In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill, strike ''security''.

Strike section 431 of the bill and redesignate sections 432 and 444 as section 431 through 443, respectively.

In section 511(c) of the bill, strike ''amended—'' and all that follows through ''(2)'' and insert ''amended''.

In section 801 of the bill, strike ''subject to the concurrence of'' and insert ''in consultation with''.

In section 443, by striking subsection (d) in its entity and inserting:

(d) EFFECTIVE DATE.—the amendments made by this section shall become effective no later than 60 days after the publication by the Attorney General of implementing regulation that shall be published on or before January 1, 1997.

S. CON. RES. 55

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 735) shall make the following corrections:

In the table of contents of the bill, strike the item relating to section 431 and redesignate the items relating to sections 432 through 444 as relating to sections 431 through 443, respectively.

Strike section 1605(g) of title 28, United States Code, proposed to be added by section 221 of the bill, and insert the following:

''(g) LIMITATION ON DISCOVERY.—

''(1) IN GENERAL.—(A) Subject to paragraph (2), if an action is filed that would otherwise be barred by section 1604, but for subsection (a)(7), the court, upon request of the Attorney General, shall stay any request, demand, or order for discovery on the United States that the Attorney General certifies would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will no longer so interfere.

''(B) A stay under this paragraph shall be in effect during the 12-month period beginning on the date on which the court issues the order to stay discovery. The court shall renew the order to stay discovery for additional 12-month periods upon motion by the United States if the Attorney General certifies that discovery would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action.

''(2) SUNSET.—(A) Subject to subparagraph (B), no stay shall be granted or continued in effect under paragraph (1) after the date that is 10 years after the date on which the incident that gave rise to the cause of action occurred.

''(B) After the period referred to in subparagraph (A), the court, upon request of the Attorney General, may stay any request, demand, or order for discovery on the United States that the court finds a substantial likelihood would—

''(i) create a serious threat of death or serious bodily injury to any person;

''(ii) adversely affect the ability of the United States to work in cooperation with foreign and international law enforcement agencies in investigating violations of United States law; or

''(iii) obstruct the criminal case related to the incident that gave rise to the cause of action or undermine the potential for a conviction in such case.

''(3) EVALUATION OF EVIDENCE.—The court's evaluation of any request for a stay under this subsection filed by the Attorney General shall be conducted ex parte and in camera.

''(4) BAR ON MOTIONS TO DISMISS.—A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

''(5) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States.''.

In section 620G(a), proposed to be inserted after section 620F of the Foreign Assistance Act of 1961, by section 325 of the bill, strike ''may'' and insert ''shall''.

In section 620H(a), proposed to be inserted after section 629G of the Foreign Assistance Act of 1961, by section 326 of the bill—

(1) strike ''may'' and insert ''shall'';

(2) strike ''shall be provided''; and

(3) insert ''section'' before ''6(j)''.

In section 219, proposed to be inserted in title II of the Immigration and Nationality Act, by section 302 of the bill—

(1) in subsection (a)(1), insert ''foreign'' before ''terrorist organization'';

(2) in subsection (a)(2)(A)(i), strike ''an'' before ''organization under'' and insert ''a foreign'';

(3) in subsection (a)(2)(C), insert ''foreign'' before ''organization''; and

(4) in subsection (a)(4)(B), insert ''foreign'' before ''terrorist organization''.

In section 2339B(g), proposed to be added at the end of chapter 113B of title 18, United States Code, by section 303 of the bill, strike paragraph (5) and redesignate paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

In section 2332d(a), proposed to be added to chapter 113B of title 18, United States Code, by section 321(a) of the bill—

(1) strike ''by the Secretary of State'' and insert ''by the Secretary of the Treasury'';

(2) strike ''with the Secretary of the Treasury'' and insert ''with the Secretary of State'';

(3) add the words ''the government of'' after ''engages in a financial transaction with'';

At the end of section 321 of the bill, add the following:

''(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act.''.

In section 414(b) and 422(c) of the bill, strike ''90'' and insert ''180''.

In section 40A(b), proposed to be added to chapter 3 of the Arms Export Control Act, by section 330 of the bill strike ''essential'' and insert ''important''.

In section 40A(b), proposed to be added to chapter 3 of the Arms Expert Control Act, by section 330 of the bill, strike ''security''.

Strike section 431 of the bill and redesignate sections 432 through 444 as sections 431 through 443, respectively.

In section 511(c) of the bill, strike ''amended—'' and all that follows through ''(2)'' and insert ''amended''.

In section 801 of the bill, strike ''subject to the concurrence of'' and insert ''in consultation with''.

In section 443, by striking subsection (d) in its entirety and inserting: (d) EFFECTIVE DATE.—The amendments made by this section shall become effective no later than 60 days after the publication by the Attorney General of implementing regulations that shall be published on or before January 1, 1997.

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3726

Mr. KENNEDY. Mr. President, we will have a brief quorum call to discuss with the floor manager whether or not they want to have a series of rollcalls. I hope we will dispose of the amendments in a timely way. If we can move ahead with voice votes on all of those—well, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMPSON. 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. SIMPSON. We will proceed now, but I would make a remark because I certainly can understand the position of Senator KENNEDY and the issue that is driving him in this debate, but not necessarily on this bill, and also Senator DORGAN. As I heard Senator KENNEDY describing what is out there, eventually, it reminded me of Edgar Allan Poe in ''The Pit and the Pendulum,'' as the arc of the blade swung closer and closer to the object. I just wanted to state that. It was a great iteration that came over me—the blade swinging back and forth, and eventually it will hit, and we will have to do what we always do here, which is sometimes difficult. It is called vote. And that is a time to come.

So with that, I urge the adoption of amendment No. 3726.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. KENNEDY. Mr. President, we were just trying to follow the numbers. We had a series of amendments. Could the Senator just restate that amendment number.

