID D. KELLEY, 000–00–0000
DAVID D. KRETZ, 000–00–0000
KELLY A. LITVIAK, 000–00–0000
JAMES L. MATNEY, 000–00–0000
DOUGLAS E. MC CLAIN, 000–00–0000
BRETT L. MERS, 000–00–0000
CARLOS R. MESSER, JR., 000–00–0000
RODNEY H. NICHOLS, 000–00–0000
MICHAEL J. RICHMAN, 000–00–0000
CHAD A. RIDEN, 000–00–0000
STEVEN M. ROARK, 000–00–0000
ALAN B. SANDERS, 000–00–0000
ROBERT D. SANDOVAL, 000–00–0000
LAWRENCE J. SCHUH, 000–00–0000
LONES B. SEIBER III, 000–00–0000
MARCIA C. SMITH, 000–00–0000
PAUL P. SMITH, JR., 000–00–0000
JENNIFER M. STOCK, 000–00–0000
PHILLIP A. SUYDAM, 000–00–0000
PAUL R. TAYLOR, JR., 000–00–0000
KEVIN V. THOMPSON, 000–00–0000
MICHAEL C. WALTERS, 000–00–0000
DARIN L. WILLIAMS, 000–00–0000

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be colonel

JAMES M. CORRIGAN, 000–00–0000
LELAND D. COX, 000–00–0000
CYNTHIA A. DEESE, 000–00–0000
JOSEPH D. YOUNT, 000–00–0000

To be lieutenant colonel

GREGORY A. BROWN, 000–00–0000
ERIC H. CAPPEL, 000–00–0000
STEVEN A. COHEN, 000–00–0000
JEFFREY G. HOOPER, 000–00–0000
DAVID P. KAHLE, 000–00–0000
RICHARD J. LAVELLE, 000–00–0000
FRANK R. LITAKER, 000–00–0000
EUGENE P. SCHEMPP, 000–00–0000
ROBERT A. STRINI, 000–00–0000
THOMAS H. UDALL, 000–00–0000

To be major

VIVIAN C. EDWARDS III, 000–00–0000
GAIL A. FISHER, 000–00–0000
THOMAS G. GAGES, 000–00–0000
DARRELL A. LIVINGSTON, 000–00–0000
JESSE G. MONTALVO, 000–00–0000
MICHAEL W. PELTZER, 000–00–0000
BRUCE D. TOWNSEND, 000–00–0000
KEITH A. VRAA, 000–00–0000
MONICA A. WILSON, 000–00–0000

MEDICAL SERVICE CORPS

To be major

KATHRYN S. MANCHESTER, 000–00–0000

NURSE CORPS

To be lieutenant colonel

JANA L. CAMPBELL, 000–00–0000
DENISE A. MOORE, 000–00–0000

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN THAT INDICATED.

LINE OF THE AIR FORCE

To be captain

BRUCE D. GREENWALD, 000–00–0000
JAMES P. HENDRICKS, 000–00–0000
CHARLES D. HOWLAND, 000–00–0000
BENJAMIN WHAM II, 000–00–0000

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

NURSE CORPS

To be captain

ILENE ANDERSON, 000–00–0000
JUANITA ANDREWS, 000–00–0000
PATRICIA C. BLAKE, 000–00–0000
MARK J. BROWN, 000–00–0000
MARK J. GRENIER, 000–00–0000
CHRISTINE L. HALE, 000–00–0000
SUSAN L. HEGLAR, 000–00–0000
BILLYE G. HUTCHISON, 000–00–0000
SARAH E. IDDINS, 000–00–0000
KAREN M. KINNE, 000–00–0000
DEBORAH J. MARSHALL, 000–00–0000
KIRK MARTIN, 000–00–0000
DEBORAH K. MILANO, 000–00–0000
DONNA L. MILLER, 000–00–0000
CORINNE MARTIN OMEARA, 000–00–0000
CHERYL A. REILLY, 000–00–0000
PAULA R. RICK, 000–00–0000
DAVID T. SAYLE, 000–00–0000
BONNIE A. SAYLOR, 000–00–0000
LIZANNE SLAYTON, 000–00–0000
ALISON L. SOLBERG, 000–00–0000

BIOMEDICAL SCIENCES CORPS

To be captain

KATHERINE A. ADAMSON, 000–00–0000
STANLEY D. BRUNTZ, 000–00–0000
BERNADETTE M. BYLINA, 000–00–0000
GORDON H. CAMPBELL, JR., 000–00–0000
JACKIE H. CLARK, 000–00–0000
DANNY L. DAVIS, 000–00–0000
MICHAEL L. EARL, 000–00–0000
DEBORAH L. ELLIOTT, 000–00–0000
DAVID A. KULESH, 000–00–0000
LESLIE G. LOVE, 000–00–0000
LUCIA E. MORE, 000–00–0000
STEVEN P. NIEHOFF, 000–00–0000
BRIAN V. ORTMAN, 000–00–0000
GEORGE M. PRASCSAK, JR., 000–00–0000
ORAZIO F. SANTULLO, JR., 000–00–0000
WILLIAM K. SKORDOS, 000–00–0000
BETTY M. SMITH, 000–00–0000
LESLIE A. SPANGLER, 000–00–0000
JOHN M. SPILKER, 000–00–0000
JOHN A. STAHL, 000–00–0000

IN THE ARMY

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 12203 AND 3385:

ARMY PROMOTION LIST

To be colonel

RICHARD G. AUSTIN, 000–00–0000

DAVID L. CAIN, 000–00–0000
CLIFFORD L. CHILDERS, 000–00–0000
ROBERT N. CLEMENT, 000–00–0000
DENNIS L. GEORGE, 000–00–0000
WILLIAM J. GREINER, 000–00–0000
CHARLES V. GUY, JR., 000–00–0000
TERRY L. HALES, 000–00–0000
DENNIS J. MANNING, 000–00–0000
CHARLES F. MARTIN, 000–00–0000
LARRY E. MATCHETT, 000–00–0000
JULIUS E. MATHIS, 000–00–0000
RAYMOND L. MC BRIDE, 000–00–0000
GERVIS A. PARKERSON, JR., 000–00–0000
FRANK J. SHARR, 000–00–0000
PAUL D. VIOLA, 000–00–0000

THE JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

RICHARD D. EDWARDS, 000–00–0000

DENTAL CORPS

To be colonel

JOHN B. THORNTON, JR., 000–00–0000

MEDICAL SERVICE CORPS

To be colonel

BILLY A. GARNER, 000–00–0000
ERNEST J. REINERT, 000–00–0000
ANNA R. WEST, 000–00–0000

CHAPLAIN CORPS

To be colonel

DEAN E. BAER, 000–00–0000
ARIEL R. MATIENZO-LOPEZ, 000–00–0000
WILLIAM D. MC GOWIN, JR., 000–00–0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 12203 AND 3385:

ARMY PROMOTION LIST

To be lieutenant colonel

GARY D. BRAY, 000–00–0000
NELSON J. CANNON, 000–00–0000
TIMOTHY D. DONOVAN, 000–00–0000
GARY J. DUNN, 000–00–0000
RICHARD W. FOX, 000–00–0000
ALVIE L. KEASTER, 000–00–0000
IVAN S. KUNKEL, 000–00–0000
JOSEPH A. MATCZAK, 000–00–0000
TIMOTHY R. MEYER, 000–00–0000
JOHN B. MILLER, 000–00–0000
MICHAEL J. MURPHY, 000–00–0000
KENNETH E. MUSSER, 000–00–0000
ROBERT D. O'BARR, 000–00–0000
DONALD J. ODERMANN, 000–00–0000
ROBERT J. O'NEILL, 000–00–0000
PATRICK P. PNACEK, 000–00–0000
MICHAEL A. QUARTANA, 000–00–0000
DONNA L. RIX, 000–00–0000
CHARLES M. SINES, 000–00–0000
DONALD C. STORM, 000–00–0000
CAREY G. THOMPSON, 000–00–0000
VERLYN E. TUCKER, 000–00–0000
MELVIN D. TWITTY, 000–00–0000
KINGSLEY R. VAN DUZER, 000–00–0000
CHARLES M. WAGNER, 000–00–0000
GERARD W. WEISS, 000–00–0000
CHESTER L. WHITE, 000–00–0000

THE JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant colonel

DONALD W. FETT, 000–00–0000

MEDICAL SERVICE CORPS

To be lieutenant colonel

KATHLEEN S. CARLSON, 000–00–0000

MEDICAL CORPS

To be lieutenant colonel

STEVEN R. ANDERSON, 000–00–0000

CHAPLAIN CORPS

To be lieutenant colonel

ROBERT D. ALSTON, 000–00–0000
WILLIAM T. SHERER III, 000–00–0000

IN THE NAVY

THE FOLLOWING-NAMED LIEUTENANT COMMANDERS AND LIEUTENANTS IN THE LINE AND STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADES OF COMMANDER AND LIEUTENANT COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 628, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

CHAPLAIN CORPS

To be commander

KERBY E. RICH, 000–00–0000

MEDICAL CORPS

To be commander

MARTIN L. SNYDER, 000–00–0000

UNRESTRICTED LINE

To be lieutenant commander

JOSEPH G. O'BRIEN, 000–00–0000
JOSEPH B. WIEGAND, 000–00–0000

MEDICAL SERVICE CORPS

To be lieutenant commander

JUNIUS L. BAUGH, 000–00–0000
JOHN C. DRAGON, 000–00–0000
LAWRENCE W. WIGGINS, 000–00–0000

THE FOLLOWING-NAMED NAVAL RESERVE OFFICER TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531.

ERIC R. VICTORY, 000–00–0000

THE FOLLOWING-NAMED NAVY ENLISTED COMMISSIONING PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

KELLY V. AHLM, 000–00–0000
MICHAEL ANSLEY, 000–00–0000
JAMES R. BRYAN, 000–00–0000
TY G. CHRISTIE, 000–00–0000
MARVIN W. CUNNINGHAM, 000–00–0000
JAMES A. DUTTON, 000–00–0000
KEVIN L. ETZKORN, 000–00–0000
DAVID C. GARCIA, 000–00–0000
JOSEPH T. HANSEN, 000–00–0000
JOHN W. HAYES, 000–00–0000
RYAN J. HEILMAN, 000–00–0000
TRENTON D. HESSLINK, 000–00–0000
CLARENCE J. KIMM, 000–00–0000
STEPHEN D. MOSER, 000–00–0000
MICHAEL R. SOWA, 000–00–0000
LANCE E. THOMPSON, 000–00–0000
STEVEN R. VONHEEDER, 000–00–0000
WAYNE C. WALL, 000–00–0000
BRYAN D. WATERMAN, 000–00–0000

THE FOLLOWING-NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

JEFFREY D. BLAKE, 000–00–0000
CARTER H. GRIFFIN, 000–00–0000
KEITH T. HURLEY, 000–00–0000
MARK A. JONES, 000–00–0000
RICHARD W. MEYER, 000–00–0000
WILLIAM A. SPRAUER, 000–00–0000

THE FOLLOWING-NAMED FORMER U.S. NAVAL RESERVE OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

RICHARD A. COULON, 000–00–0000

THE FOLLOWING-NAMED FORMER U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

STEPHEN S. FROST, 000–00–0000

THE FOLLOWING-NAMED U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

MARILYN BOITANO, 000–00–0000

THE FOLLOWING-NAMED MEDICAL COLLEGE GRADUATES TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

STEPHEN I. DEUTSCH, 000–00–0000
GREGORY DOWBACK, 000–00–0000
RICHARD J. MULLINS, 000–00–0000
ROBERT L. STEWART, 000–00–0000

IN THE MARINE CORPS

THE FOLLOWING-NAMED AIR FORCE ACADEMY GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 541:

MARINE CORPS

To be second lieutenant

BRANDON D. BROWN, 000–00–0000
BRIAN E. CARBAUGH, 000–00–0000
CHRISTOPHER KOELZER, 000–00–0000
JASON D. LEIGHTON, 000–00–0000
STEVEN M. WOLF, 000–00–0000

EXTENSIONS OF REMARKS

NATIONAL GOVERNORS' ASSOCIATION SUPPORTS FLOW CONTROL

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. SMITH of New Jersey. Mr. Speaker, last week, the National Governors' Association passed an important resolution in support of congressional restoration of flow control authority to State and local governments.

When the Supreme Court rejected such authority in its May 1994 decision in Carbone versus Clarkstown, New York, it struck a devastating blow to the financial stability of thousands of communities nationwide. Justice Sandra Day O'Connor reminded Congress of its part in developing these circumstances. You see, although Congress had implied that States and localities had the authority to use flow control; Congress had never granted the authority explicitly. We now have not only the opportunity, but the responsibility to finish what we started.

It is imperative that we do so with all due speed because communities nationwide have amassed an outstanding debt of more than $10 billion purely by meeting its traditional responsibilities of picking up the trash.

Congress held hearings and markups and debates on this issue throughout 1994. The divergent interests of local governments, the private sector waste companies, and Wall Street came together through months of intense negotiations. The product of these efforts was a compromise proposal which passed the House by unanimous consent on October 7, and nearly passed through the Senate before it adjourned the next day.

On January 4, I reintroduced this exact text as the Community Solvency Act (H.R. 24) with a bipartisan group of cosponsors. I encourage my colleagues to read the persuasive and well-reasoned arguments of the Governors' resolution and to join them in their fight to meet the public health and safety needs of our constituents in a cost-effective and environmentally sound way. In short, I encourage my colleagues to cosponsor H.R. 24.

NATIONAL GOVERNORS ASSOCIATION RESOLUTION

3.4.1 Each State, Alone or in Cooperation with Other States, Should Manage the Waste Produced Within Its Borders in an Environmentally Sound Manner. This goal requires states to take responsibility for the treatment and disposal of solid waste created within their borders to eventually eliminate the transportation of unwanted waste sent over state lines for treatment or disposal.

It should be the national policy for each state to promote self-sufficiency in the management of solid waste. States should be allowed to use reasonable methods to achieve their goal of self-sufficiency, including the use of waste flow control. Self-sufficiency is a reliable, cost-effective, long-term path and generally reflects the principle that the citizens ultimately are responsible for the wastes they create.

As states phase in programs to ensure self-sufficiency, Congress should require the federal government to pursue aggressively packaging and product composition initiatives and to identify and foster creation of markets for recyclable or recycled goods. Federal assistance in these waste reduction endeavors is critical to developing national waste reduction and recycling programs to achieve self-sufficiency.

Similarly, the federal government must mandate national minimum performance standards for municipal solid waste disposal facilities. Otherwise, some states may resolve capacity crises brought about by export limitations by keeping open landfills that otherwise should be closed. Also, the lack of minimum standards may encourage exports, because it might be cheaper, even taking into consideration transportation costs, for a community in a state with stringent regulations to ship to nearby states that do not have the same requirements.

The development of solid waste management plans should be the primary responsibility of the states and local governments, and the Governors urge EPA to assist states in the development of comprehensive and integrated planning and regulatory programs through financial and technical assistance. Such plans should include a ten-year planning horizon and should be updated at least every five years. These plans should include a description of the following:

The waste management hierarchy that maximizes cost-effective source reduction, reuse, and recycling of materials;

The planning period;

The waste inventory;

The relationship between state and local governments;

Municipal solid waste reduction and recycling programs;

A waste capacity analysis for municipal solid waste (which in no way should resemble a capacity assurance requirement similar to Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act, or CERCLA);

The state's regulatory program;

The process for citizen participation; and

Self-certification that the state has necessary authority to implement these program elements.

EPA review of plans should be limited to a check for completeness based on elements specified in this policy and raised by EPA during the public comment period of the draft plan. EPA does not have the ability or the resources to take on the solid waste planning and management responsibilities that fall under the historical and rightful domain of state and local governments. Moreover, EPA's intrusion into the planning process (in a manner similar to Subtitle C of the Resource Conservation and Recovery Act, or RCRA) would frustrate and impede the planning process already underway in many states.

States should retain authority to implement and enforce Subtitle D programs upon passage of legislation reauthorizing RCRA, and new program elements in this legislation should be automatically delegated to states. Should a state fail to submit a complete plan, EPA should assume responsibility for the permitting and enforcement portion of a state solid waste management program after the state is given the opportunity to appeal and correct any deficiencies.

THE BALANCED BUDGET AMENDMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, February 8, 1995, into the CONGRESSIONAL RECORD.

THE BALANCED BUDGET AMENDMENT

In Late January, with my support, the House passed a balanced budget constitutional amendment by a vote of 300–132. Several different versions were considered. The one that passed would require the President to propose a balanced budget each year, and it would take a ⅗ vote of both the House and Senate to pass an unbalanced budget.

It may well be that nothing short of a constitutional amendment will force Congress and the President to confront the tough choices necessary to balance the budget. We have simply had great difficulty in coming to consensus on specific increases in taxes or cuts in government spending. The result is an institutional bias toward running a deficit. An amendment could very well force the government to set priorities, a key task that has not been done very well in the past.

