

who sold their properties to minority-owned firms. For this policy, the FCC defines minorities as including "Blacks, Hispanics, American Indians, Alaska Natives, Asians and Pacific Islanders."

The greatest flaw in this program is that the economic benefit does not go to the minority buyer, the economic benefit goes to the seller. It is like a kickback. If you sell to me and not the other guy, I will give you a little extra something. And I will not be paying for it, the American taxpayer will. I do not understand it, and I do not understand why people would think this is benefiting minorities when the monetary gain is going to the seller.

These are also million-dollar deals. These are tax breaks to millionaires. The average sales price for transactions in which tax certificates were granted is \$3.5 million for radio, and \$38 million for television. Although there is no data currently available for the cable industry, one of the transactions in the cable industry seeking to utilize the tax certificate, is \$2.3 billion.

EFFECTIVE DATE

Some have tried to say that this bill's effective date is retroactive. And that this bill is crafted to target one particular transaction—the Viacom transaction. I disagree.

Chairman ARCHER of the House Ways and Means Committee issued a press release on January 17 of this year entitled, "Archer Announces Review of FCC Tax Provision," putting all FCC tax certificate transactions on notice. It reads, and I quote:

The Committee on Ways and Means will undertake this review immediately to explore possible legislative changes to section 1071, including the possibility of repeal. Any changes to section 1072 may apply to transactions completed, or certificates issued by the FCC, on or after today, January 17, 1995.

Two days later, on January 19, representatives from Viacom, House Ways and Means Committee, and the Joint Tax Committee met. And Viacom was fully apprised of the situation and the possible consequences on their transaction.

Nevertheless, the parties in the Viacom transaction signed an asset purchase agreement the following day, and even then I do not believe it was not a binding contract. The purchase agreement is contingent upon the FCC granting a tax certificate. They filed a tax certificate application with the FCC on February 3, with full knowledge that Congress would be acting to repeal the program. On February 6, 1995, H.R. 831 was introduced, and reported by the Ways and Means Committee on February 8. The bill passed the House on February 21.

This transaction is not a small one. This a \$2.3 billion transaction. The parties involved are sophisticated players in the mergers and acquisitions world. A world where players are accustomed to reacting quickly. It is clear to me that the parties of this transaction were given reasonable expectation that

the FCC tax certificate program would be repealed. And it is clear to me that they decided to sign their agreement regardless. And, remember, they did not file for an FCC tax certificate until February 3. Their agreement continues to be contingent upon a tax certificate being granted.

TURNING TAX BREAKS AND LOOPHOLES FOR MILLIONAIRES INTO HEALTH CARE FOR THE ORDINARY CITIZEN

Let me be clear, if we do not pass this legislation today, then what we are doing is raising taxes for 3.2 million Americans. Make no mistake about it. If we do nothing today, then they will pay more in taxes this year than they did last year.

What we are trying to do here today; what we will accomplish here today is taking a million dollar, unjustifiable tax break for millionaires, not minorities, and turn them into health care for ordinary Americans. Americans who really need it.

Let me also remind everyone here that this bill passed the House of Representatives with an overwhelming majority vote of 388 to 44. I urge my colleagues to vote for this bill.

AFFIRMATIVE ACTION

Mr. DOLE. As the Washington Post reported today, the overwhelming majority of the American people believe that the race-counting game has gone too far.

I am proud of my own civil rights record. I have supported affirmative action in the past. That's no secret.

But my past record did not disqualify me last December from asking the Congressional Research Service to compile a list of all Federal preference laws and Regulations.

And my record does not disqualify me today from raising legitimate questions about the continuing fairness and effectiveness of affirmative action, particularly when the affirmative-action label is used to describe quotas, set-asides, and other group preferences.

Equal treatment, not preferential treatment, should be the standard. Equal opportunity, not equal results, must be the goal.

Earlier today, my distinguished colleague from Maine, Senator COHEN, gave a very eloquent speech on the Senate floor where he pointed out that America is not a color-blind society, and he is right. Discrimination continues to exist. The color-blind ideal is just that—an ideal that has yet to be achieved in the America of 1995.

But, Mr. President, do you become a color-blind society by dividing people by race? Do you achieve the color-blind ideal by granting preferences to people simply because they happen to belong to certain groups? Do you continue programs that have outlived their usefulness or original purpose? The answer to these questions is, of course, a resounding "no."

I look forward to the completion of the President's review of all Federal af-

firmative action policies, but if the President is seeking a magical "third way," I suspect he is going to run into a dead end: When it comes to the issue of group preferences, you are either for them or against them. There can be no splitting the difference, no "third way."

With that said let us hope that reason prevails as we continue down this road. If we keep our voices low and our intentions good, the debate over affirmative action can, in fact, be an opportunity to unite the American people, and not divide us.

Mr. PACKWOOD. Mr. President, I believe we are prepared to yield back our time.

Mr. MOYNIHAN. Mr. President, I yield back our remaining time.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 831), as amended, was passed.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President, I move that the Senate insist on its amendment to H.R. 831, request a conference with the House, and that the chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. PACKWOOD, Mr. DOLE, Mr. ROTH, Mr. CHAFEE, Mr. GRASSLEY, Mr. MOYNIHAN, Mr. BAUCUS, Mr. BRADLEY, and Ms. MOSELEY-BRAUN conferees on the part of the Senate.

MORNING BUSINESS

Mr. PACKWOOD. Mr. President, I ask unanimous consent that there now be a period of morning business.

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

CHILD NUTRITION PROGRAMS

Mrs. MURRAY. Mr. President, I rise today to talk about my deep concern over the House proposal on the child nutrition program and stand before you today to speak about the questions that I have asked and the answers I have looked to to find out whether this is the right road for this body to go down.