Mr. SIMPSON. That is the pilot program, originally Simpson No. 2.

Mr. KENNEDY. I appreciate that.

I urge support of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3726) was agreed to.

AMENDMENT NO. 3727 TO AMENDMENT NO. 3725

Mr. SIMPSON. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3727 to amendment No. 3725.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike the last word in the pending amendment and insert: ''act (8 U.S.C. 110(a)(15)

''SEC. . FALSE CLAIMS OF U.S. CITIZENSHIP.

''(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by

adding at the end the following new subparagraph:

'(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.'; and

''(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable.'.''.

Mr. SIMPSON. Mr. President, this amendment, which was the original Simpson amendment No. 3, creates a new ground of exclusion and of deportation for falsely claiming U.S. citizenship.

Mr. President, this amendment would add a new section to the bill. This is repetitive of remarks when we began the legislation, but this section would create a new ground of exclusion and of deportation for falsely representing oneself as a U.S. citizen.

This amendment is a complement to another one I am proposing. The other amendment would modify the bill section providing for pilot projects on systems to verify work authorization and eligibility to apply for public assistance.

One of the requirements of that other amendment is that the Attorney General conduct certain specific pilot projects including one in which employers would be required to verify the immigration status of aliens but not persons claiming to be citizens. Such persons would be required only to attest to being citizens. That came up in debate in the markup in the Judiciary Committee, that Americans, U.S. citizens, should not have to do some of the things that we require of others, and so there would be an attest provision.

Obviously, the major weakness in any such system as that is the potential for false claims of citizenship. That is why I am offering the present amendment, which would create a major new disincentive for falsely claiming U.S. citizenship. Lawful, permanent resident aliens who falsely claim citizenship risk deportation and being permanently barred from entering the United States of America. Since they are authorized to work, they would have little reason to make a false claim of citizenship.

Illegal aliens, on the other hand, would know that they could not be verified if they admitted to being aliens and the verification process was conducted; yet they would also know that if they falsely claimed to be citizens and were caught, they could be deported and permanently barred. Thus, the risk involved in making false claims would be high for them, too, under such a pilot project if the present amendment were enacted into law.

Therefore, if this amendment were enacted, and the pilot project involving citizenship attestation were conducted, a significant number even of illegal aliens might well be deterred from seeking jobs in the United States.

That is the purpose of the amendment.

Mr. KENNEDY. Mr. President, the Senator has made a very clear statement on the substance of the legislation. It is, I think, an important addition to the effort that we are undertaking to try and control illegal immigration, and I think it is very worthwhile. I hope the Senate will support it.

The PRESIDING OFFICER. Is there further debate on the amendment No. 3727?

Mr. SIMPSON. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3727) was agreed to.

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

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

AMENDMENT NO. 3728 TO AMENDMENT NO. 3725

(Purpose: To criminalize voting by aliens for candidates for a Federal office, and to make unlawful voting a ground for exclusion and deportation)

Mr. SIMPSON. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk report the amendment.

The assistant legislative clerk read as follows.

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 3728 to amendment No. 3725.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the last word in the amendment and insert: ''deportable.

''SEC. . VOTING BY ALIENS.

''(a) CRIMINAL PENALTY FOR VOTING BY ALIENS IN FEDERAL ELECTION.—Title 18, United States Code, is amended by adding the following new section:

'§ 611. Voting by aliens

'(a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless—

'(1) the election is held partly for some other purpose;

'(2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and

'(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices.'

'(b) Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than one year or both.';

''(b) EXCLUSION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is excludable.'; and

''(c) DEPORTATION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable.'.''.

Mr. SIMPSON. Mr. President, this is the amendment to criminalize voting by aliens in Federal elections and make unlawful voting a ground for exclusion and deportation. That is what this amendment is. This is the original Simpson No. 4.

This amendment has three parts. It has been changed from the discussion that we had in the markup of this particular amendment. First, the amendment would create a criminal penalty for voting by aliens in any Federal election.

Please note that this new criminal offense would cover only Federal elections, unlike the provision that was in the original version of the bill and that was deleted at the committee markup, because you will recall there was debate and discussion as to what that would do in a school board election or county commissioner election, and certainly those States should have the options to control that. That is the substance of this amendment.

This new offense would be a misdemeanor. It is not a felony. It would be a misdemeanor.

An alien who voted in any election, who voted solely or in part electing a candidate for President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia or resident commissioner, would be punishable by up to 6 months in prison and a $1,000 fine—not a felony.

The second part of the amendment would create a ground of exclusion for aliens who have unlawfully voted in any election, Federal, State, or local, in violation of a Federal, State or local constitutional provision, statute, ordinance, or regulation.

And, third, the amendment would create a ground of deportation for such unlawful voting by an alien.

This amendment would help to guarantee that a majority of citizens of the United States, those who owe their full political allegiance to this country, retain political control of every political unit and every political issue.

If aliens are allowed to vote, it becomes quite possible that a relatively small group of citizens in a particular jurisdiction could outvote a citizen

majority, if the group had enough noncitizen allies. I do not feel that that is acceptable. That is not consistent with the form of government that the Founding Fathers believed to be a fundamental right of the American people.

I have not covered State or local elections in the criminal offense provision, in the provision I just described, because of the objections of some Members who believe, and sincerely believe—as I believe my friend from Illinois indeed believes—that a temporary majority of citizens in a local jurisdiction or a State should be able to authorize voting by aliens. They believe this, despite the fact that if aliens are once given the right to vote in a jurisdiction, it might be difficult or nigh impossible for a majority of citizens in that jurisdiction to reverse the decision later.

However, my amendment also creates new grounds of exclusion and deportation for voting, if it is unlawful. It applies to any election. Therefore, there would be an additional disincentive for aliens to vote if there is a law prohibiting them from doing so.