PROBLEMS

Although the amendment was broadly supported in the House, there are problems with using a constitutional amendment to balance the budget. First, a balanced budget amendment could reduce the government's flexibility to deal with national emergencies such as war or recession. It could force the government to raise taxes or cut spending to cover the increasing deficit that a slowing economy was generating. Fiscal policy then would exaggerate rather than mitigate the swings in the economy, and recessions would tend to be deeper and longer. Second, a balanced budget amendment puts off tough decisions and delays action until ratification by the states, which could take many years. Postponing the tough choices could make them much harder in the long run. Third, a balanced budget amendment could draw the courts into budget policy. If Congress failed to pass a balanced budget, unelected judges might have the power to raise taxes or cut programs. Fourth, a balanced budget amendment is an incentive for Congress and the President to evade the requirements. They could do that by imposing or withdrawing regulations, placing new requirements on states or business, saying that certain kinds of spending is off budget, setting up quasi-government authorities to borrow money, or scores of

other ways. Finally, a balanced budget amendment should distinguish between general operating expenses and capital investments (such as bridges, research, or education). Indiana has operated under a similar system for years. Like a homeowner taking out a mortgage, borrowing for long-term investments can make sense.

REASONS TO SUPPORT

Despite these concerns, I do support a balanced budget amendment. For years Congress has tried new ways to reduce the deficit, including caps on spending, across-the-board cuts, and pay-as-you-go requirements. These measures have had some effect, and the deficit is down from a record $290 billion in 1992 to some $176 billion this year—a cut of 40%. But the longer-term outlook for the deficit—particularly because of rising health care costs—is not good. Particularly disturbing are recent projections by the Congressional Budget Office that show the deficit could rise to as high as $421 billion in 2005. This trend is unacceptable.

Although I would prefer that Congress and the President face the tough choices and balance the budget on their own, there is little evidence this will be done. Large deficits drain national savings and investment in long-term economic growth, and yearly interest payments prevent policymakers from responding to new challenges. A balanced budget amendment would force us to better reconcile our investment priorities with our economic means.

THE DETAILS

The House considered six versions of a balanced budget amendment. I supported several versions that protected Social Security from being cut to balance the budget and a version that would distinguish between capital investment and general operating costs. I also voted for a version that would require Congress to spell out the difficult choices necessary to balance the budget in the next seven years. We have an obligation to tell the American people how we intend to get the budget into balance. Too many amendment supporters are unwilling to give us specifics on cutting the budget. The cuts necessary will be far deeper than most people have acknowledged, and important programs like Medicare and student aid would be heavily impacted.

I opposed a version that made it easy to waive the balanced budget requirement—in any year when unemployment was above 4%—and also did not support a version requiring a separate 3/5 vote to pass any bill that raised revenue. We should not confer on a congressional minority a veto power over what should be a majority decision to increase revenues. Such a veto power was deliberately rejected by the founding fathers.

A broad coalition of members from both parties were able to put aside their differences and agree on the final version of the amendment. This amendment would be tough on deficit spending. It would require the President to submit a balanced budget every year, and Congress would need a 3/5 vote in both the House and the Senate to pass an unbalanced budget or to raise the federal debt limit. A majority of Congress could waive this requirement in time of war or imminent military threat. The amendment now goes to the Senate, which is expected to take action later this year. If the House and Senate agree on identical language, thirty-eight states will have to ratify the amendment before it becomes part of the Constitution. The states will be taking a careful look at the balanced budget amendment. It could well hurt them. Drastic reductions in federal spending would leave states with the burden of dealing with those who fall through the safety net.

CONCLUSION

I still have reservations about the House version, and would prefer greater flexibility to deal with national emergencies, protections for Social Security, and requirements that we spell out to the American people what it would take to balance the budget. I believe the House-passed version was good enough, and the need for a balanced budget amendment strong enough, that the process should go forward. I am hopeful that the Senate can address some of my concerns. I will want to see what happens in the Senate before making a final decision on the balanced budget amendment.

TRIBUTE TO THE CLARE ROTARY CLUB

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. CAMP. Mr. Speaker, I rise today to honor the Rotary Club of Clare, MI. On February 11, 1995, members and friends will gather to celebrate the Clare Rotary's 50th golden anniversary. The Clare Rotary Club has enjoyed a long and distinguished history during which they helped and improved many lives. They may proudly look back on their history and take pride in the many events they have sponsored and the assistance they have provided.

The Rotary Club plays a vital role in the development of our families and communities. By selflessly giving of themselves, members have demonstrated the rewards we reap when we help others in need. The time and effort the members have devoted to improving the community illustrates the sensitivity and caring that makes the Rotary Club of Clare the wonderful organization it is.

Their work and accomplishments provide a sterling example of what deeds can be performed with dedication and contribution. Everyone involved with their efforts lives by the motto, ''He Who Profits Most * * * Serves Best'' and more recently, ''Service Before Self.'' These are words that, when taken to heart, can help raise people, families, and communities to new levels of achievement. The Rotary Club members have not only embraced these words but acted to help others and inspired us all to help our fellow citizens.

Mr. Speaker, I know you will join my colleagues and I in commending the work of the Rotary members and their 50 years of giving. It is this sense of philanthropy, the cornerstone of our Nation, which has made this Nation and community such an exceptional place to live. I wish them continued success and look forward to another 50 years of service.

LEGISLATION TO NAME YOUNGSTOWN COURTHOUSE AFTER THOMAS D. LAMBROS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. TRAFICANT. Mr. Speaker, today I am reintroducing legislation to name the Federal building and U.S. courthouse in Youngstown, OH after retired U.S. District Court Judge Thomas D. Lambros. Throughout his distinguished career, Judge Lambros embraced the rule of law, human rights, and social justice for all our citizens. I can't think of a more appropriate way to honor his service than to name the U.S. courthouse and Federal building in Youngstown, OH after this great American jurist.

The bill would designate the Federal building and U.S. courthouse located at 125 Market Street in Youngstown as the Thomas D. Lambros Federal Building and U.S. Courthouse.

Thomas D. Lambros was born on February 4, 1930, in Ashtabula, OH. He graduated from Ashtabula High School in 1948. Upon graduation from high school, he attended Fairmont State College in Fairmont, WV, from 1948 to 1949, and received his law degree from Cleveland Marshall Law School in 1952. From 1954 to 1956 he served in the U.S. Army. In 1960, Lambros was elected judge of the court of common pleas in Ohio's Ashtabula County. In 1966, he was reelected to a second term without opposition.

In 1967, in light of Judge Lambros' excellent record as a fair and dedicated jurist, President Lyndon B. Johnson nominated him to the Federal bench in the U.S. District Court in the northern district of Ohio. As a district court judge, Judge Lambros was responsible for many important reforms such as the voluntary public defender program to provide indigent criminal defendants with free counsel. His groundbreaking work in this area preceded the landmark U.S. Supreme Court decision, Gideon versus Wainwright, which guaranteed free counsel to indigent criminal defendants. In 1990, Judge Lambros became chief judge in the northern district of Ohio. He officially retired from that post earlier this month. Judge Lambros currently resides in Ashtabula, OH.

Judge Lambros received numerous honors and awards throughout his career, including the Cross of Paideia presented by Archbishop Iakovos of the Greek Orthodox Archdiocese of North and South America, and an honorary doctorate of law from Capital University Law and Graduate Center.

Mr. Speaker, I would like to also add that it was Judge Lambros' commitment and vision that was the driving force behind the construction of the Federal building and U.S. courthouse in Youngstown. He recognized that the people who live in the Youngstown area—regardless of their station in life—deserve to have adequate and direct access to the U.S. court system. Prior to the opening of the U.S. courthouse building in Youngstown in December of 1993, my constituents had to travel at least 65 miles to Cleveland, OH if they had business in the Federal court system. Judge Lambros recognized the hardship this imposed on many people, especially senior citizens and the indigent. His commitment to equal justice and equal access for all played an important role in building the Youngstown courthouse. My constituents and I will be forever grateful to Judge Lambos for his broad vision and commitment to justice.

I urge all my colleagues to support this legislation, the text of which appears below.

H.R.—

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

SECTION 1. DESIGNATION.

The Federal building located at 125 Market Street in Youngstown, Ohio, shall be known and designated as the ''Thomas D. Lambros Federal Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the ''Thomas D. Lambros Federal Building''.

IN HONOR OF FORMER CONGRESSMAN JOSEPH A. LEFANTE WHO WAS RECOGNIZED BY IRELAND 32

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. MENENDEZ. Mr. Speaker, I am pleased to take this opportunity to recognize the accomplishments of former Congressman Joseph LeFante, who was honored on January 20, 1995 by Ireland 32. He is an outstanding citizen and his service to the American people is second to none.

Mr. LeFante was born in Bayonne to Thomas and Rose LeFante. He was raised in Bayonne and attended St. Peter's College in Jersey City. He has been married for 46 years to his high school sweetheart, the former Florence Behym. They have three beautiful children Janice, Tom, and Diane, and five grandchildren.

His achievements and his awards are numerous and exemplary. Mr. LeFante was a member of the U.S. House of Representatives in 1977–78. He served on the Committee on Education and Labor and Small Business Committee. His expertise was crucial in drafting important legislative proposals in these areas. He was the only freshman member to serve on the Select Committee on Welfare Reform.

Prior to his congressional career, Mr. LeFante distinctly served on the New Jersey General Assembly. He was an assembly speaker in 1976, majority leader in 1974–75, chairman of the joint appropriations committee in 1973 and chairman of the assembly appropriations committee in 1972–73. He was commissioner of the New Jersey Department of Community Affairs. In 1990 for 2 years he served as director at the Office of Intergovernmental Affairs at the New Jersey Department of Environment Protection and Energy.

Mr. LeFante has also been a member of several commissions, such as the Bayonne Charter Commission and was the director of the Hackensack Meadowlands Development Commission. In addition, he was a member of the Bayonne Municipal Council where he served as chairman of the urban renewal program, the code enforcement committee, and the drug abuse committee.

Mr. LeFante has received countless honors and awards for his outstanding work and dedication. He has been honored by St. John's University with an honorary doctorate of humane letters, Jaycees Distinguished Service Award, and the Dr. Benjamin Rush Humanitarian Award just to name a few.

It is impossible to state all of Mr. LeFante's achievements. He has served his community with dignity and respect. He has been a great humanitarian by serving and helping the public. He is a distinguished gentleman respected by all. I commend him for his countless efforts to help others and for giving his time to help and aid the community.

CLEANING UP THE WELFARE SYSTEM

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. ENGEL. Mr. Speaker, we've heard a lot about the tough decisions that need to be made in order to clean up the welfare system and put our economy back on track. Cutting off payments to families or putting funding into State block grants are not the tough solution to our welfare problems. I often make note of the fact that, as a State legislator I had to deal with block grant issues. Most often, it is only a way of moving the responsibility for painful cuts to the States. The block grants proposed by the Republicans drastically reduce funding for these programs but these proposals oversimplify a very complex problem and do not sufficiently address the factors that contribute to unemployment and welfare dependency.

Yes, we should cut the waste and abuse in the system. I agree that we should root out the fraud in our welfare programs. But, the fact is that real welfare reform must also address job creation, job training, and an increase in the minimum wage. I'm very glad to be participating in this special order this evening, organized by Mr. SANDERS and Mr. OWENS. These are issues that must be addressed in any welfare reform bill and they must be addressed by any government that hopes to lower its unemployment level while raising the standard of living of its people.

I do not know anyone in this House, Republican or Democrat, who would argue with the premise that our ultimate goal in welfare reform is to move people off of the welfare roles and into jobs. We must, however, make sure that people are getting good jobs that provide a livable wage. I believe that the majority of people on welfare right now would jump at the opportunity to work and provide for themselves and their families. What, then, is preventing a welfare recipient from finding a decent job? Those jobs that are within a person's grasp do not pay enough to sustain a family and due to lack of training, higher paying jobs are also not within their reach.

Earlier this week, I spoke on the House floor about the choices a single mother on welfare would face. If she goes on welfare, she can get comprehensive health care and a monthly check from the Government. If she goes to work at a minimum wage job she earns only $8,800 a year, and her family loses their health coverage. She must find a way to care for her children while she is at work. That is not much of a choice. Throwing these women off the welfare roles will not erase these problems. That is a smoke and mirrors reform.

The Republican approach to welfare reform limits benefits to 2 years, and only 2 years. I have no problem with moving people into the work force as soon as possible, but we must face the fact that, if the jobs are not there, no punitive measure will change the welfare recipient's behavior. The Economic Policy Institute estimates that there are over 12 million unemployed people in this country. These people must be trained for jobs which will raise them up out of poverty and give them stable income.

Today's minimum wage is worth 30 percent less than what it was worth in the 1970's. An increase in the minimum wage is a necessary step in providing people with the tools they need to bringing themselves out of poverty. We cannot move welfare recipients into a position where they join the growing number of working poor. Of all poor children, 38 percent under 6 years old have parents who work full or part time. They are working to support their families but cannot make enough money to live above the poverty line. In 1992, a full-time worker only grossed $8,800, that is $3,500 below the poverty line for a family of three: $11,186. How can we expect to move welfare recipients into this subsistence level of employment with no health care and no job training?

We must create a system that rewards work and does not punish someone for trying to be independent. We must make the tough decisions. We must say that job creation, training and an increased wages are national priorities. We must commit to programs that will help us reach a goal of a stable, self-sufficient employment for all Americans.

INTRASTATE MOTOR CARRIER TRANSPORTATION TECHNICAL CORRECTIONS ACT

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. RAHALL. Mr. Speaker, last year Congress passed H.R. 2739, the Federal Aviation Administration Authorization Act of 1994, which included a provision in section 601 to preempt State economic regulation of intrastate trucking. Today, I am introducing a technical corrections bill to address an item which I do not believe Congress intended to be within the scope of section 601.

The primary thrust of section 601 is to address issues relating to the transportation by motor carrier of general freight and express small packages. The act clearly provides for continued State regulation of safety requirements and the transportation of household goods.

During consideration of this legislation, however, nobody with the exception of myself raised the question of how it could affect other types of motor carriers, such as tow trucks. And indeed, today, many police departments and municipalities are faced with a great deal of uncertainty over the effect the legislation will have on what is known as nonconsensual towing, that is, that towing which is conducted without the vehicle owners consent. This is the type of towing that occurs when a vehicle is illegally parked on private property, or the vehicle is towed by order of the police.

In this regard, some local public entities believe that they can engage in contractual relationships with one or more tow truck operators for the purpose of providing nonconsensual towing services. Others contend this practice would represent the regulation of rates and

services prohibited by the new Federal law. The only fact of the matter is that nobody can provide any clear guidance on this issue.

The technical corrections bill I am introducing today would provide for continued State or local economic regulation of intrastate nonconsensual tow services. This bill is very similar to the measure recently introduced by the distinguished Senator KAY BAILEY HUTCHISON and is supported by many State towing associations, including those in Texas and California.

Again, in my view, the intent of section 601 was to address issues relating to the transportation by motor carrier of general freight and express small packages. I do not believe there was any intent to affect the ability of a police department or municipality to regulate tow truck operations in order to protect citizens from the occasional instances of unscrupulous pricing practices that give the entire industry a black eye.

Mr. Speaker, I do not believe this legislation should pose any controversy. Again, it simply clarifies the intent of Congress in enacting section 601 of the Federal Aviation Administration Authorization Act of 1994.

ADMINISTRATION IGNORED PESO WARNINGS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. HAMILTON. Mr. Speaker, I would like to call to the attention of Members a column published in last Sunday's Washington Post that highlights the foresight of our colleague, JOHN LAFALCE, in raising the issue of the exchange rate of the Mexican peso during the United States debate on NAFTA. As the column makes clear, Congressman LAFALCE presciently warned in May and June 1993 that the benefits to the United States of expanded trade with Mexico could be threatened by a devaluation of the peso. Congressman LAFALCE's suggestion that the United States consider a supplemental NAFTA agreement on exchange rate coordination seems very wise in retrospect.

The Post article raises several other important questions about the United States plan to help stabilize the Mexican economy. These questions deserve consideration by all Members, including those whom support U.S. assistance.

The Washington Post article follows:

[From the Washington Post, Feb. 5, 1995]

ADMINISTRATION IGNORED PESO WARNINGS

(By Hobart Rowen)

Rep. John J. LaFalce (D-N.Y.) has a right to say, ''I told you so.'' At a May 20, 1993, congressional hearing on NAFTA, LaFalce warned that the expected benefits to the U.S. economy from the new trade treaty with Mexico and Canada could go up in smoke if the Mexican government devalued the peso.

Supported by a number of prominent U.S. and Mexican economists who predicted that peso devaluation was inevitable, LaFalce—who had wide experience in this field—begged the Clinton administration to recognize that the North American Free Trade Agreement provided no method to coordinate the two countries' monetary policies.

On June 9, 1993, LaFalce wrote President Clinton (and separately, Treasury Secretary Lloyd Bentsen and other Cabinet members):

''I believe it imperative that the United States pursue a fourth supplemental agreement that recognizes the importance and impact of exchange rates on the operation of NAFTA . . . perhaps creating a mechanism that would allow for consultation, coordination, and corrections if necessary.''

It made good sense, but Clinton & Co. didn't listen. When consulted, the Federal Reserve Board, the World Bank and the International Monetary Fund pooh-poohed the possibility of a peso devaluation. White House political aides, already flustered by the need to get side agreements for NAFTA on the environmental and labor conditions, didn't want further complications.

Failure to stabilize the dollar-peso rate may prove to be the worst mistake so far of the Clinton presidency. The Institute for International Economics, which issued a highly influential pro-NAFTA report, also missed the boat. IIE senior fellow John Williamson, who like LaFalce agreed something should be done to ensure a stable peso-dollar rate, admitted that when the IIE reported on NAFTA was published, the monetary issue ''slipped through the cracks.''