During the markup and subsequently, some have raised the issue of constitutionality of this prohibition. At this time, just may I say a few words about that issue of constitutionality. A doubt has been expressed about whether Congress has the authority to prohibit voting by aliens. I believe that view is unfounded. There are several constitutional grounds for this authority, including the plenary power of Congress over immigration matters, which has been referred to so many times over the years by the U.S. Supreme Court and also the clause that guarantees what is called a republican form of government. That standard to be applied is a ''rational relationship to a legitimate Federal Government purpose.''

So, obviously, enforcing the immigration laws of the United States and, in particular, the naturalization laws—the requirements and procedures an alien must follow to become a naturalized U.S. citizen is a legitimate Federal Government purpose. Indeed, immigration and naturalization is, along with national defense, the most fundamental of the Federal Government's responsibilities. That is undoubtedly why the Supreme Court has made such extraordinary statements over the years, about just how plenary—''plenary'' meaning complete and absolutely—how plenary that power is.

Just one example, quote from the case of Oceanic Steam Navigation Co. versus Stranahan, and then quoted later with approval in Fiallo versus Bell and Kleindienst versus Mandel:

> Over no conceivable subject is the legislative power of Congress more complete than it is over the admission of aliens.

The encouragement of naturalization has been explicitly recognized by the Supreme Court as a legitimate purpose of Federal actions favoring citizens. That was the case of Hampton versus Mow Sun Wong.

So the prohibition of voting by aliens in Federal elections only would clearly be rationally related to a purpose encouraging naturalization, which is, as I say, one of the premium subjects in the legislative power of Congress. So that is the extent of the amendment and my explanation of the amendment.

Further debate?

The PRESIDING OFFICER (Mr. FRIST). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we support this legislation. I want to make sure this does not displace what we have already agreed to in the motor-voter legislation, which also deals with fraudulent elections, and where the penalty is somewhat larger. As I understand, this would apply in the Federal, as compared to the participation in local or State, elections. At least I am informed by the Justice Department that they, too, would feel illegal voting in a Federal election could be prosecuted under the Federal law. I am glad to accept this measure, or urge the measure be accepted. We can work this thing through to clarify it, perhaps, on our way to the conference.

We want to do what the Senator has rightfully pointed out is necessary to be done, in ways that are not going to minimize other provisions which might deal with this, also in a substantive way, that may be even more effective. I will be glad to recommend we accept this now. We can work through this and get a clearer definition as to how this interacts with motor voter. I completely agree with the Senator in terms of the objectives.

I just inquire of the Senator what his feeling would be on this.

Mr. SIMPSON. Mr. President, the concern my friend from Massachusetts expresses, and what he has pointed out as something disturbing to him, certainly is not the intent of this author, especially with regard to motor voter. There may be some things that would have to be done here, because I believe in motor voter we had a criminal penalty when we passed that legislation. So I will just leave it in good faith, as we have done for 17 years, with the Senator from Massachusetts to work that out.

Mr. KENNEDY. That is fine.

Mr. SIMPSON. And be certain the things that cause him concern are not anything that I am intending to do in this amendment. We can work that out.

Mr. KENNEDY. Yes, Mr. President, I think we might as well move ahead. I think we are absolutely—and the Senate would be—in accord with the description by the Senator. I urge we accept it. We will review those measures together to make sure we are consistent with what both the Senator wants to do and any other potential inconsistencies in current law.

Mr. SIMPSON. Mr. President, I appreciate that. My amendment is not intended to supersede the present prohibition on unlawful voting. I make that assurance once again. I therefore urge the adoption of the amendment under those conditions.

The PRESIDING OFFICER. If there is no further debate, the question is agreeing to amendment numbered 3728.

The amendment (No. 3728) was agreed to.

AMENDMENT NO. 3729 TO AMENDMENT NO. 3725

Mr. SIMPSON. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Wyoming [Mr. SIMPSON] proposes amendment numbered 3729 to amendment No. 3725.

Mr. SIMPSON. 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:

> Strike all after the last word and insert the following: ''deportable
>
> **''SEC. . USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.**
>
> ''(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—
>
> ''(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and
>
> ''(2) by inserting before the semicolon at the end of clause (ii) the following: ': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';
>
> ''(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:
>
> '(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.'; and
>
> ''(c) DEPORTATION OF STUDENT VISA ABUSERS.—Section 241(a) (8 U.S.C. 1251(a)) is

amended by adding at the end the following new paragraph:

'(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.''.

This section shall become effective 1 day after the date of enactment.

Mr. SIMPSON. Mr. President, this is in essence Simpson No. 1 which we discussed the other day when we began our debate on this issue. There is a minor change, of course, to accomplish one thing so that we can address it here since it is the original underlying anchor on the procedural aspects of where we are at this moment.

So the purpose of the amendment—again, it is a bit repetitive from our discussion when we proceeded with this legislation originally—this is an issue brought to us by Senator FEINSTEIN. I want to say at this moment that I have received a tremendous amount of support and assistance from Senator FEINSTEIN. She, of course, represents a State that is most powerfully affected by everything that is happening today and everything that is happening tomorrow with regard to illegal immigration and legal immigration. So I say that I am deeply appreciative of her and her staff who have worked with my staff on many issues.

These children who are involved here are described as parachute kids. And that is a concern. This amendment is intended to prevent foreign students coming to the United States to obtain a free taxpayer-financed education at a public elementary, secondary school. This is a growing problem of children who come to the United States, stay with friends or relatives, or even strangers, to whom they pay a fee, and attending public schools then as residents of the school district.

This amendment prohibits consular officers from issuing visas for attendance at such public schools or the INS from approving such cases unless the foreign student can demonstrate that he or she would reimburse the public elementary or secondary school for the full unsubsidized per capita cost of providing such education or unless the school waives reimbursement.

The amendment also provides for the exclusion and deportation of students who are admitted to attend private elementary or secondary schools but who do not remain enrolled then at the private school for the duration of their elementary or secondary study in the United States. The purpose here is designed to prevent students from obtaining admission to a private school, which they often do, and then switching to a taxpayer-funded public school soon after arrival in the United States.

The amendment would not prevent these children who are validly in the United States as dependents of persons lawfully residing here from applying for admission to public schools nor would it prevent public schools hosting foreign exchange students. We do not want to intrude on that wonderful program, those who would continue to be admitted as exchange visitors on J visas.

The amendment is, however, designed to deal specifically with the problem of the parachute kids which has received some attention and certainly in California and in other locations, those who come here to receive a U.S. education at taxpayer expense.

That is the conclusion of my remarks with regard to the amendment. I look forward to further debate.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this has been a phenomenon that has developed in very recent years. It is now becoming more frequently utilized to the disadvantage of taxpayers in these local communities. The Senator has made an excellent presentation. It is increasingly a problem. We ought to address it. This particular proposal does address it. I hope, for the reasons that have been outlined earlier, that the amendment will be accepted.

Mr. SIMPSON. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3729 to amendment No. 3725.

The amendment (No. 3729) was agreed to.

Mr. SIMPSON. 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. SIMPSON. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

AMENDMENT NO. 3730 TO AMENDMENT NO. 3725

(Purpose: To repeal the ban on the search of open-fields by employees of the INS when they have probable cause to believe an illegal act has occurred)

Mr. SIMPSON. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes amendment numbered 3730 to amendment No. 3725.

Mr. SIMPSON. 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:

Strike all after the last word in the amendment and insert: ''enactment

"SEC. . OPEN–FIELD SEARCHES.

''(a) REPEAL.—Section 116 of Public Law 99–603 and section 287(e) of the Immigration and Nationality Act (8 U.S.C. 1357(e)) are repealed.

''(b) REDESIGNATION OF PROVISION.—Subsection (f) of section 287 of that Act is redesignated as subsection (e) of that section.''

Mr. SIMPSON. Mr. President, this is not one that will pass by voice vote. We will require a rollcall vote on this issue. It is and always has been contentious. This is the original Simpson amendment No. 8 which is to repeal the current ban on open field searches. Therefore, any staff watching these proceedings at this moment will have immediately pressed a button, and the ejection device will propel their principal here to the floor to proceed with vigorous, vigorous debate on this issue. But this one, like all, up or down, and then move on.

But here is where we are, ladies and gentlemen. Do not miss the impact of this. This happened back in the days of putting together the original legislation and what you want to recall is that no other U.S. law enforcement agency—none—except the Immigration and Naturalization Service requires a warrant, a search warrant, to enter and/or search open agricultural farmland. No other agency of enforcement in the United States is required to do that. That requirement that the INS agents obtain a warrant for such a search was placed in the law in 1986 by what I refer to as an unholy alliance between the agricultural growers and the ACLU. You really will not find the ACLU and the agricultural growers in the same sack very often.

All other law enforcement agents—that is a DEA agent, a local police officer, even a local sheriff—can, without a warrant, and if they have probable cause, search an open field for drugs or for a dead body. INS officers alone are prohibited by law from entering a field to enforce immigration laws. Of course, the effect of this requirement is to make it extremely difficult to enforce our laws against the employment of illegal agricultural workers. There are tremendous abuses in that field.

A further effect is to make it safer—that is the word—for employers to use illegal workers, at a time when the experts tell us that there are more than 1 million American agricultural workers that could perform that work. The present ban on open field searches, in other words, then protects those who hire illegal workers. That helps to deny those jobs to American workers. As a result, up to 40 percent of the agricultural workers on the west coast are illegal aliens.

One of our Nation's most noted immigration experts, Prof. Barry Fuchs of Brandeis University, and the executive director, Rev. Ted Hesburgh, Select Committee on Immigration Policy and a member of the current Commission on Immigration Reform, has specifically recommended to us that a

high priority be placed on repealing the ban on open field searches. Professor Fuchs has noted that the ban has taken away an ''important enforcement tool of the INS.''

I hope we might listen to the words of our friend, Larry Fuchs. He is our friend. Senator KENNEDY has known him longer than I. Larry Fuchs is a remarkable resource for this country on legal and illegal immigration reform.

As I have indicated in the past, Senator KENNEDY and I were both original Members of the U.S. Senate on the Select Commission on Immigration Refugee Policy, chaired so ably by Father Ted Hesburgh, who was an inspiration to us and who is, to this day, one of the most remarkable people in this land and a loving friend.

We should heed the words of Professor Fuchs. Proponents of the requirement—and you will hear that argument coming forth momentarily—proponents of the requirement for warrants argue that it prevents INS officers from entering an open field simply because those who are working there ''look Hispanic.'' That argument ignores the fact that seeing workers who look Hispanic is not probable cause. That is not probable cause for a search. You cannot use that argument in that sense in any way. Entering a field for that purpose, that particular purpose, would be illegal, even if search warrants were not required. I think that is a very important distinction. I hope we will hold closely as we debate this issue.

The American public wants us to enforce our laws against illegal immigration. The case is even stronger when, by doing so, we would be making jobs available to hundreds of thousands of U.S. agricultural workers, and there are hundreds of thousands of U.S. agricultural workers.

Even though this is not quite ancillary to the debate, I was fascinated in my work in this field many years ago to find out what happens when they go to the open field. Some agriculture employers back then—not now, I do not know what the situation may be now—but they were often putting some expendable people next to the highway with el émigrés and the green truck came by so that there would be someone to pick up, and then when all of that took place there was another rank in the foothills who would come down and be ready to go right back to work again.