If Clinton and his advisers had paid attention to LaFalce and his supporters, he might not now be engaged in an indefensible bailout of Wall Street investors, including major mutual fund managers who made greedy, high-yield gambles in Mexico after the passage of NAFTA.

Clinton's revamped $53 billion rescue plan for Mexico, which he can put through on his executive authority, may be worse than the original plan for $40 billion in loan guarantees, because it would appear that there will be more pure loans and fewer guarantees. But as former FDIC chairman L. William Seidman wisecracked, ''at least we're in for $20 [billion] instead of $40!''

Among investments that will be bailed out are those that offered interest returns of 15 percent to a reported 50 percent in peso-denominated bonds. But these bonds crashed when the peso dropped more than 40 percent against the dollar, just as LaFalce had warned could happen. But now the peso bonds will be propped up by Clinton's $53 billion, made up of $20 billion from the Treasury's stabilization fund, $17.5 billion in loans from the IMF and the rest from other global lenders, notably $10 billion from the Bank for International Settlements in Europe.

The operative result of dumping all this money into Mexico is that foreign investors, including the Wall Streeters, can collect their huge interest payments, then get out while the getting is good. Mexico won't be paying the bill. Clinton and U.S. taxpayers will pick up the check.

''This is basically what everyone on Wall Street was after all along—a vehicle to get out of their peso-denominated assets at a preferential rate,'' Walter Todd, a former Fed official told The Washington Post. ''Clinton has provided it to them.''

Senate Majority Leader Robert J. Dole (R-Kan.), who is backing the Clinton plan, said last week that if the money is paid out and doesn't come back, ''we'll have to make an appropriation to replace it.''

In an extraordinary column in the Wall Street Journal on Jan. 26, New York financier Henry Kaufman hinted at a huge Wall Street coverup, in which the entire financial community was engaged in ''suppressing critical evaluation'' of Mexico's true economic condition.

Mutual funds became an especially important conduit [for investor-speculators], without calling attention to the potential volatility in their emerging market portfolios, should liquidity problems develop,'' Kaufman said.

In other words, many small investors were suckered into Mexico, through mutual funds, lured by the promise of double-digit returns there and in other ''emerging markets.'' No one—not in the Treasury, the IMF, the Fed, the SEC—issued a word of caution.

But the first rule of investing is that if an abnormal return is promised, there must be an abnormal risk.

LaFalce told me at the end of the week that the administration had refused to acknowledge the palpable deterioration of the Mexican economy all through 1994 because it was fearful of exacerbating the Chiapas rebellion; because of Clinton's effort to push former president Carlos Salinas de Gortari as the head of the new World Trade Organization; and because it might jeopardize the then-upcoming vote on GATT.

So the administration didn't tell truth about Mexico.

LaFalce believes that tapping the Treasury's stabilization fund ''stretches the president's authority to the outer limits.'' But, he sighs, ''it's a fait accompli and I won't quarrel with him.''

POLITICAL PRISONERS RELEASED IN BURMA

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. RICHARDSON. Mr. Speaker, I would like to draw my colleagues attention to the fact that over the past 2 days the ruling military government in Burma, the State Law and Order Restoration Council [SLORC], has released many prisoners of conscience. In particular, I was pleased to know that on February 6 SLORC released Win Thein, a former political adviser to Aung San Suu Kyi. I met with Win Thein at his prison complex last February and I am heartened to know that he was released on the eve of the anniversary of my trip to Rangoon and my meeting with Aung San Suu Kyi.

I believe that the release of Win Thein and the many other political prisoners is a positive step in Burma. I continue to hold out hope for the release of Aung San Suu Kyi and all prisoners of conscience in Burma.

INTRODUCTION OF THE TICKET FEE DISCLOSURE ACT OF 1995

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. DINGELL. Mr. Speaker, I am pleased to introduce today, along with my colleagues, Mr. CONDIT, Mr. MOORHEAD, and Mr. OXLEY, the Ticket Fee Disclosure Act of 1995. This legislation, if enacted, will provide American consumers appropriate and timely disclosure of convenience fees, service charges, and other amounts often added to the face value of entertainment and sporting event tickets, including huge profit markups by so-called ticket brokers and others who sell tickets on the secondary market. It also will result in a comprehensive report to the Congress from the Federal Trade Commission on practices by

and the relationships between promoters, owners, and operators of facilities, performers, and sellers and resellers of entertainment and sporting event tickets, along with recommendations to achieve better ticket disclosure, information, access, and value for consumers.

The number of entertainment and sporting event tickets sold in the past few years has escalated rapidly. Based on testimony our committee received last year, the number of such tickets sold annually easily exceed 2 billion. As ticket sales have increased, so too have the methods used to sell and market such tickets. Indeed, with the advent of the communications superhighway, sellers of entertainment tickets likely will create additional avenues for selling tickets that are not feasible today.

This legislation does not inhibit these new and innovative approaches nor does it inhibit the growth of the entertainment and sporting industries or of the marketing and ticketing service industries that support them. This legislation creates no new regulations nor does it impose unreasonable burdens on business. Rather, this simple legislation merely seeks to inform the ordinary consumer who contemplates purchasing these tickets of any additional fees or charges that are added on to ticket prices.

This legislation makes it unlawful for persons who sell or resell entertainment or sporting event tickets: First, to fail to disclose to the purchaser—prior to the purchase of any such ticket—any fee, charge, or other assessment to be imposed in excess of the face amount of the ticket, and second, to fail to have the amount of any such fee, charge, or assessment printed on the ticket or on a receipt evidencing any such ticket sale.

Under the bill, this requirement will be enforced by the Federal Trade Commission, an independent agency that has authority over unfair and deceptive commercial practices under the Federal Trade Commission Act (15 U.S.C. 45, et seq.). As well, State attorneys general are empowered under the bill to enforce the requirement on behalf of affected residents in their States. In this regard, the bill parallels other commercial practices legislation developed by the Committee on Energy and Commerce during the past few years, including the Telephone Disclosure and Dispute Resolution Act, enacted in 1992, and the Telemarketing and Consumer Fraud and Abuse Prevention Act, enacted last year. Under the Federal Trade Commission Act, the FTC is authorized to issue cease and desist orders in appropriate cases and to impose civil penalties for each violation of the law.

I also have modified last year's bill by adding an important provision that directs the Federal Trade Commission to conduct a study of ticketing practices, including an examination of relationships between and practices of various persons involved in entertainment and sporting events. I believe an indepth examination of ticketing practices by the FTC is clearly warranted, based on testimony and evidence presented to the Subcommittee on Transportation and Hazardous Materials at its September 29, 1994, hearing on this subject. For example, I have real concerns about the impact on ticket consumers of exclusive contracts between building owners and others that limit options of potential competing services. As well, I have many questions about the manner in which tickets are held back by many participants in the ticket food chain, so that consumers are denied any opportunity to purchase many tickets through conventional means—that is, the box office or through authorized ticket sellers—or are forced to pay exorbitant prices from ticket brokers or scalpers who mysteriously acquire the best seats in the house. If tickets are made available to the public, why are so many tickets simply unavailable to the normal consumer who cannot afford scalper's fees? This long-overdue report from the Commission should inform the Congress whether further action is necessary to provide consumers of entertainment tickets with better disclosure, information, access, and value.

At the subcommittee's hearing last fall, representatives of consumer interests and of ticket sellers indicated their support for the disclosure provisions in the bill. Unfortunately, because of the press of other business, no further action was taken with respect to the legislation. I look forward to prompt consideration and enactment of this modest legislation so that American consumers will be better informed about add-on charges they pay for entertainment and sporting event tickets and so all of us will be informed about how to achieve better disclosure, information, access, and value for ordinary consumers who seek to purchase such tickets.

TRIBUTE TO MAYOR JIM SCRIVNER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. SKELTON. Mr. Speaker, it has come to my attention the Versailles, MO, Chamber of Commerce will soon bestow the honor of citizen of the year on former Mayor Jim Scrivner.

I want to use this opportunity to call the attention to my fellow Members of Congress to the outstanding record of public service demonstrated in the life of this citizen of Missouri.

Jim Scrivner would have been considered successful if viewed only from the perspective of his business and lifelong career as an undertaker with three funeral homes in rural Missouri. He provided a home for his wife, Honey, and their daughters, and is respected in his community.

Through the years he added an ambulance service to the business. It was not financially successful, but he subsidized the service to his neighbors and the surrounding area. The nearest hospital was 40 miles from his hometown and ambulance service was a necessity.

In 1973, Jim Scrivner was elected mayor of Versailles. His term of office was marked by a series of progressive ventures. A new sewage plant, replacement of failed sewerlines in a large section of the town, new housing for low-income and elderly residents and development of a successful industrial park all were accomplished in his tenure as mayor. The people trusted his leadership to the extent that a 1-percent sales tax was passed to provide for funding for future city development.

It is fitting and proper that the people of Versailles recognize Jim Scrivner and his years of service. In doing so they focus a spotlight on the life and career of an outstanding individual. He has been successful as a family man, a businessman, and as an elected official.

I am proud to call him my friend and to take this opportunity to enter into the CONGRESSIONAL RECORD my agreement with and support for the decision to honor him. His record is one we should all note and seek to emulate.

PERSONAL EXPLANATION

HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. WARD. Mr. Speaker, due to unavoidable circumstances, I missed rollcall vote No. 99 during consideration of H.R. 666, Exclusionary Rule Reform Act on February 7, 1995. Had I been present, I would have voted ''aye.''

TIME TO TAKE BACK OUR STREETS

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. PACKARD. Mr. Speaker, the statistics paint a grim picture. In the past 30 years violent crime increased threefold. The American people are afraid to go out at night. Our children are afraid to go to school. It is time to take back our streets.

On November 8, Americans made it clear they did not think much of last year's liberal, hugs for thugs crime bill. They endorsed the Republican get tough approach to crime fighting. Our crime package strikes at the heart of our violent crime problem by deterring criminals from committing crimes in the first place.

No more hugs for thugs; no more phony prevention programs; and no more endless appeals or technical loopholes. Our Republican crime bill holds criminals accountable for their actions, not hold their hand. We need a criminal justice system that protects the victim, not the criminal.

Republicans are working hard to fight crime by giving police the tools to catch, convict, and confine criminals. The streets across America belong to the people, not to the thugs. Mr. Speaker, I urge my colleagues to join me in the fight to take back our streets.

BIRDS OF A FEATHER

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. MANTON. Mr. Speaker, I rise to bring to the attention of my colleagues a tragic story of loss that struck New York and, indeed, the Nation during this part weekend's snowstorm. On Saturday, February 4, 1995, the outdoor aviary at the Bronx Zoo collapsed under the weight of a foot of snow allowing dozens of exotic birds to escape. The Harry de Jur Aviary was built in 1899 and was one of the first animal shelters built at the Bronx Zoo.

Saturday's snowstorm was wet and heavy and the foot of snow on the aviary's arch

probably weighed several tons. A strong gust of wind caught the structure like a sail which caused the collapse. Although many of the birds were caught under the wire mesh, at least 33 rare birds were carried away on high winds. The zoo has asked local birders to be on the lookout for these rare arian species.

The aviary was the home to the largest breeding colony in North America of the inca terns, a South American sea bird. Also lost were grey gulls, andean gulls, and a bandtail gull. These birds have a slim chance of survival in the urban wild due to their sheltered upbringing. Zookeepers hope that some of these birds will return to the familiar site of the aviary due to their hunger, but fear that the winds may have carried them too far away.

Mr. Speaker, the Bronx Zoo aviary was an historic landmark which generations of New Yorkers and visitors enjoyed. I commend to my colleagues' attention the New York Times article of this tragedy. The zoo will celebrate its centennial next year and zoo officials hope to rebuild the aviary, despite the cost of such a project at a time of tight budgets.

[From the New York Times, Feb. 6, 1995]

BIRDS FLEE WRECKAGE OF BRONX ZOO AVIARY

(By Robert D. McFadden)

The gracefully arched, 19th-century aviary at the Bronx Zoo—home to a colony of 100 South American sea birds and a landmark to generations of New Yorkers and visitors—collapsed in a gust of wind under the weight of a foot of snow during Saturday's storm, and dozens of rare, exotic gulls and terns flew away, zoo officials said yesterday.

No people were in the aviary at the north end of the zoo near Fordham Road when the huge cage of torn, twisted wire mesh crashed down on a coastal habitat of rock outcroppings, murky pools, pebble beaches and island nesting nooks at 10:45 A.M. No birds were killed and only one was known to have been injured.

And many birds were trapped under the tangle of wire and saved, officials said. Ten flightless Magellanic penguins waddled into their rookeries, guanay cormorants and other survivors, including an oystercatcher, took cover in nesting cavities. Zoo keepers quickly rushed in with nets, trying to minimize the loss.

But at least 33 birds—8 Grey gulls, 12 Andean gulls, one Band-Tail gull and 12 Inca terns—escaped and were carried away on high winds from the small artificial realm where they had been hatched, fed and protected into a harsh world where they may have to compete with city sea gulls, crows and other toughs of the air.

''It's a very sad day,'' Dr. Donald Bruning, the zoo's curator of birds, said in an interview yesterday. ''The aviary was beautiful and has been around for almost a century. And the birds would be very difficult to replace. The Inca terns were by far the largest breeding colony in North America, and we've lost almost half of them.''

Zoo officials asked bird-watchers and the public to be on the lookout for the escaped birds, whose native habitats are the coasts of Peru and Chile, and issued descriptions and other advice about how to spot, capture and report them. To avoid being swamped by calls from everyone who sees a nonexotic gull or a tern, the zoo issued a list of ''bird rehabilitators,'' licensed experts in aiding wildlife, to serve as intermediaries.

But Dr. Bruning said the chances of recovering the birds seemed slim. He noted that high winds, which gusted up to 50 miles an hour, could have carried them by late yesterday across most of the New York metropolitan area and New Jersey, and that the likelihood of finding and recapturing them appeared to be as dubious as their chances of survival in the urban wild.

''Most of them were hatched and raised in the aviary and have no experience outside,'' he said. ''The cold will not bother them, but it will not be easy for them to find food. They will have to compete with local gulls and other birds, and this is not the best time of the year for trying to find food.''

Since the flyaways were accustomed to shelter and regular feedings of fish, Dr. Bruning said the best hope for their recovery was that some had resisted the high winds and taken shelter nearby and would return to the aviary ruins in search of a meal.

''They know food is available and would come back to that,'' Dr. Bruning said, ''We're hoping that when they get hungry and can't find a supply of fish, they may start looking to come back to the cage—that is, if the wind hasn't blown them too far away. If they find themselves in a completely strange area, they won't know how to find their way back.''

Pans of smeltlike capelin and other small fish were put out at the aviary wreckage yesterday to lure any nearby fugitives back, but the only taker seen at dusk was a strutting crow.

The structure that collapsed, known as the Harry du Jur Aviary, was built in 1899, three years after the founding of the New York Zoological Society. It was one of the first animal shelters built at the Bronx Zoo, then still in the midst of farms and now a 265-acre tract of hilly parkland bounded by Fordham Road, Southern Boulevard, East 180th Street and the Bronx River Parkway.

The aviary was unique at the time—a huge cage topped with an arch of wire mesh 80 feet high, 150 feet long and 90 feet wide—where birds could live and fly about in a habitat that simulated nature's, and where the people could enter through double wire doors and walk unobtrusively among them.

In the early 1980's, Dr. Bruning said, the aviary was remodeled and a new wire mesh arch was installed, along with a redesigned interior habitat. But the pipelike supports for the arch were not replaced, and after the collapse many of these pipes—96 years old—were found to be rusted where they joined the wire mesh of the arch, about 15 feet above the foundation, Dr. Bruning said.

''You could see the rust once it broke off,'' he said. ''All of the pipes broke at the same joint all the way around the cage.''

Saturday's snow was wet and heavy, Dr. Bruning noted, and when it ended at midmorning the foot of snow that spread over the arch must have weighed many tons. It became even heavier as sleet and rain began falling and were absorbed into the snow. But it was not mere weight that brought the aviary down, he said.

''Apparently there was a strong gust of wind that caught the whole structure like a sail,'' he said. ''The entire cage collapsed on the interior. All the arch members broke apart and separated. There were cables that went across for support and they came down too. It was a mass of twisted and torn mesh, and there were gaps in it—very large holes where some of the birds escaped.''

The only immediate casualty of the collapse was a cormorant that sustained a slight cut. Many of the birds were trapped under the mesh. Some took refuge in their nesting areas, others were saved by keepers, who were next door in the Aquatic Bird House and rushed out with nets after hearing the roar. Survivors were taken to other bird shelters at the zoo.

Zoo officials asked bird-watchers and the public for help in finding the escapees, and they provided brief descriptions:

Inca tern adult has a dark blue-gray body, white mustache, red bill and feet and is 14 to 17 inches long, while the juvenile has a black bill and feet and no mustache.

Andean gull has a white head with crescent black earmarks, light gray upper body with white underparts and a 22-inch length.

Grey gull is uniformly slate gray with black bill, faint eye rings and is 19 to 20 inches long.

Band-Tail gull is white with yellow bill and feet, a white body and black wings.

All but the Band-Tail and some of the Andean gulls have leg bands. Zoo officials asked anyone who spots one of these birds to contact the zoo or one of the bird rehabilitators whose names and numbers it made public. They noted that it was unlikely that anyone could catch one of the birds, but if a bird is caught, it should not be taken indoors, but kept in a well ventilated cardboard box. The birds are not dangerous, but can bite if grabbed.

Dr. Bruning said he hoped the aviary would be rebuilt, especially in time for the zoo's centennial next year. He noted that it might cost several hundred thousand dollars and that there was little money for such a project at a time of tight budgets. But he called it an important facet of the zoo.

''It is tragic to lose this beautiful landmark aviary,'' the curator said.

THE NORTH KOREAN NUCLEAR ACCORD—DOES IT MATTER?

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. HAMILTON. Mr. Speaker, I would like my colleagues to turn their attention today to the nuclear accord signed last October with North Korea.

As Members know, this is a complex agreement that will be implemented in stages over a 10-year period. At its simplest, this agreement constitutes a trade. On one side, North Korea will halt and eventually dismantle its nuclear weapons program, accepting extensive international inspections to verify its compliance. In exchange, the international community has agreed to provide the North with alternative energy sources, initially in the form of heavy fuel oil, and later with proliferation-resistant light-water reactor technology.

The agreement also provides for movement toward the normalization of relations between the United States and North Korea, and for resuming a dialog between the two Koreas.

In evaluating this accord, it is instructive to compare what we get from this agreement with what we have agreed to give North Korea. On the positive side of the ledger, the benefits to us and our friends, including South Korea and Japan, are substantial. The agreement calls for:

An immediate freeze on the North Korean nuclear weapons program—a step the North has already taken.

Immediate international and United States inspections of the North's principal nuclear facilities—which are now being carried out on a continuing basis.

The promise of the eventual elimination of the entire North Korean nuclear weapons program.

A commitment by North Korea not only to live up to its obligations under the Nuclear

Nonproliferation Treaty, but to accept restrictions that go well beyond the treaty.

The beginnings of a process that could dampen tensions along the demilitarized zone separating the two Koreas and reduce the chances of the outbreak of a new Korean war.

A North Korean commitment to resume a political dialog with South Korea.

And what does North Korea get in return for these significant concessions?

Interim shipments of heavy oil in quantities equal to the energy it has given up by shutting down its graphite moderated nuclear reactors—roughly 3.5 percent of its electrical generation capacity.

Two light-water reactors, to replace the graphite moderated reactors it has forsworn.

The gradual lifting of United States sanctions against North Korea.

Political dialog and the beginnings of a process that could eventually lead to the normalization of diplomatic relations with the United States.

Certainly this agreement does not address every concern we have about North Korea—its conventional military might, ballistic missile program, or deplorable human rights record. Even in the nuclear sphere, we will have to wait some 5 years before we are permitted to carry out the special inspections that will reveal whether the North has secret stocks of plutonium.

What this agreement does is provide us with an opening—one that did not exist before—to lift the specter of a nuclear arms race from the Korean Peninsula, begin a process of meaningful dialog between the two Koreas, and come to grips with the other problems that continue to concern us.

Mr. Speaker, four decades ago more than 30,000 brave Americans gave their lives in Korea for the cause of freedom. They succeeded in turning back North Korean aggression. But their larger purpose—to lay the groundwork for a Korean Peninsula free from the threat of war—remains unfulfilled.

This agreement represents a giant step toward the achievement of that larger purpose. It does not resolve all outstanding issues between North Korea and the rest of the world. It does not guarantee that future relations with the North will be without tensions and difficulties.

But, if fully implemented, the Geneva accord will advance our national interests and those of our allies, while holding out the promise of a better, more peaceful life to the people of Korea, both South and North.

THE INTRODUCTION OF THE SELF-SUFFICIENCY ACT

HON. BILL ORTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. ORTON. Mr. Speaker, there are few things that more people agree upon than the fact that our welfare system is a failure. No one likes it. Taxpayers don't like it, politicians don't like it, and most of all—welfare recipients don't like it.

Our welfare system often provides people who choose not to work with a better deal than those who choose to take a job. We need to create a system where work is not penalized, and where the logical choice for parents is to work to provide for their children.

For this reason, I am pleased to reintroduce the Self-Sufficiency Act, a bill aimed at encouraging the welfare reform efforts that States already have underway. The Self-Sufficiency Act uses a commonsense approach to welfare that provides assistance to participants who are working toward self-sufficiency, promotes work, and gradually eliminates benefits to those who have chosen not to participate in a self-sufficiency plan.

Moreover, the Self-Sufficiency Act may serve as a necessary transition to a welfare system that provides States with even greater control over the welfare system.

Many of the reform plans that are on the table right now are based on controversial assumptions. For example, while block grants sound like a good idea, there are serious concerns about whether most States have the capabilities and resources to take over the reigns of a social welfare system that spans some 350 programs. The Self-Sufficiency Act provides for the coordinated services and State flexibility necessary to shape welfare systems that reflect the unique needs of each State population. This bill provides a middle ground for those States that have reservations about other reform proposals.

This bill is based upon a program, the single parent employment demonstration program, that decreased the Aid to Families with Dependent Children caseload in the Kearns demonstration area 33 percent in just 2 years. The best part is that the decrease in the number of participants is due to success in assisting people in finding jobs that exist in the labor market.

Amazingly, 44 Federal Government waivers had to be approved before Utah could begin using this approach to welfare. Other States seeking to improve upon the current system have encountered similar obstacles. This plan allows States to forgo the redtape and get on with helping people enter the labor market.

Under this act, States may choose an approach to the Aid to Families with Dependent Children [AFDC] program that requires participants to work toward self-sufficiency. This approach requires every participant to negotiate a self-sufficiency plan with a caseworker. Each plan specifies an employment goal.

Under this approach, participants will have 25 percent of benefits reduced for the first month and a gradual complete phase-out of benefits over the course of 2 years if they do not follow their self-sufficiency plan.

Once a State receives approval to use the self-sufficiency approach, it must phase-in 25 percent of the State recipients at the end of 3 years, 50 percent at the end of 5 years, 75 percent at the end of 8 years, and 100 percent at the end of 10 years. In other words, the State must be committed to transforming its welfare system into a self-sufficiency based system.

States that choose this approach are required to coordinate self-sufficiency activities with programs operated under the JTPA and any other relevant programs.

States that choose this approach must provide child care for those participants that require child care assistance. This provision ensures that children will not be neglected due to the activities required of a parent participating in the self-sufficiency program. In order to lessen the financial burden for States that choose this approach, Federal matching rates for AFDC, transitional, and at-risk child care are increased by 10 percent for these States.

In order to encourage States to continually increase the efficiency and effectiveness of their welfare program, States may receive half of any estimated AFDC grant savings to use to improve their self-sufficiency programs.

In addition, certain AFDC eligibility requirements are altered or eliminated for States using this approach in order to decrease administrative burdens and discourage long-term welfare dependency:

(1) The requirement that families must have received AFDC for a minimum period before becoming eligible for transitional Medicaid and child care benefits is eliminated. This provision served as an incentive for families to stay on welfare for a certain minimum amount of time even if they had to turn down employment opportunities.

(2) Transitional Medicaid benefits and transitional child care benefits are allowed without regard to type of income that would otherwise make the family ineligible for benefits. This is a deletion of a well-meaning regulation that has resulted in administrative time needlessly being spent to determine how the last dollar of income was received by a participant.

(3) The current requirement that minor parents and pregnant minors without children must live with a responsible adult is strengthened.

Finally, the Secretary of HHS and other specified entities are called upon to develop performance standards appropriate to judge the effectiveness of programs developed under this approach. HHS is allowed to modify the AFDC Federal matching rate for participating States to reflect the effectiveness of the State in carrying out the program. State effectiveness will be judged in part on the basis of the number of participants who have become ineligible for AFDC due to earnings.

A State that has been approved to use the self-sufficiency approach may choose any or all of the following options:

(1) Treat two-parent families in the same manner as single parent families—although two-parent families are ineligible for AFDC until 30 days after the loss of employment, and both parents must follow a personal plan or invoke the benefit reduction for the entire family.

(2) Limit family AFDC benefits to the amount for which the family was initially determined eligible—family cap.

(3) Provide a diversion payment of an amount up to 3 months of the benefit for which the family would be eligible if they participated in AFDC. This option can only be used for families that are facing a crisis or need only temporary assistance to prevent them from coming onto AFDC. If the family later decides they must enter the AFDC system, the entire amount is subtracted from payments before they begin receiving assistance. Families that received diversion payments would be eligible for 3 months of transitional child care and Medicaid benefits.

(4) Enhance AFDC payments by not more than $50 per month for participants with a full-time self-sufficiency schedule.

(5) Increase the earned income disregard rate from the current one-third rate to a rate as and high as one-half, or allow income earned by teens in the JTPA summer program to be discounted.

(6) Eliminate the time limit on the earned income disregard.

(7) Increase the cap on asset limitations from $1,000 to $2,000. In addition, allowed to exempt up to one vehicle.

(8) Upon mutual agreement with the participant, use funding from Food Stamps as a wage subsidy for that participant or as a direct cash payment to a participant following a full-time schedule self-sufficiency plan.

(9) Create sanctions based on poor school attendance or failure to immunize children.

In addition, the Self-Sufficiency Act outlines three changes beyond the scope of the Aid to Families with Dependent Children program:

(1) Allows States to deny any need-based benefits and services to noncitizens.

(2) Mandates that consumer credit reports include information on overdue child support payments.

(3) Provides that quarterly payments of earned income credit and dependent care credit will be made available.

SALUTING ELEANOR J. WILLIAMS DURING BLACK HISTORY MONTH

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. STOKES. Mr. Speaker, each February our Nation celebrates Black History Month. This occasion provides us the opportunity to herald the accomplishments of African-Americans in United States history, and to honor those still setting the pace by which history is both created and measured. Today I rise to recognize one such individual, Eleanor J. Williams, who was selected to be the first black woman manager of an enroute air traffic control center. Ms. Williams oversees the Cleveland Air Route Traffic Control Center in Oberlin, OH, the Nation's second busiest such facility.

Eleanor Williams began her diligent career with the Federal Aviation Administration in 1965 as a clerk stenographer in Anchorage, AK. Those who know her never had any question of how far she would go in her career. Her determination, and sense of self and spirit have marked her personality, as well as her résumé. In 1985, she received the Secretary's Award for Excellence from the Department of Transportation. In 1990, she was a Women in Management Delegate to the Soviet Union with People to People International. And in 1991 she was the recipient of the C. Alfred Anderson Award from the National Black Coalition of Federal Aviation Employees. Eleanor Williams was listed in Who's Who of American Women 4 years in a row.

After her start with the FAA in Alaska, in 1971 she became the first black woman to certify as an air traffic control specialist. By 1979 she had become an area supervisor in San Juan, Puerto Rico before her promotion to staff specialist for the FAA in Atlanta. By the mid-1980's she moved into a staff specialist role at FAA headquarters in Washington, DC before yet another promotion to area manager of the Kansas City region Air Traffic Division Office. Two more promotions followed in Kansas City before she received her historic post in Cleveland last year.

Mr. Speaker, the awards from Ms. Williams' professional life cannot begin to match the rewards of her personal life. Eleanor, the mother of seven and a foster child, is not only a role model to colleagues, but also the employees she supervises, and to the union members she has led. Her commitment to the Air Traffic Control Association, the Gamma Phi Delta sorority, Business and Professional Women, the Second Baptist Church, and the NAACP has left these and many other organizations the richer for her involvement. Eleanor's passion for excellence and ability to reach any goal inspires those around her to strive for the stars. Her powerful spirit is fueled by her faith in God, which enables her to tackle any task before her and has navigated her into uncharted waters.

Mr. Speaker, Eleanor Williams is a perfect example of the opportunity to be won by hard work and ardor in America. Eleanor is someone of whom the African-American community, women, and indeed Americans everywhere should be proud. Let me share with you a portion of a stunning poem written by an eighth-grader named Shondel, which was composed in honor of Ms. Eleanor Williams and her pioneering spirit.

You've accomplished many things all
because in life you've dared and won yourself wings.
Long ago your wings took flight, never
in darkness being lost, for you saw the
path with inner-sight
Your faith and freedom forever shall live, for
in your life you have never believed in Never.

Mr. Speaker, I ask my colleagues to join me during Black History Month in saluting Eleanor J. Williams, an outstanding individual with a spirit that joins her with outstanding African-Americans of the past and those who will follow.

TRIBUTE TO ORNA SIEGEL

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. ENGEL. Mr. Speaker, I would like to take this opportunity to recognize the efforts of Orna Siegel, a woman whom I admire greatly.

Orna currently serves as the Outreach Chair of the Los Angeles chapter of AIPAC, however her community activities do not start and end with that organization. Orna is deeply committed to the security of the State of Israel but she is equally committed to making a difference in her community and in the lives of individuals.

For years, Orna has been actively involved in Yad B'Yad ("hand in hand"), an organization that takes critically ill people from Israel to any place in the world where they can get the medical care they need—be it transplants, surgeries, or emergency treatment. She has also been an active fundraiser for many other worthy causes in her community.

Although Orna's public service technically began in 1967, when she began a 3-year stint in the Israeli Defense Forces, her personal turning point came in 1990, years after she had married and moved to the United States. Orna witnessed the molestation of a 5-year-old boy in the darkness of a movie theater and followed the criminal out of the building until the police responded to her calls for assistance. She later testified against the culprit, who turned out to be a registered sex offender.

I would like to submit into the RECORD a magazine article detailing Orna Siegel's courageous act. Her story demonstrates that ordinary citizens can affect the lives of their neighbors in a positive way if they only take the time to get involved.

Essentially, that is the story of Orna Siegel's life; she is a person who has chosen to become involved. Her actions have literally saved the lives of people in desperate need of help. It is a story worthy of commendation by this House, and a lesson worth sharing with the American people.

The article follows:

[From the Moxie magazine, September 1990]

JUST A HOUSEWIFE, UNTIL SHE HAD TO BE A HEROINE

(By Mary Ellen Strote)

The 11-year-old boy sitting next to Orna Siegel in the movie theater just wouldn't sit still. He kicked, he jostled, he wriggled. Annoyed, she glanced sideways and saw that the blond, blue-eyed youngster was grimacing. Then she looked down and gasped. The boy's companion, a man in his middle sixties, had his hand inside the boy's shorts.

Orna had brought her children to last summer's opening of Honey, I Shrunk the Kids. The theater was crowded, but she had found a couple of seats five rows from the front. Holding Jonathan, 7, in her lap, and with daughter Shana, 10, on the seat to her left, she had looked forward to the comedy. But the minute the movie had begun, the boy had started with his wriggling. Now she left her children and sought out the manager, ''I told him, 'Please call the police. A child is being molested in Row 5,'" Orna remembers. ''He promised to call.'' Orna bought a cup of soda so her kids wouldn't suspect anything, went back to her seat, and took her son in her lap again.

Then she waited for the police. And waited. And waited. All the while the boy kept kicking her. ''I watched him, not the movie,'' Orna says. ''the man was molesting him the whole time. And I watched what that son of a bitch was doing.

''Maybe I was in shock,'' she goes on. ''It was a funny movie and everyone was laughing. It was so noisy and Jonathan was heavy on my lap and we were too close to the screen and the lights were changing so fast. I got such a big headache. I was very nervous, not knowing what to do, just waiting for a policeman to come with a flashlight, for someone to get me out of this ordeal.''

But suddenly the movie was over. ''The crowds were leaving,'' she says. ''I hadn't made up my mind to follow them, but I knew at that moment: If I don't make a move now, it's all over. I told my kids, 'Please be quiet,' and I grabbed their hands and held tight, looking with my eyes straight after the guy. I would let him out of my sight. On the way out the door, I saw the manger. He looked at me and shrugged, as if to say, 'No one showed up * * *.'"

Until that day, Orna, 41, would have described herself as a housewife. More likely, she would have used the words just a housewife. She cooked. She lunched with her friends. She waited for her kids to come home from school. She dressed up to go out with her husband, a successful businessman.

She was such a relentlessly traditional wife and mother that except for the fact that she had been born Orna Tieb in Tunisia, the seventh of eight children in a family that

moved to a small town in Israel when she was just four * * * and the fact that she'd joined the Israeli army in 1967, right after the Six Day War, when she was 18 * * * except for that history, she could have passed for June Cleaver.

A pretty, perfectly coiffed redhead with an manicure to match her meticulous makeup, and color-coordinated down to her very toes, Orna at first glance seems too perfect to be real. Indeed, she has lived a Cinderella life: The poverty and hardship of her childhood vanished virtually overnight when she met tall, blond American Saul Siegel. She was 22, a student at a university in Tel Aviv. He asked her to marry him the day they met, and a couple of days later she was on a plane to America.

Today she keeps house in an airy French Normandy-style home that would be called a mansion almost anywhere in the world, although in the guard-gated, upper-class neighborhood in Los Angeles' San Fernando Valley where she lives, it seems almost average. She receives a guest with the gracious ritual that is common in her homeland: cake on the table and an offer of tea. A few minutes sitting at the table in her immaculate kitchen, listening as she fields phone calls from her husband's clients in her rapid-fire Israeli-accented speech, however, less even a casual observer see the rock-hard substance beneath her polished, feminine exterior.

But until that day at the theatre, Orna herself had no idea of her own strength. ''I thought I would go after the molester, follow him to his car, get his license number,'' she remembers, ''but instead, the man took the boy next door to the magic store. Now, this happens to be a wonderful store, and my children love it. So we went inside, and I told them to go wander around by themselves.''