Further, way up in the foothills where we were told there were never children, never spouses, personal investigation of the select committee found obvious, obvious hovels of people who were just simply slave labor for some agricultural pursuits—pampers, diapers, cans of milk all there in the foothills.

That was, as I say, not truly on target with this, but let me tell you there is no reason in the world why the INS should be the only Agency of the Federal Government that cannot do a search with a search warrant in an open field. And to say, then, the target would simply be to target people who ''look Hispanic'' so you can add a racist touch to the argument, it will not sell, because if that was the only reason you would not get the search warrant. That is not probable cause.

With that initial volley on this contentious issue, I look forward to the debate.

Mr. KENNEDY. Mr. President, I intend to speak on this issue. I saw my friend and colleague from California, Senator BOXER, who had wanted to address the underlying issue briefly, has been waiting here for some period of time. If she can be recognized, I will come back to address this amendment before the Senate.

The PRESIDING OFFICER (Mr. GREGG). The Senator from California.

Mrs. BOXER. Thank you, I say to both my friends who are managing this bill, Senator SIMPSON and Senator KENNEDY, who have been so helpful to me as I work on a couple of amendments that I hope will be accepted, which I will talk about briefly.

Mr. President, I am pleased to be here today to speak about an issue that profoundly impacts my State of California. That issue is illegal immigration. I know that there has been a big debate in the Senate committee of jurisdiction over whether we should blend in the issues of legal and illegal immigration.

I want to restate and reaffirm my position that I hope they will be handled separately. I know that Chairman SIMPSON, who has worked so hard, would prefer to combine these two issues. The reason I believe it is important to have a separate debate is that one group of people, illegal immigrants, choose to break our laws, and legal immigrants choose to follow our laws. Those are two distinct and important differences.

Mr. President, no State in the entire country receives more illegal immigrants than the State of California. Out of the approximately 300,000 illegal immigrants that come to the United States and stay each and every year, about 35 percent to 40 percent of them live in California.

Why do most illegal immigrants come to America? Clearly, it is to find work. They are hired because we are not fully enforcing the laws we have on the books, which make it unlawful to hire illegal immigrants. That is clear. It is against the law.

Now, it seems to me we have to do more to enforce those laws.

I have always said that in order to control the problem of illegal immigration, we need to do it at the border and at the workplace. To intercede elsewhere, in my opinion, is not particularly effective. Clearly, if you enforce the immigration laws at the border, you stop the problem immediately. If you miss that opportunity, the workplace is the next best place to go.

The bill before us that deals with the issue of illegal immigration has many provisions I very strongly support. I strongly support the provisions in title I of the bill, which strengthens law enforcement's ability to stop illegal immigration. For instance, the bill will increase the number of Border Patrol agents by 4,000 for the next 4 fiscal years—a 90-percent increase over current levels, and it is needed.

I also strongly support the bill's provisions to add up to 900 new INS investigators over the next 3 fiscal years to enforce the laws against alien smuggling and the unlawful employment of illegal immigrants. This increase of 900 new INS investigators is a 100-percent increase over current law. So, clearly, this bill is moving us in the right direction in regard to stopping illegal immigration at the border and the workplace.

I want to take an opportunity to thank and compliment the Clinton administration for getting serious about enforcement at the Southwest border. It is long overdue. We have had protestations from detractors of this administration that they do not do enough. The fact is that this is the first administration to do anything about illegal immigration.

Let me repeat that. The Clinton administration is the first administration to do anything about illegal immigration. Whether it is to begin to reimburse the States for the costs they have to bear, which are outrageous—costs for emergency medical care, costs for putting those criminal aliens into prison—we are finally beginning to see some reimbursement here. However, it is not enough, and we need to do more.

I compliment the leaders of this bill because there is an authorization in there for full reimbursement for the costs of providing emergency medical assistance to illegal immigrants.

We have also seen an increase in the National Guard at the border. Their presence relieves Border Patrol agents from desk jobs, and their work on such things as building fences and roads and repairing sensors and night scopes is very important.

At the time that I recommended bringing more National Guard to the border, the National Guard at that time was about 145 in San Diego. Now they number up to 400. So we see that there has been an increase in National Guard at the border, doing such things as relieving the Border Patrol of desk jobs and these other engineering jobs that I have outlined for you.

When I first injected more National Guard presence, people thought I was going to send them down to the border in uniform with weaponry. That was never the point. We said it is a resource that ought to be used, and I think we ought to use them more.

In 1994, the Immigration and Naturalization Service kicked off Operation Gatekeeper, its initiative along California's border with Mexico. In the last 2 fiscal years, we have seen an increase of 500 Border Patrol agents in San Diego.

So we see that this administration is moving forward. But this bill is very necessary and gives us more resources at the border than we have had up until now, and, I might add, more technology and equipment that we need at the border—equipment such as infrared scopes, sensors, automated fingerprint ID systems. INS will be installing a new radio network in San Diego to handle encrypted voice communication, and that is very important.

As I said before, we have to stop illegal immigration at the border, and if we fail there, at the workplace. I think we have to remember that that is why illegal immigrants come here—for work.

Now, how badly are our wage and hour laws being violated? We only have to look at the case of the sweatshop uncovered in El Monte, CA, to get an idea. In El Monte, alien smugglers brought in 72 foreign workers from Thailand, where they were subsequently forced into involuntary servitude at a garment sweatshop. We thought we saw the end of that in the pre-Depression era. The El Monte case is an extreme example, but it is not an isolated incident.

Mr. President, most employers in our country abide by our immigration and our labor laws, but, unfortunately, some choose not to, and they are undermining our laws and the wages of our workers as well. They are guilty of the lowest form of greed—human exploitation—and it must be stopped.

It is well known that employers engaging in wage and hour law violations are often the same ones who hire illegal workers. I am very pleased that the bill before us provides for 350 new wage and hour investigators at the Department of Labor over the next 2 fiscal years to enforce the existing employer sanctions we already have on the books. The bill also contains enhanced civil penalties for repeated or willful violations of our Federal labor laws, which I strongly support.

I am disappointed that the committee voted to delete provisions to increase the sanctions on employers who violate immigration laws. I am disappointed about that. But I am glad that there are enhanced penalties for those who violate Federal labor laws.

Now, I think it is important that we give employers a better tool so they can identify who is legal and who is not. The bill before us moves us forward toward worker verification. I have always opposed a national ID card because I think if someone is walking in the street, they should never be stopped and asked to show an ID card. But when they go for a job, right now it is virtually impossible for employers to verify whether they are legal or not. I think the approach taken in this bill is a good one, and I hope it will be part of the bill when it leaves this Chamber.

I also think it is important that the bill authorizes an increase of 300 new investigators at INS to go after the visa overstayers, because so many of our illegal immigrants are those who overstay their visa. So that is excellent.

I have long supported cracking down on those who manufacture and use fraudulent documents. The last time I had a chance, on the crime bill, I offered an amendment that increased the penalties on those who manufacture forged documents. But I think we need to do more, and this bill does go further to increase civil and criminal penalties for crimes involving document fraud.

I want to take just a moment to talk about a problem we are seeing in California now more and more, where smugglers are driving vehicles crashed through a checkpoint and lead local law enforcement on high-speed chases. We all know what happened nationally when we saw one case where there was apparent overreaction from the police and use of excessive force—that is what it appears to be.

But the fact of the matter is, we have to stop that kind of recklessness, driving on a 60-, 70-mile chase where you endanger the lives of the police following you and you endanger the lives of those people you are smuggling. Following that case when force was used, we had seven illegal immigrants killed, who fell over a cliff when the smuggling attempt led to disaster.

So, I was very surprised to see that there are no Federal penalties for such reckless behavior. What I am offering, and what Senator SIMPSON and Senator KENNEDY are working with me on, is a Federal penalty for those who crash through a Federal checkpoint and, in fact, do not stop.

We want to make sure there is a Federal penalty of 5 years in prison for those who do that, and perhaps—we are working with Senator SIMPSON on this—an even tougher penalty where those people could be deported. Because anyone who would lead law enforcement on a high-speed chase not only endangering the police officers themselves but also the cargo they are carrying—by that I mean human cargo—and all the drivers on the road, they deserve to be thrown in jail or deported.

I also want to briefly touch on an amendment that I am cosponsoring with Senator FEINSTEIN which deals with the triple fence authorized in the bill. I will not go into all of the details in the interest of time. But we feel that the Border Patrol could do better if we did not dictate exactly that a $12 million fence should be built, or inhibit their ability to design fencing in the way they want and to use some of the money for other needed infrastructure improvements. Moreover, we certainly do not want to force law enforcement to build a triple fence if they feel it would endanger their lives. And that is what they have told us.

Mr. President, I am pleased to be here today to speak about an issue that profoundly impacts the State of California. That issue is illegal immigration.

And before I go any further, I want to reaffirm my position that legal and illegal immigration must be treated separately. I know that Chairman SIMPSON, who has worked very hard on the issue of immigration, would prefer to link these two issues together.

However, I believe having a separate debate on the two issues will better ensure that Congress recognizes the critical difference between those illegal immigrants who choose to break our laws, and those legal immigrants who choose to follow them.

Mr. President, no State in the entire country receives more illegal immigrants than California. Out of the approximately 300,000 illegal immigrants that come to the United States and stay every year, about 35 to 40 percent of them live in California.

Why do they come here? Most of them come to find work. And they are hired because we are not enforcing the laws we have on the books which make it unlawful to hire illegal immigrants. That must change.

I have always said that in order to control the problem of illegal immigration, we need to do it at the border and the workplace. To intercede elsewhere, in my opinion, is not effective.

The bill before us today is S. 1664, the Immigration Control and Financial Responsibility Act of 1996. The bill contains many provisions which are praiseworthy. I strongly support the provisions in title I of the bill which strengthen law enforcement's abilities to stop illegal immigration. For instance, the bill would increase the number of Border Patrol agents by 4,000 for the next 4 fiscal years—a 90-percent increase over current levels.

I also strongly support the bill's provisions to add up to 900 new INS investigators to enforce the laws against alien smuggling and the unlawful employment of illegal immigrants. This is an increase of about 100 percent over current law.

I want to take this opportunity to compliment the Clinton administration for getting serious about enforcement at the Southwest border. It is about time and long overdue, for despite protestations from detractors of this administration in California—this is the first administration to do anything about illegal immigration.

And we have seen an increase in the National Guard at the border. Their presence relieves Border Patrol agents from desk jobs, and their work on such things as building fences and roads, and repairing sensors and night scopes. At the time I recommended bringing more National Guard at the border, they numbered 145 at the San Diego border. Now they number as high as 400.

In 1994, the Immigration and Naturalization Service [INS] kicked off Operation Gatekeeper—its initiative along California's border with Mexico. In the last 2 fiscal years, we have seen an increase of 1,150 border patrol agents nationally—more than 500 of

whom have been deployed in San Diego.

Counting the 800 new Border Patrol agents for this fiscal year, the Border Patrol force will have been increased by 40 percent since the Clinton administration took over. California now has over 1,500 Border Patrol agents patrolling our border and enforcing our immigration laws.

But as we all know, Mr. President, any smart strategy to regain control of our borders will take heightened technology which is being used in Operation Gatekeeper. Infrared scopes, low-light-level television systems, and ground sensors are all being used to enhance our effectiveness at the border. San Diego has been the recipient of new infrared scopes, sensors, and a new automated fingerprint identification system. INS will be installing a new radio network in San Diego to handle encrypted voice communication.