Orna approached the store manager and asked to use the phone. ''I need to call the police,'' she whispered. ''That child was abused,'' and she nodded toward the boy.

But the manager refused. ''I didn't see it happen,'' she told Orna.

''What is the matter with you people in America?'' Orna asked in despair, and she started crying. ''Why won't you get involved? I saw it happen! Look at that man! That's not a father-son hug.''

And it wasn't. The man was buying presents for the boy and kept his arm around the child all the time. ''The manager realized that if I was going to be that upset, she didn't want the trouble, so she told me to go into her office and use the phone there,'' says Orna.

She called 911, and the operator seemed to ask a hundred questions. What does he look like? What color are his eyes? Orna covered her mouth and the receiver with her hand: ''He's only 10 feet away; I can't talk loud.''

By the time Orna got off the phone, even the manager had noticed that the man was behaving oddly. He was about to buy an Indiana Jones hat and whip for the boy, so Orna suggested to the manager that she try to get a name when he paid.

The manager asked, ''May I have your name and phone number?'' Before the man could stop him, the boy gave a name—Richard—and a number.

''What do you want that for?'' the man asked suspiciously.

The manager was very clever. ''You are buying a whip,'' she replied. ''It's like a weapon, so we need a name and number for our records.''

Now Orna felt some relief; at least she had a name and a phone number. When the pair left the store, she suggested that the manager follow and get a car license number too, which the woman did. Then Orna went into the back office and called the number the boy had given her.

A woman answered. ''I was very emotional,'' Orna says. ''My hands were trembling. I was crying. I didn't want to scare her; I didn't want her to misunderstand and think her son was dead or something, so I said, 'I'm, sorry, but I was at the movies. Do you have a son named Richard?'—I gave the name the boy had said.''

The woman replied no, that her son was named ——. Orna was confused—whose name had the boy given?—but she went on: ''I was at the movies, and your son was molested throughout the movie.''

The woman became very upset and asked Orna a string of questions: ''Where is he now? Can I see you? Can I talk to you?''

Orna just repeated, ''I wanted you to know that I was there and I saw it.''

The mother protested, ''But that man is his Uncle Richard.'' (Aha, Orna realized, the boy had given the man's name.* * *) He took my son to the movies for his eleventh birthday.* * *''

Just then, at long last, the police walked into the magic store. Orna was finally able to make her report, and the police told her the man would be apprehended when he took the boy home.

''I was still so upset,'' she remembers. I couldn't breathe properly, I couldn't take a regular breath. I was in the army for three years, but nothing had ever been this hard for me. Oh, it was a terrible thing to see,'' she says, closing her eyes at the memory.

But now it was over. She had gone as far as she could go. She had told the police. She had told the mother, Now no one could say it wasn't true.

''Then I took my two babies and went to my car,'' she says. ''I couldn't wait to get there. I just wanted to sit in my car with them for a while.'' Her children were frightened; they had thought she was crying because their car had been stolen. ''I had to tell them what had happened,'' says Orna. ''They wouldn't let go of me until I did, I reminded them of what they'd been told at school: that no one else was supposed to touch their privates. Then I told them what the man had done.''

The children were shocked. Her daughter asked what would happen to the man.

''He will probably go to jail,'' Orna said.

''Isn't that sad?'' asked Shana.

''No,'' Orna reassured her, ''they will help him there.''

When Orna returned home, there was a message from the police on her answering machine. The message was very short. It went: ''Thanks to your efforts, you've saved the life of a little boy. The man has been arrested.''

Orna remembers feeling very high, but also scared. ''It wasn't that I had done all that and nothing came of it—the man had been arrested. But I started having flashbacks, and in my mind I saw my own son having that happen to him.''

She agreed to testify against ''Uncle'' Richard, a registered sex offender, now charged with nine new counts of child molestation. In court, she met the boy's parents and learned that Richard had been a trusted family friend who helped with carpools and babysitting. He had been molesting the boy and his older brother for about three years. She was told that the boys had been placed in therapy immediately. She also learned that the movie theater manager never had called the police. ''The manager had a theater full of customers,'' say Orna, still angry at the thought. ''He didn't want a scene.'' (The theater management later sent her some complimentary tickets, but she returned them.)

The boy's mother invited Orna to come home for lunch during the court's noon break. Once there, the woman called to her younger son, ''Come meet the lady who saved your life * * *.''

''The whole family was very open about it,'' says Orna. ''I admired them; they were so honest. They appreciated what I did * * *. Instead of just sending me a bouquet of flowers, the mother wanted to be close. We still call each other.''

So. What started out as a horror story had a true happy ending. But for Orna, this story provided not just an ending, but a beginning.

Aside from five years as a part time volunteer at a local hospital, Orna had never done anything outside her home. Even after 18 years in America, she didn't feel comfortable expressing herself in English her second language. ''I never worked since I married my prince; I never got myself out of this package deal I got myself into,'' she says.

Needless to say, she never did public speaking. Whenever she even thought about speaking in front of people she didn't know, she blushed so red she glowed.

But now, suddenly, this quiet little housewife was famous. A heroine! The police department honored her with a citizen's recognition award. This led to publicity, newspaper articles, and an invitation to address the Julia Ann Singer Center, a community treatment center for children and families in Los Angeles.

''There I was,'' says Orna, talking in front of all the therapists and Ph.D.s.'' She was terrified. ''Who the hell am I?'' she wondered. ''I'm nobody with the authority to speak. But I just told them what happened, and they gave me a standing ovation.''

The talk at the Singer Center was important, but it was the day that Orna received the award from the chief of police that permanently changed her view of herself. ''All of a sudden I wasn't just a wife, a mother, a friend,'' she says. ''I had done something that outsiders noticed. I was recognized! I felt taller, bigger, stronger than I thought I ever could be.

''People called, they sent notes. I have been thanked by everybody: the police, the county supervisors, the city council, the state assembly, the district attorney, the district this, the district that. . . .''

She pulls the awards down from the shelves in her den—the plaques, certificates, framed letters, and laminated newspaper clippings, all adorned with brass and seals and calligraphy and fancy signatures, and lines them up on a seven-foot sofa until they cover the cushions.

What the awards said to her, Siegel realizes now, was: You are capable. You can do something. You can save a life. ''I grabbed these awards,'' she says with a smile. ''I said thank you, and I just grabbed them.''

Then she went out and started doing things; the awards had triggered more than feelings, they had triggered action. She helps with fund raising for the charity Yad Byad (''hand in hand''), an organization that takes sick people from Israel to wherever in the world they can get the medical care they need—transplants, surgeries, emergency treatment. ''With 24 hours' notice, we can organize a dinner, a luncheon, an auction * * * whatever it takes to get the money to handle the emergency,'' she says proudly.

Her other new activities also revolve around charitable fund raising, and they all require that she speak up and speak out.

It is so easy to make a difference in the lives of others, Orna says in amazement. She often wonders why she had never done anything like this before. ''I was not involved,'' she says. ''I was nothing. I was blah. Now I'm someone who changes things for the better. Sure, the changes are tiny in the larger scheme of things, but it feels so good.''

At a recent Yad Byad fundraiser dinner for which Orna was a primary organizer, an 11-

year-old boy made a speech. He told how a bone marrow transplant paid for by Yad Byad had cured his leukemia. ''He got up in front of the 350 guests,'' Siegel recalls, ''and we were all crying. And he said. * * *'' Siegel stops and looks away in an attempt to compose herself, but her eyes fill with tears anyway. ''And he said to us, 'You saved my life'''

CLINTON POLICIES ON HUMAN RIGHTS MARRED BY INCONSISTENCY, FLIP-FLOPS, WEAKNESS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. SMITH of New Jersey. Mr. Speaker, it is particularly fitting that the first hearing of the new Subcommittee on International Operations and Human Rights, which was held last February 2, was for the purpose of receiving and beginning to analyze the 1994 Country Reports on Human Rights Practices.

The subcommittee, which I chair, is an amalgamation of two Foreign Affairs subcommittees from the previous Congress. In addition to our substantial legislative responsibilities, including the crafting of the Foreign Relations Authorization Act for fiscal years 1996 and 1997, last week's proceeding marked the beginning of an extensive series of hearings, briefings, and reports by the Subcommittee on Human Rights and humanitarian concerns around the globe.

I am delighted to have my good friend TOM LANTOS serving as ranking members of the Subcommittee on International Operations and Human Rights. Previously, TOM had chaired the Subcommittee on National Security, International Organizations, and Human Rights and was eminently fair, consistent, and effective. During my 15 years in Congress, I have had the privilege to fight alongside TOM in numerous human rights battles from Romania to the former U.S.S.R. to the People's Republic of China.

It is my intention and sincere hope to leave no stone unturned in the attempt to expose, scrutinize, and seek remedies for man's inhumanity to man, wherever and however it occurs. In like manner, our subcommittee will endeavor to recognize and encourage improvements in human rights practices. Above all, I will insist that objectivity, fairness, and the pursuit of trust be at the core of our work.

In the weeks and months ahead, the subcommittee will explore policy options designed to mitigate the seemingly endless suffering and abuse endured by so many.

In my view, the Country Reports are among the most important work the Department of State does. They allow the United States Government an opportunity to bear witness, to reassert fundamental principles, and also to examine its own conscience about whether its foreign policy comports with these principles.

Mr. Speaker, let me make some general observations about human rights.

First, the very idea of human rights presupposes that certain rights are fundamental, universal, and inalienable: they are too important to be taken away or circumscribed by governments.

Second, the United States has a commitment to human rights that is unique in the history of the world. It is no accident that the signers of our Declaration of Independence rested their resistance to tyranny not on tradition, self-interest, or the balance of power, but on the conviction that all human beings are ''endowed by their Creator with certain inalienable rights.'' More recently, President Ronald Reagan reminded us that it is the destiny of the United States to be a ''shining city on a hill,'' a living monument to the idea of freedom.

Human rights are indivisible, mutually reinforcing, and all-inclusive. Human rights cannot be abridged on account of race, color, creed, gender, age, or condition of dependency. Inclusiveness means everyone, and perhaps especially the inconvenient: the unborn child, or the dissent, or the believer in another religious tradition.

The right to life, religion, speech, assembly, and due process are the pillars of a free, sane, and compassionate society. The moral character and depth of soul of any society is measured not by its military might, technological prowess, athletic excellence or GDP, but on how well or poorly it treats its weakest and most vulnerable members.

It is particularly ironic that the subordination of human rights to other concerns, such as trade, immigration control, or congenial relations with other governments, is often justified on the ground that these are U.S. interests. This formulation misses the point: the most important U.S. interest is the promotion of freedom and of decency. We are strong enough and prosperous enough that we have no need to accept blood money, or to send refugees back to persecution, or to seek our alliances among regimes that murder and torture their own people.

Immediately prior to Thursday's hearing I received portions of the reports and had the opportunity to read the findings concerning about 10 countries. I have some reservations concerning certain portions of the reports, which I would like to state briefly.

First, I hope that in the State Department's effort to keep pace with what it calls ''the changing nature of human rights problems,'' you do not lose sight of the fact that some rights are fundamental. Every year the reports seem to tell us more about the extent to which various societies have developed such institutions as collective bargaining and one-person-one-vote democracy. I do not mean to suggest that these things are not important. They are. They tell us much about a society. However, we must not allow their presence or absence to deflect attention from extrajudicial killing, torture, and imprisonment on account of religious or political beliefs.

Second, and even more troubling, on some issues in some countries the 1994 reports seem to acknowledge, yet minimize, human rights abuses. In a few cases the reports seem almost to suggest excuses or justifications for such abuses. At least three instances of this forgiving approach involve cases in which the foreign policy of the present administration has also given too little attention to egregious and well-documented human rights abuses. I refer to the harsh measures taken by the Chinese Government against those, especially women, who resist its coercive population control program, and by both China and Cuba against people who try to escape from these countries.

Finally, the reports raise deep concerns about the half-hearted and inconsistent human rights policy of the present administration. On ethnic cleansing in Bosnia and the brutal killings in Chechnya, the reports fully state the extent of the human rights abuses. Unfortunately, the administration has not given sufficient weight to these abuses in formulating its policy toward the nations in question. Human rights appears not to have been the primary concern.

CHINA: FORCED ABORTION AND STERILIZATION

The 1994 report acknowledges that forced abortions have been reported in China. Indeed, it acknowledges that ''most people still depend on their government-linked work unit for permission to have a child,'' and that the ''highly intrusive one child family planning policy * * * relies on * * * propaganda, and economic incentives, as well as more coercive measures including psychological pressure and economic penalties * * * [including] fines, withholding of social services, demotion, and other administrative punishments such as loss of employment * * *. The report also clearly states that ''penalties for excess births can be levied against local officials and the mothers' work units * * * providing multiple sources of pressure * * *.''

The report, however, then seems to accept blindly and uncritically the Chinese Government's oft-stated lie that ''physical compulsion to submit to abortion or sterilization is not authorized'' by the government. This is the same story the Chinese Government has been telling for years. The 1994 report also continues—as in past years—to suggest that the one-child policy is not even enforced in rural areas of the country. This ignores the 1991 country-wide tightening of enforcement of the coercive population control program. The pervasive use of forced abortion and sterilization, particularly since 1991, has been well documented by demographers, dissidents, journalists, and human rights activists. Most recently, a series of articles in the New York Times in April 1993 showed clearly that forced abortion in China is not rare, not limited to economic coercion or social pressure, not confined only to urban areas or to certain parts of the country, and definitely not unauthorized by those in power.

The report, as in past years, also seems to excuse the excesses of the brutal People's Republic of China policy by pointing with alarm to the size of China's population and with evident approval to the general thrust of the regime's effort to minimize population growth.

Forced abortion was properly construed to be a crime against humanity at the Nuremberg war trials. Today it is employed with chilling effectiveness and unbearable pain upon women in the People's Republic of China. Women in China are required to obtain a birth coupon before conceiving a child. Chinese women are hounded by the population control police, and even their menstrual cycles are publicly monitored as one means of ensuring compliance.

The 1993 New York Times articles pointed out that the People's Republic of China authorities, when they discover an unauthorized pregnancy—that is, an illegal child—normally apply a daily dose of threats and browbeating. They wear the woman down and eventually, if she does not succumb, she is physically forced to have the abortion.

The 1994 report also barely mentions the brutal eugenics policy under which the People's Republic of China regime has undertaken to reduce the number of defective persons. In December 1993 the Chinese Government issued a draft law on eugenics that would nationalize discrimination against the handicapped. That law is now going into effect. This policy of forced abortions against handicapped children, and forced sterilization against parents who simply do not measure up in the eyes of the state, is eerily reminiscent of Nazi Germany.

CHINA: REPRISALS AGAINST FORCED REPATRIATES

The report on China also states that escapees who are forcibly repatriated ''are often detained for a short time to determine identity and any past criminal record or involvement with smuggling activities.'' The report adds that ''[a]s a deterrent and to recover local costs incurred during the repatriation, the authorities in some areas levy a fine of $1,000 or more on returnees.''

This appears to be a deliberate attempt to put government reprisals against escapees in the most favorable possible light—perhaps because these reprisals have frequently been conducted against people who were forcibly repatriated by the United States Government. The report fails to mention that a $1,000 fine amounts to several times the per capita income in rural areas of China. A fine of this amount is a clear indication that the People's Republic of China regime regards these people as its enemies, not as routine offenders. Nor does the report say what happens to people who are unable to pay these oppressive fines. Newspaper reports during 1993 state that hundreds of people repatriated by the United States have been imprisoned for more than a brief period and have been forced to serve on prison work gangs. The report does not say whether any of these people remained incarcerated during 1994.

CUBA: MASSACRES OF PEOPLE ATTEMPTING TO ESCAPE

Similarly, the report on Cuba describes two well-documented instances in which the Cuban Border Guard deliberately killed people who were trying to flee the country. These are the sinking of the *Olympia* and of the *13th of March.* The report goes on to state, however, that there have been no reports of such killings since the September 9 Clinton-Castro immigration agreement. The reports do not state how we would know whether such killings have taken place since the agreement, or what steps—if any—we have taken to make sure they do not. Rather, it leaves the clear impression—without any supporting evidence—that the Castro regime quickly changed its ways upon signing the agreement.

OTHER COUNTRIES: DISCONNECT BETWEEN HUMAN RIGHTS CONCERNS AND U.S. FOREIGN POLICY

I have already stated my concern about the incongruity between the well-documented human rights abuses in Bosnia and Chechnya and our policies toward those countries. The 1994 reports confirm the atrocities in these countries: in Bosnia, concentration camps, routine torture, and rape as an instrument of government policy; in Chechnya, the killing of thousands of civilians and the destruction of hospitals and an orphanage. The director of the Washington office of Amnesty International has commented that the administration's policy toward Chechnya amounted to giving Russia a green light to commit the brutality that is so well documented by the report. I raised this same concern last month to an administration official who testified before the Helsinki Commission, which I chair. He dismissed it out of hand. This is part of an unfortunate pattern: After an initial period of encouraging rhetoric, the Clinton administration's human rights record has been marked by broken promises, weakness, retreat, inconsistency, and missed opportunities.

There is a similar incongruity between the administration's new friendship with the Government of North Korea and the 1994 report about the situation on the ground in that country. This is a rogue government that not only detains an estimated 150,000 political prisoners in concentration camps, but, also kidnaps citizens of other nations and causes them to disappear. The reports also state that ''Political prisoners, opponents of the regime, repatriated defectors, and others * * * have been summarily executed.'' This is the regime to which the administration, amid much self-congratulation, recently arranged a $4 billion multilateral aid package.