And we cannot forget why most illegal immigrants come here in the first place: work. How badly are our wage and hour laws being violated? We only have to look at the case of the sweatshop uncovered in El Monte, CA, to get an idea. In El Monte, alien smugglers brought in 72 foreign workers from Thailand where they were subsequently forced into involuntary servitude at a garment sweatshop. The El Monte case is an extreme example. But it is not an isolated incident.

Mr. President, most employers in our country abide by our immigration and labor laws. However, those who choose not to, not only undermine our laws, but the wages of American workers as well. They are guilty of the lowest form of greed—human exploitation. It must be stopped.

It is well-known that employers engaging in wage and hour law violations are often the same ones who hire illegal workers. I am pleased that the bill before us provides for 350 new wage and hour investigators at the Department of Labor over the next 2 fiscal years to enforce the existing employer sanctions we already have on the books.

Furthermore, the bill contains enhanced civil penalties for repeated or willful violations of our Federal labor laws, which I strongly support. However, I am deeply disappointed that the committee voted to delete provisions to increase the sanctions on employers who violate immigration laws.

Of course it is imperative for employers to better ascertain who is authorized to work, and who is not. The bill before us moves us toward improved verification for work and public benefits through the creation of several regional or local demonstration projects.

After the pilots have been tested, the administration will be required to return to Congress to make a recommendation on a permanent system. Implementation of a recommended system will require congressional action. The approach contained in the bill will allow Congress to review which methods of verification are the most effective before enacting a larger scale system.

I support the privacy protections contained in the bill to provide balance as we move toward a national verification system. I am further pleased that the bill explicitly prohibits a national ID card which I oppose.

It is important to have a foolproof method to ensure a potential employee is legal—I believe it would be dangerous to put in place a system where someone walking down the street could be stopped and asked for their papers. That situation would infringe on our lives.

A key fact of illegal immigration which often is overlooked is that approximately half of the illegal aliens currently in our country entered legally and overstayed their visas. This bill authorizes an increase of 300 new investigators at INS to go after these visa overstayers. I support this.

Mr. President, I strongly support the provisions in the bill to increase penalties on alien smugglers and those committing document fraud. I have long supported cracking down on those who manufacture and use fraudulent documents. When I toured the California-Mexico border with Attorney General Reno and Senator FEINSTEIN, we met with INS agents who told us it was key to beef up penalties for document forgery. Thousands of illegal immigrants each year use these documents to enter the United States illegally or continue to stay and work here illegally.

In the 1994 crime bill, I proposed an amendment to double the criminal penalties for forgers and distributors of fraudulent documents. These heightened penalties passed and are now law.

The provisions contained in S. 1664 go even further to increase criminal and civil penalties for crimes involving document fraud. We must send a message to these wrongdoers that we will not tolerate those who flout our immigration and criminal laws. These tougher penalties should serve as an effective deterrent to such actions.

For instance, for fraudulent use of government-issued documents, the bill increases the maximum fine from $250,000 to $500,000, and the maximum criminal sentence from 5 years to 15 years.

I would like to take a minute to specifically discuss alien smuggling. Recent incidents involving alien smugglers have received considerable press attention. The beating of two illegal immigrants after a 80-mile chase ending in El Monte put a face on the human cargo being brought into our country by alien smugglers.

Recently in California, 7 people were killed and 19 injured when a pickup carrying immigrants being smuggled into the country skidded, flipped over, and plunged off a rural road west of Temecula while being followed by Border Patrol agents. We must stop such occurrences.

S. 1664 stiffens criminal penalties for alien smuggling. The bill also contains provisions to expand the Federal Government's ability to pursue alien smugglers through expansion of the RICO [Racketeer Influenced and Corrupt Organizations] statute and wiretap authority.

I plan to offer an amendment to provide a new, tough Federal penalty on those who flee border checkpoints, creating dangerous high-speed chases. My amendment would provide a Federal penalty of imprisonment of up to 5 years. I am working with Senator SIMPSON and Senator KENNEDY and hope this amendment will be accepted.

Alien smugglers do deserve to be punished. They take advantage of people in desperate situations—often threatening their safety and potentially those of hundreds who could be exposed to them. We must make every effort to ensure that such tragedies do not continue to occur.

One concern I have with the bill relates to the authorization of a 14-mile triple fence for the 14 miles eastward of the Pacific Ocean in San Diego. Let me be clear about one thing: I support fencing and reinforcement of physical barriers along the border. But when the Border Patrol itself says these provisions would endanger the physical safety of their personnel, I think we should defer to their expertise.

Along with the INS, the Border Patrol points to the tactical and logistical problems of a contiguous triple fence. They also raise concerns about alien smugglers taking advantage of the triple fence configuration to ambush Border Patrol agents.

That is why I am cosponsoring an amendment with Senator FEINSTEIN to put the $12 million authorized for the triple fence toward needed border infrastructure improvements—including construction of all-weather roads, low-light television systems, lighting, sensors, and multiple fencing where it makes sense to do so.

Title II of the bill addresses immigrant—legal and illegal—use of public benefits. Illegal immigrants are largely ineligible for public welfare benefits. Where they are eligible, I support full Federal reimbursement for any resulting costs to States and localities.

The bill sets out the general prohibition barring illegal immigrants from receiving public benefits but exempts a limited number of services. In fiscal year 1994, the General Accounting Office estimated that the cost of providing elementary and secondary education, emergency Medicaid, and incarceration of alien felons was $2.35 billion for my State of California.

Immigration is a Federal responsibility. However, until this administration, California had not received any reimbursement for its costs resulting from illegal immigration. Today, California is receiving reimbursement for its costs of incarcerating criminal aliens under the State Criminal Alien Assistance Program. And while the crime bill authorized $1.7 billion to reimburse these costs, California has yet to receive full repayment.