Other abuses, well documented in the 1994 reports, to which our Government's response has been inadequate or nonexistent include the ''extrajudicial executions, torture, and reprisal killings'' by Indian security forces fighting separatist insurgents in Kashmir, and the brutal persecution of Christian missionaries and others by the Government of Sudan.

CONCLUSION

Future country condition reports will be far more useful to congress, to the executive, and to the American people if they take care never to understate the extent of human rights abuses—especially when a thorough and honest account of such abuses might compel the reconsideration of United States Government policy toward the perpetrators. We must also work together to ensure that these reports are not just published and then forgotten. Rather, they must be regarded by those who conduct our foreign relations as an indispensable guidebook for a foreign policy worthy of the United States.

HISTORY STANDARDS ARE BUNK

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. GINGRICH. Mr. Speaker, I respectfully submit an article from the February 6, 1995, U.S. News & World Report entitled ''History Standards Are Bunk,'' to be included in the CONGRESSIONAL RECORD.

HISTORY STANDARDS ARE BUNK

A funny thing happened to the National History Standards on their way to a famous forum: They were denounced by the United States Senate by a vote of 99 to 1.

This is a major turning point in the debate. The standards are, as Washington Sen. Slade Gorton said, a ''perverse'' document, loaded up with crude anti-Western and anti-Americans propaganda, but until now, the authors of this mess have been able to pose as bewildered moderates, set upon by a pack of crazed right-wingers.

A new spin will be needed now that the pack of irrational right-wingers includes Ted Kennedy, Carol Moseley-Braun and the entire Senate.

During a debate on other legislation, Gorton introduced an amendment to pull the plug on funds for the history standards. That probably would have passed fairly easily in a closer vote. But several senators were queasy about pre-empting other concerned groups, including the nation's governors, who have led the effort to set voluntary standards. So a ''sense of the Senate'' condemnation was voted on instead and passed without dissent. Even the one ''No'' vote, by Louisiana Democrat Bennett Johnston, was a ''Yes'' in disguise. He wanted stronger action than simple condemnation.

How do you get all 100 senators to repudiate your standards? Easy. Just do it the way the major perpetrators, historians Gary Nash and Charlotte Crabtree, did it at UCLA's National Center for History in the Schools. Start the standards with the ''convergence'' gambit: America is not a Western-based nation but the result of three cultures (Indian, black and European) ''converging.'' This subliminally puts the Founding Fathers, and whites in general, in their place as mere founders of a third of a nation.

TRASHING EUROPEAN CULTURE

Though two of these three founding cultures were preliterate, depict all three as equal in value and importance, except for the fact that European culture was worse and dedicated largely to oppression, injustice, gender bias and rape of the natural world.

Carry this theme through, trampling moderate opinion to the point where Albert Shanker of the American Federation of Teachers says: ''No other nation in the world teaches a national history that leaves its children feeling negative about their own country—this would be the first.''

Connecticut Sen. Joseph Lieberman took up this theme in the Senate debate, calling the standards ''a terrific disappointment.'' We don't need ''sanitized history,'' he said, but we certainly don't need to give our children ''a warped and negative view'' of America and the West, either.

How did these standards get to be so bad? After all, historians and teachers of all political persuasions (and none) took part in the discussions. But most of the power, and control of the drafting process, stayed in the hands of academics with a heavy ideological agenda.

Earl Bell, head of the Organization of History Teachers, and one of four K-through-12 teachers on the panel, felt run over by the ideological academics. He hates the view of the cold war in the standards as a clash that wasn't really about anything, just a quarrel between what he called ''equally imperialistic nations.'' The companion World History Standards, he says are even worse, ''unrelentingly anti-Western.''

The fiasco over the American and Western history standards is a reflection of what has happened to the world of academic history. The profession and the American Historical Association are now dominated by younger historians with a familiar agenda: Take the West down a peg, romanticize ''the Other'' (non-whites), treat all cultures as equal, refrain from criticizing non-white cultures.

The romanticizing of ''the Other'' is most clearly seen in the current attempt to portray American Indian cultures as unremittingly noble, mystical, gender-fair, peace-loving and living in great harmony with nature. All the evidence that doesn't fit is more or less ignored. The premise of the exercise makes it profoundly dishonest and propagandistic.

In the World History Standards, as Senator Lieberman noted in the Senate, slavery is only mentioned twice, and both times as practices of white cultures: in ancient Greece and in the Atlantic slave trade. The

long and well-documented worldwide slave trade, including Muslim and black slave traders, is not mentioned. It doesn't fit the agenda.

History textbooks, curricula and museum displays are becoming the carriers of the broad assault against American and Western culture. The same kind of gratuitous touches that turned up in the Enola Gay exhibit text (e.g., Japanese brave and noble, Americans racist and destructive) show up in many other Smithsonian exhibits now, and, to nobody's surprise, in the proposed history standards, too.

Don't be fooled by the argument that these standards are voluntary and nonbinding, so not much is at stake. Over 10,000 copies have already been distributed, and textbook publishers are poised to make them the basis of new texts. Any approval of these standards by a public body would give them more momentum. They are beyond salvage and need to be junked.

SO YOU WANT TO BE A DOCTOR

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. DUNCAN. Mr. Speaker, almost everyone today agrees that our health care system requires some reform and that encouraging more young people to choose a career in medicine, particularly primary care medicine, is a critical element of that reform.

One family physician in my district, Dr. Fred Hurst, is proving that we can pursue this goal without relying on the heavy hand of the Federal Government to set quotas for various medical specialties.

Last year, Dr. Hurst started a program called FuturDOCS, which enables talented high school students interested in medicine to get first-hand experience working with patients at St. Mary's Medical Center in Knoxville.

These students have the opportunity to observe and participate in various different types of treatments, from prenatal care to helping heart attack victims recover to complicated surgeries. This unique experience not only provides them with valuable insight into a potential future career, but also benefits the patients at St. Mary's, who clearly enjoy having them around.

FuturDOCS has been such an unqualified success that numerous other hospitals, both in Tennessee and across the country, are designing similar programs of their own. In my view, FuturDOCS is a perfect example of what enterprising individuals who care enough to make a difference can do without turning to the Federal Government to solve all of our problems for us.

I commend to my colleagues and other readers of the RECORD the following article describing the FuturDOCS program, which appeared in the Knoxville News-Sentinel's Sunday magazine on Christmas Day.

SO YOU WANT TO BE A DOCTOR

(By Michael Ryan)

When I was in high school, I wanted to be a doctor,'' Fred Hurst told me. ''But nobody in my family had ever been a physician, and I lived in a small town about 40 miles from Knoxville.'' Hurst wanted to learn more about what a doctor does, but he was stymied. ''To gain entry to the local hospital, I had to join the Future Nurses' Club,'' he recalled. ''I decided then that, if I ever had the chance, I would start a program to interest young people in primary care.''

Encouraged by his parents, Hurst went to college, then medical school. Last year, at age 46, Dr. Hurst fulfilled the commitment he'd made as a youth. The need, as he saw it, was obvious: Only about one-third of the doctors in America today are primary-care physicians; almost two-thirds are specialists. The federal government and the American Medical Association agree that at least half of our physicians should be primary-care doctors. But four-fifths of today's medical students are planning to specialize, which will make the imbalance even worse.

''We had to show young people that they can have a gratifying future in service to their fellow humans—and handle 95 percent of the ailments of their patients—as primary-care physicians,''' said Hurst

His solution was FutrDOCS, a program that brings talented high school juniors and seniors into St. Mary's Medical Center in Knoxville, where he is chief of staff. They see what doctors actually do and later serve in summer internships, where they ''shadow'' primary-care physicians in all of the many tasks doctors perform.

Last year, Trang Nguyen, 18, helped administer a sonogram at St. Mary's after Annette Neubert, a pregnant patient who is also a nurse, encouraged her to try her hand at the painless, risk-free procedure. Nguyen handled the sophisticated equipment as if she had performed the procedure before. ''Can you find the baby's head?'' asked Dr. Paula Peeden, 36, an obstetrician/gynecologist. The student expertly located the tiny head moving back and forth deep within Neubert's womb.

''Have you chosen a name yet?'' Nguyen asked with an easy bedside manner. ''Courtney,'' Neubert said with a smile.

Since FutrDOCS began last year, 125 students have completed the program. This year, about 70 Knoxville-area students took part. Each participating high school nominates four outstanding students, based on their academic record, their interest in pursuing a career in medicine and their desire to help people. FutrDOCS is funded solely by St. Mary's Medical Center.

I went to St. Mary's on a day when eight FutrDOCS were visiting. I was surprised to learn that these young people saw all sides of the medical practice—its failures and limits as well as its successes. They accompanied Dr. Hurst on his rounds, meeting a heart-attack victim headed for full recovery but also seeing a man who had been left semi-comatose and incoherent by a stroke, beyond the help of modern medicine. In an operating room, they watched surgeons struggle to repair the body of a drunk driver with a damaged kidney, pelvis, bladder and spleen, ''Medicine isn't always glamorous,'' FutrDOC Emily Herbert, 17, a senior at Karns High School in Knoxville, told me after that experience. ''But ultimately it's about helping people.''

The patients seem to enjoy having the teenagers around. ''Without a doubt,'' said Dr. Hurst, ''the patients are thrilled to be visited by and see the concern of these students.'' Diane Holloway, the surgical nursing supervisor at St. Mary's, also thinks highly of FutrDOCS—even though it obliges her to shoehorn visitors into her crowded operating rooms. ''It's good for them to get this kind of experience early,'' she said.

Students in the program also learn what doctors think. The group sat down for a meeting with Dr. Douglas Leahy, 46, an internist who began his medical career the hard way—as an orderly at St. Mary's 30 years ago. Doctors make a decent income, but there are a lot of things you can make a lot of more money in,'' he told the students. ''Medicine is an opportunity to be a part of people's lives. You can make their lives better. I think that's what drives most doctors.''

FutrDOCS offers students a chance to see what they, as tomorrow's physicians, might want to do with their own careers. ''It helped me to focus,'' said Mark Buckingham, 18, now a freshman at Notre Dame. For Trang Nguyen, FutrDOCS provided insight into a long-cherished dream. ''I came to this country when I was 5, from Vietnam,'' she said. ''It was my parents' dream that I become a doctor, and that was a challenge to me. This has helped me discover that I really want to be a pediatrician. I just love kids,'' Nguyen, now 19, is a freshman at the University of Tennessee.

Fred Hurst has received at least 100 inquiries about the program from more than 35 states. Next year, 15 additional schools in suburban and rural areas of Tennessee will join FutrDOCS. Institutions in New York and Pennsylvania, as well as several Tennessee medical centers, may start their own programs. ''My goal is to expand this program throughout the nation,'' said Dr. Hurst.

Early in my visit, Bryce Bowling, a FutrDOC, approached me to say how terrific he thought the program was. Bowling, 18, is now a freshman at the University of Tennessee. ''My dad has had two surgeries on his heart,'' he told me. ''I owe a debt to medicine. Doctors saved his life.'' That, I realized, was the greatest thing FutrDOCS has to offer young people: It shows them a way to give something back.

VICTIM RESTITUTION ACT OF 1995

SPEECH OF

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 665) to control crime by mandatory victim restitution:

Mr. FAZIO. Mr. Chairman, from 1973 to 1991, over 36 million Americans were injured as a result of violent crime. In 1991, crime against people and households resulted in an estimated $19.1 billion in losses. Crime-related injuries typically account for more than 700,000 days of hospitalization annually.

Although current law requires restitution in Federal crimes of domestic violence, for most other Federal crimes, judges have the discretion to order restitution. However, H.R. 665, the Victim Restitution Act, makes such restitution mandatory. If H.R. 665 is enacted, those convicted of Federal crimes will have to pay full restitution to their victims for damages caused as a result of their crimes. Federal courts will also be able to order restitution for any person—not just the direct victim of the crime—who demonstrates, through a preponderance of evidence, that he or she was harmed physically, emotionally, or financially by the offense. If the defendant fails to comply with the restitution order, the court could revoke probation or parole, modify the conditions of probation or parole, hold the defendant in contempt of court, enter a restraining order or injunction against the defendant, order the sale of the defendant's property, or take any other action necessary to ensure compliance with the restitution order.

Whatever our views are on crime and how to deal with it, we are in agreement that the crime victim deserves respect and support from society. This is an issue that unites this country—support for victims of crime. I believe that H.R. 665 will provide crime victims and their families with this necessary protection and I therefore support its passage.

IN HONOR OF JOHN T. BRENNAN WHO WAS RECOGNIZED BY IRELAND 32

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to congratulate John T. Brennan who was being honored by Ireland 32 at a dinner. He has been and continues to be an outstanding citizen. As fire chief of the Bayonne Fire Department he has served his community with much bravery and determination.

Mr. Brennan is the son of two Irish immigrants, Michael and Mary Brennan. He is married to the former Meg Connolly with whom he raised six children. They are also the proud grandparents of 13 grandchildren. Mr. Brennan joined the Bayonne Fire Department on December 18, 1943 and has served proudly and courageously for 45 years.

Mr. Brennan always put the lives of the people ahead of his own. His heroic deeds are hallmarks of his career. When I think of heroism I am reminded of the time that Mr. Brennan risked his life when he ran through an inferno of flames after a propane storage plant had exploded. He managed to reach the propane gas value that was feeding the fire while his firefighters were using high powered hoses to water him down.

Mr. Brennan was the youngest firefighter, at the age of 38, to be named fire chief in Bayonne and in the State of New Jersey. In February 1974 he was named Irishman of the Year for the 12th annual Hudson County St. Patrick's Day Parade in Jersey City. Also he received a service award for making it possible to speedily apprehend criminals by the Bayonne Police Department.

Mr. Brennan has been a faithful member of St. Vincent's Parish and a member of the 3d and 4th Degree of the Knights of Columbus. He is also a member of several associations such as the New Jersey Paid Fire Chiefs Association, the National Fire Protection Association, the Hudson Country Fire Chief's Association and the New Jersey State Exempt Fireman's Association just to name a few.

Mr. Brennan has served his community with much courage and bravery. His valor and dedication is appreciated by the citizens of Bayonne. I am proud to have him as a constituent. I ask that my colleagues join me in honoring this great and brave man.

INTRODUCTION OF THE FIREFIGHTERS PAY FAIRNESS ACT OF 1995

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. HOYER. Mr. Speaker, as a dedicated member and former chairman of the fire services caucus, I am proud to introduce the Firefighters Pay Fairness Act of 1995.

Mr. Speaker, every day over 10,000 Federal firefighters around the country put their lives on the line to protect our lives and property. They work exhausting shifts and take on the greatest of physical and mental challenges. We have an obligation to properly compensate them for their work.

For far too long, our Federal firefighters have received significantly inadequate pay for their hard work. Under the present system, Federal firefighters work over 25 percent more hours a week, yet earn nearly 44 percent less per hour than the average municipal firefighter. Furthermore, the average Federal firefighter is also paid significantly less per hour than their Federal employee counterparts.

Mr. Speaker, Federal firefighters currently work an average of 72 hours, while there municipal counterparts work an average of 50 hours. Meanwhile, Federal firefighters are paid an average hourly rate of $7.34, while the municipal firefighters earn an average of $12.88.

I introduced this legislation to correct the inequities that exist under the present system. This is not an issue about rewarding firefighters for their hard work. Moreover, this should not be viewed as a complimentary pay raise. Rather, this is an issue surrounding fairness comparability. These firefighters work endless work days, put their lives on the line for our constituents, and deserve to have a fair and equitable pay system.

This bill does nothing more than seek fair and equal pay rates for Federal firefighters. It will employ the existing statutory provisions of the Federal general schedule pay system to compute their hourly pay. Thus, Federal firefighters will earn equal pay as compared to their Federal employee counterparts. It also seeks to pay all firefighters, including those who are not defined solely as Federal firefighters, including forestry technicians. These forestry firefighters have braved the brushfires in California and throughout the West over the past several years and thus, deserve adequate compensation.

Mr. Speaker, far too many Federal firefighters have had to work under the inequitable pay system that we presently have. Moreover, upon completion of their required training, many Federal firefighters leave for the private sector where they can earn a larger salary. Thus, this lengthy, expensive training process goes for naught when a firefighter leaves the Federal fire system. It is our duty and responsibility to both those firefighters and the people they protect and serve, to reverse the ills of this system. We should not let another day go by where our Federal firefighters are put in an unfair position as compared to other municipal firefighters and Federal employees.

Mr. Speaker, I hope that my colleagues will join with me in support of this legislation to replace the present inequities of this pay system with a fair, comparable pay structure for our Federal firefighters.

DEATH OF DR. RAYMOND C. BUSHLAND

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. DE LA GARZA. Mr. Speaker, it was with the most profound regret that I learned recently of the death of my long-time colleague and dear friend, Dr. Raymond Bushland. For decades, I have had both the pleasure and privilege of working with Dr. Bushland in his capacity as a senior research scientist with the U.S. Department of Agriculture. During his long and distinguished career, Dr. Bushland's prodigious research armed the battle against insect-borne diseases of humans, animals, and plants, thereby making a significant contribution to human health and nutrition worldwide.

The internationally acclaimed screwworm eradication program will be a lasting tribute both to him and his friend and colleague Dr. E.F. Knipling. The most successful research program in USDA's history, it was a pioneering effort among Federal and State officials, producers, and the private sector to eliminate a serious scourge.

During his 38-year career with USDA, he was the author of over 70 scientific papers on the biology and control of insects, and pioneered numerous insect research methods. Dr. Bushland was a member of several scientific societies and received many honors and awards including: the USA Typhus Commission Medal, the gold medal of the National Hide Association, the Distinguished Service Award of the Texas, and Southwestern Cattle Raisers Association, and Progressive Farmer magazine honored him as Man of the Year in service of southern agriculture. He was jointly recognized, with Dr. Knipling, with the Hoblitzelle National Award in 1960 and the John F. Scott Medal in 1961. Also in 1992, Dr. Knipling and Dr. Bushland were awarded the World Food Prize. The USDA Agricultural Research Service's U.S. Livestock Insects Research Laboratory in Kerrville, TX bears his name.

Our prayers and those of all who knew or worked with him are with his family and many friends during this period of mourning.

FEDS SHOULD LET STATES HANDLE ENVIRONMENTAL ISSUES

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. KOLBE. Mr. Speaker, more and more people across this Nation are voicing their vehement opposition to the Federal Government's continued intrusion upon their individual rights. Leading this authoritarian onslaught upon the public are the cumbersome and often frivolous regulatory actions that have become part of our environmental policy. These regulations have become so pernicious that they actually prevent any sensible or rational

interpretation/implemetation of our environmental laws. This does not, however, have to be the case.

The following article by a Tucson, AZ resident, Mr. Hugh Holub, illustrates the absurdity of some of these regulations. But Mr. Holub also touches upon a key element to any prudent environmental strategy: That we must have confidence in and trust the local people to protect the environment in which they live.

The article appeared in the Tucson Citizen on January 30, 1995.

FEDS SHOULD LET STATES HANDLE ENVIRONMENTAL ISSUES

(By Hugh Holub)

The rapidly spreading revolt against federal environmental regulation being led by state governors such as Fife Symington is not an attempt to degrade our environment.

State and local governments are seeking the opportunity to prioritize risks so limited financial resources can be applied to obtain the maximum public benefit, and to fashion their own ways to accomplish environmental goals without being told how to do it by Washington.

The greatest threat to our environment today is not the Republican Congress, or state governors fed up with unfunded federal mandates. The greatest threat is the federal regulatory system itself, which has lost sight of the relationship between cause and effect, which bases regulatory mandates on junk science, which ignores the human and economic consequences of regulatory mandates, and which increasingly demands specific actions that strain the credibility and pocketbooks of the public.

The Endangered Species Act is probably the most controversial expression of federal power yet devised in Washington. Recently, the U.S. Fish and Wildlife Service proposed the listing of the pygmy owl as an endangered species, and proposed various urban rivers in Phoenix and Tucson as ''habitat recovery areas.''

Included as a ''habitat recovery'' area in Tucson is the Santa Cruz River flood plain from the I–19 bridge to the Avra Valley Road bridge. What this means is that federal mandates will follow, if the pygmy owl is listed, to prevent groundwater pumping in Phoenix and Tucson and the restoration of riparian forests along the Salt and Santa Cruz Rivers.

Since the time of the Hohokam Indians, there probably hasn't been a riparian area along the Salt and Santa Cruz rivers through Phoenix and Tucson because the rivers were diverted for agricultural uses and the flood plains were irrigated. However, since these rivers theoretically could become habitats for the owls, the federal government claims the authority to make us re-create habitat for the owls, notwithstanding the absurdity of the goal, and the cost.

It is also very arguable that there is no credible scientific evidence that pygmy owls normally lived in these areas, at least according to the Arizona Game and Fish Department.

Since the listing argument is based on the need for forests to provide nesting sites for the owls, it is conveniently ignored that there are more trees on the valley floors of the Salt River valley and the Santa Cruz River valley today than since the end of the last ice age. However, these trees are on residential lots, in city parks, and around commercial and industrial properties and thus aren't ''natural.''

The U.S. Fish and Wildlife Service has, by their interpretation of the Endangered Species Act, the power to play God, and restore habitats for what they believe to be endangered. There is obviously a not so hidden agenda with the pygmy owl listing, as the target really is to usurp state water law.

One of the elements of the habitat recovery program is the limitation of groundwater pumping in the valleys of the Salt and Santa Cruz rivers. All of this conveniently ignores—at least in the Tucson area—recent changes to Pima County's flood control laws to protect riparian areas, and serious proposals to restore river flows with CAP water for recharge projects.

According to one of the advocates of the listing of the pygmy owl, protecting this owl under the Endangered Species Act is the last, best chance to save the owl. Like the state and local governments can't qqqdo more and better to restore riparian areas without having the Endangered Species Act used as a club to beat Arizona's management of water into submission.

The message to be gleaned from the growing conflict over federal environmental regulation is that while the overwhelming majority of Americans support protection of the environment, we do not want to sacrifice our homes and our jobs to federal environmental mandates.

We want a balance—a win-win solution. We want environmental protection and economic prosperity. We haven't been able to get that from the federal level of government.

Besides being governor of the state of Arizona, Fife Symington is also a serious trout fisherman. He shares a brotherhood and sisterhood of people who really go out into the environment, and who appreciate the spiritual value wild places give us.

Symington is every bit as much an environmentalist as any federal official. The salient difference, which is the bedrock of the revolution that is growing in America today, is that Fife and a lot of people such as him—Republican and Democrat—have confidence in local people being able to protect the environments they live in and depend on without someone in Washington telling them how to do it.

AMERICAN FARM PROTECTION ACT OF 1995

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. HOUGHTON. Mr. Speaker, I am joined today by several of my colleagues, including Mr. PAYNE of Virginia, Mrs. JOHNSON of Connecticut, Mr. MCCRERY, Mr. COYNE, Mr. BREWSTER, Mr. WELDON of Pennsylvania, and Mr. ENGLISH, in introducing legislation to provide an election to exclude from the gross estate of a decedent the value of certain land subject to a qualified conservation easement, and to make technical changes to the alternative valuation rules.

The bill, to be titled ''American Farm Protection Act of 1995,'' offers direct relief from the burden of the Federal estate tax to the families of the owners of these farms and other rural families, while insuring the future agricultural use of their land.

The best caretakers of America's land are the farm and ranch families who have owned and cared for it for generations. Once these families are displaced from their land, no amount of regulation or tax spending can replace their productive stewardship of the land. According to ''The Second RCA Appraisal,'' published by the Department of Agriculture in 1989,

> 1.5 million acres of agricultural land, most of them prime farmland, are irreversibly removed from production and converted to nonagricultural use each year.

The problem is especially acute near metropolitan areas. Here development pressure has caused the value of farm and ranch land to escalate dramatically over the past several decades. Yet this is some of our most productive agricultural land.

An important factor contributing to the displacement of America's farm and ranch families is the Federal estate tax. That is because rural land is valued for estate tax purposes, not necessarily at a value representing its actual rural use as a farm, but at its potential value as development property. The tax can force families to sell land on which they have lived and made their living, sometimes for generations. Once farm and ranch families are gone the cycle of speculation, sprawl development, and overregulation often takes over.

The bill removes this problem for America's rural families and lets them do what they can do better than anyone else: take care of the land. For rural landowners who voluntarily and permanently provide for the commitment of their land to rural uses through the donation of a qualified conservation easement, the act will exempt that land from the Federal estate tax.

The concept embodied in the bill has been endorsed by the American Farm Bureau Federation and the National Farmers Union, as well as many other local, regional, State, and national forestry and land conservation organizations. We welcome other Congressmen as cosponsors of this legislation.

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, February 9, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 10

9:00 a.m.
Judiciary
To hold hearings on the national drug control strategy.
SD–226

9:30 a.m.
Budget
To hold hearings on the President's proposed budget request for fiscal year 1996 for the Department of Defense.
SD–608

10:00 a.m.
Small Business
To hold hearings on the future of the Small Business Administration.
SR–428A

FEBRUARY 14

9:00 a.m.
Judiciary
To hold hearings to examine Federal crime control priorities.
SD–226

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine how to reduce excessive government regulation of agriculture and agribusiness.
SR–332

Armed Services
To resume hearings on proposed legislation authorizing funds for fiscal year 1996 for the Department of Defense and the future years defense plan, focusing on the military strategies and operational requirements of the unified commands.
SR–222

Indian Affairs
To hold hearings on proposed legislation authorizing funds for fiscal year 1996 for Indian programs.
SR–485

2:30 p.m.
Environment and Public Works
Water Resources, Transportation, Public Buildings, and Economic Development Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the Water Resouces Development Act and the President's proposed budget request for fiscal year 1996 for the U.S. Army Corps of Engineers.
SD–406

FEBRUARY 15

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for defense programs, focusing on Pacific issues.
SD–116

Energy and Natural Resources
To hold hearings on the President's proposed budget request for fiscal year 1996 for the Forest Service.
SD–366

Labor and Human Resources
To hold hearings on S. 141, to repeal the Davis-Bacon Act of 1931 to provide new job opportunities, effect significant cost savings on federal construction contracts, promote small business participation in Federal contracting, and reduce unnecessary paperwork and reporting requirements.
SD–430

2:00 p.m.
Environment and Public Works
To hold hearings on the President's proposed budget request for fiscal year 1996 for the Environmental Protection Agency.
SD–406

Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to examine the court imposed major league baseball antitrust exemption.
SD–226

FEBRUARY 16

9:30 a.m.
Indian Affairs
To continue hearings on proposed legislation authorizing funds for fiscal year 1996 for Indian programs.
SR–485

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for foreign assistance, focusing on U.S. policy toward Russia and the New Independent States.
SD–192

Labor and Human Resources
Children and Families Subcommittee
To hold hearings to examine the effectiveness of the Federal child care and development block grant program.
SD–430

2:00 p.m.
Small Business
To hold hearings on the small business owner's perspective on the Small Business Administration.
SR–428A

FEBRUARY 23

2:00 p.m.
Indian Affairs
To hold oversight hearings to examine the structure and funding of the Bureau of Indian Affairs.
SR–485

MARCH 1

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Disabled American Veterans.
345 Cannon Building

MARCH 2

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Transportation.
SD–192

MARCH 7

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Veterans of Foreign Wars.
345 Cannon Building

10:00 a.m.
Indian Affairs
To hold oversight hearings to review Federal programs which address the challenges facing Indian youth.
SR–485

MARCH 9

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Transportation Safety Board.
SD–192

MARCH 16

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Highway Administration, Department of Transportation.
SD–192

MARCH 23

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Railroad Administration, Department of Transportation, and the National Passenger Railroad Corporation (Amtrak).
SD–192

MARCH 30

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of AMVETS, American Ex-Prisoners of War, Vietnam Veterans of America, Blinded Veterans Association, and the Military Order of the Purple Heart.
345 Cannon Building

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Aviation Administration, Department of Transportation.
SD–192

APRIL 27

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Transit Administration, Department of Transportation.
SD–192

MAY 4

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Coast Guard, Department of Transportation.
SD–192

Wednesday, February 8, 1995

Daily Digest

HIGHLIGHTS

House passed exclusionary rule reform and death penalty bills.

Senate

Chamber Action

Routine Proceedings, pages S2277–S2344

Measures Introduced: Eight bills were introduced, as follows: S. 369–376. **Page S2332**

Balanced Budget Constitutional Amendment: Senate continued consideration of H.J. Res. 1, proposing a balanced budget amendment to the Constitution of the United States, taking action on amendments proposed thereto:

Pages S2279–S2307, S2311–24, S2326–30

Pending:

Reid Amendment No. 236, to protect the Social Security system by excluding the receipts and outlays of Social Security from balanced budget calculations. **Pages S2311–24, S2326–30**

During consideration of this measure today, Senate took the following action:

By 56 yeas to 44 nays (Vote No. 62), Senate tabled Daschle motion to commit the resolution, with instructions to report back forthwith, with Daschle Amendment No. 231, to require a budget plan before the amendment takes effect. **Pages S2279–S2307**

Subsequently, the following amendments fell:

Dole Amendment No. 232 (to instructions to commit), to establish that if Congress has not passed a Balanced Budget Amendment to the Constitution by May 1, 1995, within 60 days thereafter, the President shall transmit to Congress a detailed plan to balance the budget by the year 2002.

Pages S2279, S2307

Dole Amendment No. 233 (to Amendment No. 232), in the nature of a substitute. **Pages S2279, S2307**

Senate will resume consideration of the resolution on Thursday, February 9, 1995.

Messages from the President: Senate received the following messages from the President of the United States:

Transmitting the report on the national emergency with Iraq; referred to the Committee on Banking, Housing, and Urban Affairs. (PM–12).

Pages S2330–31

Transmitting the report on the Operation of the Andean Trade Preference Act; referred to the Committee on Finance. (PM–13). **Page S2331**

Nominations Received: Senate received the following nominations:

Alton W. Cornella, of South Dakota, to be a Member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 104th Congress.

Rebecca G. Cox, of California, to be a Member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 104th Congress. (Reappointment)

General James B. Davis, United States Air Force, Retired, of Florida, to be a Member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 104th Congress.

S. Lee Kling, of Maryland, to be a Member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 104th Congress.

Benjamin F. Montoya, of New Mexico, to be a Member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 104th Congress.

Wendi Louise Steele, of Texas, to be a Member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 104th Congress.

6 Air Force nominations in the rank of general.

8 Navy nominations in the rank of admiral.

Routine lists in the Air Force, Army, Marine Corps, Navy. **Pages S2342–44**

Messages From the President: **Pages S2330–31**

Messages From the House: **Page S2331**

Measures Referred: Page S2331
Measures Read First Time: Page S2342
Communications: Pages S2331–32
Statements on Introduced Bills: Pages S2332–41
Additional Cosponsors: Pages S2341–42
Amendments Submitted: Page S2342
Notices of Hearings: Page S2342
Authority for Committees: Page S2342

Record Votes: One record vote was taken today. (Total—62) Page S2307

Recess: Senate convened at 9:15 a.m., and recessed at 6:22 p.m., until 9:15 a.m., on Thursday, February 9, 1995. (For Senate's program, see the remarks of the Acting Majority Leader in today's RECORD on page S2342.)

Committee Meetings

(Committees not listed did not meet)

PRESIDENT'S FY 1996 BUDGET

Committee on the Budget: Committee held hearings to examine the President's proposed budget request for fiscal year 1996 for the Federal Government, receiving testimony from Alice M. Rivlin, Director, Office of Management and Budget.

Committee will meet again on Friday, February 10.

SUBCOMMITTEE MEMBERSHIP

Committee on Finance: Committee announced the following subcommittee assignments:

Subcommittee on Long-Term Growth, Debt and Deficit Reduction: Senators Pressler (Chairman), Simpson, D'Amato, Murkowski, Pryor, and Bradley.

Subcommittee on International Trade: Senators Grassley (Chairman), Packwood, Roth, Hatch, Pressler, D'Amato, Murkowski, Moynihan, Baucus, Bradley, Rockefeller, Breaux, Conrad, and Graham.

Subcommittee on Medicaid and Health Care for Low-Income Families: Senators Chafee (Chairman), Roth, Nickles, Graham, Rockefeller, and Moseley-Braun.

Subcommittee on Medicare, Long-Term Care and Health Insurance: Senators Dole (Chairman), Packwood, Chafee, Grassley, Hatch, Simpson, Rockefeller, Baucus, Pryor, Conrad, Graham, and Moseley-Braun.

Subcommittee on Social Security and Family Policy: Senators Simpson (Chairman), Dole, Chafee, Nickles, Breaux, Moynihan, Baucus, and Moseley-Braun.

Subcommittee on Taxation and IRS Oversight: Senators Hatch (Chairman), Packwood, Roth, Dole, Grassley, Pressler, D'Amato, Murkowski, Nickles, Bradley, Moynihan, Pryor, Breaux, and Conrad.

BUDGET TAX CUTS

Committee on Finance: Committee held hearings to examine certain tax cuts contained in the President's proposed budget request for fiscal year 1996 and as contained in the proposed Contract With America and their potential effect on the deficit, receiving testimony from Robert E. Rubin, Secretary of the Treasury.

Hearings were recessed subject to call.

REGULATORY REFORM

Committee on Governmental Affairs: Committee continued hearings on proposed legislation to reform the Federal regulatory process, to make government more efficient and effective, receiving testimony from Senator Murkowski; former Senator George McGovern; John A. Georges, International Paper Company, Purchase, New York, on behalf of the Business Roundtable; Michael O. Roush, National Federation of Independent Business, Richard L. Lesher, Chamber of Commerce of the United States, Robert W. Hahn, American Enterprise Institute, and Paul R. Portney, Resources for the Future, all of Washington, D.C.; Thomas D. Hopkins, Rochester Institute of Technology, Rochester, New York; and Carl Pope, Sierra Club, San Francisco, California.

Hearings were recessed subject to call.

NOMINATIONS

Committee on the Judiciary: Committee concluded hearings on the nominations of Sandra L. Lynch, of Massachusetts, to be United States Circuit Judge for the First Circuit; Lacy H. Thornburg, to be United States District Judge for the Western District of North Carolina; Sidney H. Stein, to be United States District Judge for the Southern District of New York; and Thadd Heartfield and David Folsom, each to be a United States District Judge for the Eastern District of Texas, after the nominees testified and answered questions in their own behalf. Ms. Lynch was introduced by Senators Kennedy and Kerry, Mr. Thornburg was introduced by Senators Helms and Faircloth, Mr. Stein was introduced by Senators D'Amato and Moynihan, and Messrs. Heartfield and Folsom were introduced by Senator Hutchison.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to call.

House of Representatives

Chamber Action

Bills Introduced: Fourteen public bills, H.R. 857–870; one private bill, H.R. 871; and four resolutions, H.J. Res. 68 and H. Res. 64–66, were introduced. **Page H1460**

Reports Filed: The following reports were filed as follows:

H.R. 729, to control crime by a more effective death penalty, amended (H. Rept. 104–23);

H.R. 728, to control crime by providing law enforcement block grants, amended (H. Rept. 104–24); and

H. Res. 63, providing for the consideration of H.R. 667, to control crime by incarcerating violent criminals (H. Rept. 104–25). **Page H1460**

Journal: By a yea-and-nay vote of 346 yeas to 69 nays with a 1 voting ''present'', Roll No. 100, the House approved the Journal of Tuesday, February 7. **Pages H1375–76**

Exclusionary Rule Reform: By a recorded vote of 289 ayes to 142 noes, Roll No. 103, the House passed H.R. 666, to control crime by exclusionary rule reform. **Pages H1380–H1400**

Agreed To:

The Volkmer amendment that exempts searches and seizures carried out by or under the authority of the Bureau of Alcohol, Tobacco and Firearms from the relaxation of the exclusionary rule (agreed to by a recorded vote of 228 ayes to 198 noes with 3 voting ''present'', Roll No. 101). Earlier, a Conyers amendment was offered but subsequently withdrawn that contained identical provisions; **Pages H1386–90**

The Traficant amendment that exempts searches or seizures carried out by or under the authority of the Internal Revenue Service from the relaxation of the exclusionary rule; and **Pages H1390–93**

The Fields of Louisiana amendment, as amended by the McCollum substitute, that provides that none of the provisions shall be construed so as to violate the fourth article to the Constitution. **Pages H1393–96**

Rejected the Serrano amendment that sought to exempt searches or seizures carried out by or under the authority of the Immigration and Naturalization Service (rejected by a recorded vote of 103 ayes to 330 noes, Roll No. 102). **Pages H1396–98**

Effective Death Penalty: By a recorded vote of 297 ayes to 132 noes, Roll No. 109, the House passed H.R. 729, to control crime by a more effective death penalty. **Pages H1400–34**

Agreed to the committee amendment in the nature of a substitute. **Pages H1403–06, H1433**

Agreed To:

The McCollum technical amendment; **Page H1406**

The Cox amendment that establishes a rule of deference to State courts so that Federal judges who are entertaining habeas corpus petitions from State inmates would be required to consider whether the claimant received a full and fair adjudication of their complaint (agreed to by a recorded vote of 291 ayes to 140 noes, Roll No. 106); and **Pages H1424–28**

The Smith of Texas amendment that provides that the automatic stay of execution provisions will terminate upon completion of State court review unless the petitioner has made a substantial showing of the denial of a Federal right (agreed to by a recorded vote of 241 ayes to 189 noes, Roll No. 108). **Pages H1430–33**

Rejected:

The Schumer amendment that sought to encourage States to provide competent counsel in death penalty cases during the initial trial phase (rejected by a recorded vote of 149 ayes to 282 noes, Roll No. 104); **Pages H1406–09**

The Watt of North Carolina amendment that sought to permit State prisoners sentenced to death or to prison to file a second Federal habeas petition if it is shown, through newly discovered evidence, that the person was innocent and probably would have been acquitted had the evidence been presented at trial (rejected by a recorded vote of 151 ayes to 280 noes, Roll No. 105); and **Pages H1409–23**

The Fields of Louisiana amendment that sought to add language to permit juries, in certain circumstances where the bill now requires the death penalty, to recommend a sentence of death or of life imprisonment without the possibility of release (rejected by a recorded vote of 139 ayes to 291 noes, Roll No. 107). **Pages H1428–30**

The Clerk was authorized to make such clerical and technical amendments as may be required in the engrossment of H.R. 665, H.R. 666, and H.R. 729. **Page H1434**

Presidential Messages: Read the following messages from the President:

Iraqi emergency: Message wherein he reports on the developments since his last report concerning the national emergency with respect to Iraq—referred to the Committee on International Relations and ordered printed (H. Doc. 104–29); **Pages H1434–36**

Andean trade: Message wherein he transmits the first report on the operation of the Andean Trade Preference Act—referred to the Committee on Ways and Means; and **Page H1436**

Baseball dispute resolution: Message wherein he transmits proposed legislation entitled the ''Major League Baseball Restoration Act''—referred to the Committee on Economic and Educational Opportunities and ordered printed (H. Doc. 104–30).

Page H1436

Committees To Sit: It was made in order for the following committees and their subcommittees to sit during the proceedings of the House under the 5-minute rule on Thursday, February 9: Committees on Agriculture, Banking and Financial Services, Commerce, Economic and Educational Opportunities, International Relations, Resources, Transportation and Infrastructure, and Veterans' Affairs.

Page H1436

Amendments Ordered Printed: Amendments ordered printed pursuant to the rule appear on pages H1461–65.

Quorum Calls—Votes: One yea-and-nay vote and nine recorded votes developed during the proceedings of the House today and appear on pages H1375–76, H1389–90, H1398, H1399–H1400, H1409, H1423–24, H1427–28, H1430, H1432–33, and H1433–34. There were no quorum calls.

Adjournment: Met at 11 a.m. and adjourned at 11:41 p.m.

Committee Meetings

REFORMING THE PRESENT WELFARE SYSTEM

Committee on Agriculture: Subcommittee on Department Operations, Nutrition and Foreign Agriculture continued hearings on reforming the present welfare system. Testimony was heard from Representative Castle; Ellen Haas, Under Secretary, Food, Nutrition, and Consumer Services, USDA; Mary Jo Bane, Assistant Secretary, Children and Families, Department of Health and Human Services; Thomas Eichler, Secretary, Department of Services for Children, Youth, and Their Families, State of Delaware; and public witnesses.

Hearings continue tomorrow.

TRANSPORTATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Transportation held a hearing on the National Transportation Safety Board. Testimony was heard from James Hall, Chairman, National Transportation Safety Board.

JOB CREATION AND WAGE ENHANCEMENT ACT

Committee on Commerce: Began markup of Title III, Risk Assessment and Cost/Benefit Analysis for New Regulations of H.R. 9, Job Creation and Wage Enhancement Act.

OVERSIGHT

Committee on Commerce: Subcommittee on Energy and Power held an oversight hearing on the Department of Energy's proposed budget for fiscal year 1996. Testimony was heard from Hazel R. O'Leary, Secretary of Energy.

REMOVING IMPEDIMENTS TO EMPLOYEE PARTICIPATION/ELECTROMATION

Committee on Economic and Educational Opportunities: Subcommittee on Employer-Employee Relations held a hearing on Removing Impediments to Employee Participation/Electromation. Testimony was heard from Representative Gunderson; and public witnesses.

PAPERWORK REDUCTION ACT; REGULATORY TRANSITION ACT

Committee on Government Reform and Oversight: Subcommittee on National Growth, Natural Resources and Regulatory Affairs approved for full Committee action the following bills: H.R. 830, Paperwork Reduction Act of 1995; and H.R. 450, amended, Regulatory Transition Act of 1995.

COMMITTEE BUSINESS

Committee on House Oversight: Met to consider pending business.

FOREIGN RELATIONS AUTHORIZATION

Committee on International Relations: Subcommittee on International Operations and Human Rights continued hearings on 1996–97 Foreign Relations Authorization: International Organizations, Conferences, and Commissions. Testimony was heard from the following officials of the Department of State: Madeleine K. Albright, Permanent U.S. Representative to the United Nations; and Douglas J. Bennet, Assistant Secretary, International Organization Affairs.

OVERSIGHT; COMMITTEE ORGANIZATION

Committee on the Judiciary: Subcommittee on Immigration and Claims held an oversight hearing on the management practices of the Immigration and Naturalization Service. Testimony was heard from Laurie Ekstrand, Associate Director, Administration of Justice Issues, General Government Division, GAO; and Chris Sale, Deputy Commissioner, Immigration and Naturalization Service, Department of Justice.

Prior to the hearing, the Subcommittee met for organizational purposes.

NATIONAL DEFENSE AUTHORIZATION

Committee on National Security: Held a hearing on the fiscal year 1996 National Defense authorization request. Testimony was heard from the following officials of the Department of Defense: William J. Perry, Secretary; and Gen. John M. Shalikashvili, USA, Chairman, Joint Chiefs of Staff.

MISCELLANEOUS MEASURES

Committee on Resources: Ordered reported the following bills: H.R. 402, to amend the Alaska Native Claims Settlement Act; H.R. 421, amended, to amend the Alaska Native Claims Settlement Act to provide for the purchase of common stock of Cook Inlet Region; H.R. 715, Sea of Okhotsk Fisheries Enforcement Act; H.R. 716, to amend the Fishermen's Protective Act; H.R. 622, to implement the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries; H.R. 535, to direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas; H.R. 584, to direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa; and H.R. 614, to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility.

The Committee also approved the following: Oversight plans for the 104th Congress for submission to the Committee on Government Reform and Oversight and the Committee on House Oversight; and other pending Committee business.

COMMITTEE BUDGET

Committee on Rules: Approved the Committee budget.

VIOLENT CRIME INCARCERATION ACT

Committee on Rules: By a nonrecord vote, granted a modified open rule providing 1 hour of debate on H.R. 667, Violent Crime Incarceration Act of 1995. The rule waives clause 2(1)(2)(B) (requiring inclusion in committee reports of rollcall vote results) and clause 2(1)(6) of rule XI (requiring a 3-day availability report) against consideration of the bill. The rule makes in order the Judiciary Committee amendment in the nature of a substitute as an original bill for the purpose of amendment which shall be considered as read. The rule waives clause 7 of rule XVI (prohibiting nongermane amendments) and clause 5(a) of rule XXI (prohibiting appropriations in a legislative bill) against the committee amendment in the nature of a substitute. The rule provides a ten-hour time limit on the amendment process and gives priority in recognition to Members who have pre-printed their amendments in the CONGRESSIONAL RECORD prior to their consideration. Finally, the rule provides one motion to recommit, with or without instructions. Testimony was heard from Chairman Hyde and Representatives Conyers and Berman.

CRIMINAL ALIEN DEPORTATION IMPROVEMENT ACT

Committee on Rules: Heard testimony from Chairman Hyde and Representatives Smith of Texas, Conyers, and Berman, but no action was taken on H.R. 668, Criminal Alien Deportation Improvement Act of 1995.

JOB CREATION AND WAGE ENHANCEMENT ACT; OVERSIGHT PLANS

Committee on Science: Began markup of Title III, Risk Assessment and Cost/Benefit Analysis for new regulations of H.R. 9, Job Creation and Wage Enhancement Act of 1995.

The Committee approved oversight plans for the 104th Congress for submission to the Committee on Government Reform and Oversight and the Committee on House Oversight.

APPROVE NATIONAL HIGHWAY SYSTEM AND ANCILLARY ISSUES RELATING TO HIGHWAY AND TRANSIT PROGRAMS

Committee on Transportation and Infrastructure: Subcommittee on Surface Transportation held a hearing on legislation to approve the National Highway System and Ancillary Issues relating to Highway and Transit Programs. Testimony was heard from Wayne Shackelford, Commissioner, Department of Transportation, State of Georgia; Charles H. Thompson, Secretary, Department of Transportation, State of Wisconsin; James J. Kereasiotes, Secretary of Transportation, State of Massachusetts; Andrew Poat, Chief Deputy Director, Department of Transportation, State of California; and public witnesses.

Hearings continue February 28.

SELF-EMPLOYED HEALTH INSURANCE PERMANENT DEDUCTION RESTORATION; COMMITTEE BUSINESS; ADMINISTRATION'S BUDGET PROPOSALS

Committee on Ways and Means: Ordered reported amended H.R. 831, to amend the Internal Revenue Code of 1986 to permanently extend the deduction for the health insurance costs of self-employed individuals, to repeal the provisions permitting nonrecognition of gain on sales and exchanges effectuating policies of the Federal Communications Commission.

The Committee approved the following: Oversight plans for the 104th Congress for submission to the Committee on Government Reform and Oversight and the Committee on House Oversight; Budget recommendations for the report to the Committee on the Budget; and the Committee Budget.

The Subcommittee also continued hearings on the Administration's fiscal year 1996 Budget proposals. Testimony was heard from Donna E. Shalala, Secretary of Health and Human Services.

Hearings continue tomorrow.

COMMITTEE MEETINGS FOR THURSDAY, FEBRUARY 9, 1995

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations, Subcommittee on Foreign Operations, to hold hearings on proposed budget estimates for fiscal year 1996 for foreign assistance programs, focusing on United States policy toward Russia and the New Independent States, 10:30 a.m., SD–192.

Committee on Armed Services, to hold hearings on proposed legislation authorizing funds for fiscal year 1996 for the Department of Defense and the future years defense program, 9:30 a.m., SH–216.

Committee on Energy and Natural Resources, to hold hearings on the President's proposed budget request for fiscal year 1996 for the Department of Energy and the Federal Energy Regulatory Commission, 9:30 a.m., SD–366.

Committee on Finance, to hold hearings on S. 287, to expand individual retirement accounts (IRA's) for spouses, and on proposals to expand IRA's, 401(k) plans, and other savings arrangements, 9:30 a.m., SD–215.

Committee on the Judiciary, business meeting, to mark up S.J. Res. 19 and S.J. Res. 21, measures proposing an amendment to the Constitution of the United States relative to limiting congressional terms, 9 a.m., SD–226.

Committee on Labor and Human Resources, to hold hearings to examine employee involvement and worker management cooperation, 9:30 a.m., SD–430.

Committee on Veterans' Affairs, to hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, Jewish War Veterans, Retired Officers Association, Non-Commissioned Officers Association, and the Association of the United States Army, 9:30 a.m., 345 Cannon Building.

Committee on Indian Affairs, to hold oversight hearings to review challenges facing Indian youth, 10 a.m., SD–G50.

NOTICE

For a listing of Senate Committee Meetings scheduled ahead, see page E305 in today's RECORD.

House

Committee on Agriculture, Subcommittee on Department Operations, Nutrition and Foreign Agriculture, to continue hearings on reforming the present welfare system, 9:30 a.m., 1300 Longworth.

Committee on Appropriations, Subcommittee on Transportation, on the ICC, 10 a.m., 2358 Rayburn.

Subcommittee on Veterans Affairs, HUD, and Independent Agencies, on Restructuring Government, 10 a.m., 2358 Rayburn, and 2 p.m., H–143 Capitol.

Committee on Banking and Financial Services, to consider oversight plans for the 104th Congress for submission to the Committee on Government Reform and Oversight and the Committee on House Oversight, 9:30 a.m., and to hold a hearing regarding the U.S. and international response to the Mexican financial crisis, 2 p.m., 2128 Rayburn.

Committee on the Budget, to hold a hearing on the Administration's Budget proposals for fiscal year 1996, 10 a.m., and 2 p.m., 210 Cannon.

Committee on Commerce, Subcommittee on Oversight and Investigations, hearing on the implementation and enforcement of Clean Air Act Amendments of 1990, 9 a.m., 2123 Rayburn.

Committee on Economic and Educational Opportunities, Subcommittee on Oversight and Investigations, hearing on Block Grant/Consolidation Overview, 9:30 a.m., 2175 Rayburn.

Committee on International Relations, Subcommittee on Africa, executive, to receive a closed briefing on Central, West, and North Africa, 1 p.m., 2255 Rayburn.

Subcommittee on Asia and the Pacific, hearing on Challenges to U.S. Foreign Policy in Asia, 10 a.m., 2200 Rayburn.

Committee on Resources, Subcommittee on National Parks, Forests and Lands and the Subcommittee on Interior and Related Agencies of the Committee on Appropriations, joint oversight hearing to review financial management in the National Park Service and the National Park Service Reorganization Plan, 10 a.m., 1324 Longworth.

Committee on Standards of Official Conduct, to hold an organizational meeting, 9 a.m., HT–2M Capitol.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, hearing on the Metropolitan Washington Airports Authority Board of Review, 2 p.m., 2247 Rayburn.

Subcommittee on Water Resources and Environment, hearing on the reauthorization of the Federal Water Pollution Control Act, 10 a.m., 2167 Rayburn.

Committee on Ways and Means, to continue hearings on the Administration's fiscal year 1996 budget proposals, 10 a.m. and 1 p.m., 110 Longworth.

JOINT MEETINGS

Joint Hearing: Senate Committee on Veterans' Affairs, to hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, Jewish War Veterans, Retired Officers Association, Non-Commissioned Officers Association, and the Association of the United States Army, 9:30 a.m., 345 Cannon Building.

Next Meeting of the SENATE

9:15 a.m., Thursday, February 9

Senate Chamber

Program for Thursday: After the recognition of two Senators for speeches and the transaction of any morning business (not to extend beyond 10 a.m.), Senate will continue consideration of H.J. Res. 1, Balanced Budget Constitutional Amendment.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, February 9

House Chamber

Program for Thursday: Consideration of H.R. 667, Violent Criminal Incarceration Act (modified rule, 1 hour of general debate).

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