I want to commend the chairman for including an authorization to fully reimburse States and localities for emergency medical services provided to illegal immigrants. Right now, the Federal Government pays half of this cost and the remainder is borne by the State. In California, this amounted to a cost for California of $395 million in fiscal year 1994. I strongly support reimbursement for these costs.

With respect to benefits for legal immigrants, I support strengthening the responsibility of sponsors. That is why I agree we must make affidavits of support signed by sponsors legally enforceable. Individuals who want to sponsor a family member must not shirk their responsibilities to the immigrant once they arrive.

By making the affidavits legally enforceable, the agency providing assistance to a needy legal immigrant has the ability to be repaid for their costs. This approach makes sense.

As a final note, Mr. President, I want to briefly discuss the importance of naturalization. Naturalization—the process by which a legal immigrant is granted the full rights and responsibilities of citizenship—represents the final step in a journey toward the American dream, a journey played by the rules.

The latest surge in naturalization applications submitted is nowhere more evident than in California. In fiscal year 1995, over 380,000 eligible legal immigrants applied to naturalize in California. This is a 500 percent increase over the totals for fiscal year 1991.

I am pleased that we now have a leader at INS who is doing something about it. Under Commissioner Doris Meissner, INS has been actively attempting to meet the latest surge in naturalization through its initiative, Citizenship USA. I commend Commissioner Meissner for the agency's efforts to put the ''N'' back in INS.

However, an immigrant who has already waited for at least 5 years to become eligible to naturalize can wait for an additional 12 to 16 months in cities like San Francisco and San Jose, CA, for their application to be processed because of enormous increases in demand.

We owe it to those who patiently follow the rules to do better.

Mr. President, I plan to offer an amendment to create demonstration projects around the country that set up citizen swearing-in ceremonies around July 4. The amendment which passed the House, authored by Congressman SAM FARR, would authorize INS to use the fees it already collects to fund the minimal additional costs of holding these symbolic ceremonies for 500 people.

Under the amendment, 10 demonstration projects would be authorized each year for 5 years. The demonstration projects would enable INS to reach out to local communities to encourage their involvement in the celebration of citizenship. The swearing-in ceremonies would be a communitywide celebration reminding citizens why we are proud to be Americans.

Mr. President, I am committed to those who want to follow the rules and become full participants in American society. Earlier this month, I introduced S. 1677, the Citizenship Promotion Act.

My bill would establish a Citizenship Promotion Agency [CPA] within INS to assist eligible immigrants with naturalization. The CPA would be able to work with government agencies as well as nonprofit organizations to assist in its naturalization outreach obligations.

My bill would also create a nine-member National Advisory Board on Citizenship to advise on naturalization objectives. And finally, my legislation would establish a naturalization examinations fee account within the U.S. Treasury to ensure that naturalization fees are spent on naturalization—not redirected elsewhere. Such naturalization activities could include English language instruction for immigrants trying to become citizens.

In closing, I would like to reiterate my support for many of the provisions in the illegal immigration bill. I look forward to working with both Chairman SIMPSON and Senator KENNEDY in making further improvements to this legislation. Thank you.

I will close by saying this. I said at the outset that there is a real difference between illegal immigration and legal immigration. My own mother became a naturalized citizen in 1937. When she died in 1991, she left me a very special little pouch that had two things in it: Her wedding band and her certificate of naturalization. I think Americans understand how much naturalized citizens cherish this homeland.

Therefore, I am working with Senator SIMPSON and Senator KENNEDY to get an amendment adopted which would recognize the beauty of those naturalization ceremonies. And I pick up on an amendment that passed overwhelmingly in the House that would give some modest sums of money to conduct those naturalization ceremonies. We want to put the ''N'' back into the INS—''naturalization.'' It is a beautiful ceremony, and those are some of our finest citizens.

I could give you the list of some of those naturalized citizens. But I think you all know how many of our wonderful leaders in this country in entertainment, in politics, and in all fields are naturalized citizens.

So I want to thank the Senator from Massachusetts for yielding me so generously of his time. I feel this is such an important issue to my State. I wanted to have this opportunity to compliment my friends who have led on this bill, for what they have done, and I hope to be able to support it.

Again, I thank you very much, Mr. President.

I yield the floor.

Mr. KENNEDY. Mr. President, I see a number of our colleagues who have been very interested in this issue that would like to speak to it. I will respond at an appropriate time after they speak to the current amendment—to the Simpson amendment.

But I want to just point out to the Members about where we are. The parliamentary situation effectively excludes the opportunity for recognition of the minority, the Democratic manager of this legislation. Under the right of recognition it always goes to the majority as the time-honored tradition, and we understand that and respect that. But given the parliamentary situation we are effectively denied on our side any Member offering an amendment. I mean, with respect to the processing of amendments, we are at the point now where we are processing nongermane amendments because eventually at some time we will move toward cloture. By beginning to understand what the situation is we will dispose of various amendments that apparently are agreeable to the floor managers prior to the time that a cloture petition is put down which will exclude any chance of other Members to come back in here and offer any amendments. That is an extraordinary process and procedure.

We have to ask ourselves about how long we really want to put up with that. I have been trying as a matter of comity in working with the Senator from Wyoming to move through this in a way which permits us to try to deal with some of the basic substantive issues. But we, as the time moves on, are caught in this particular situation. We are effectively dealing, and only dealing, with the amendments represented by the majority, and we are precluded under this whole process of offering any amendments.

This is not a personal comment on my good friend, the Senator from Wyoming, because he is responding to the wishes of the majority leader in this case. And the matters that he is raising here are matters that have been raised in the Judiciary Committee, matters which he had indicated to us that during the course of the debate he was going to raise, and matters which are of very fundamental importance in terms of the substance of the issue.

But we are still in a situation where we are being told we can only—the Senate of the United States on an important piece of legislation like this can only—deal with those amendments that are put forward by the manager of the bill because under the right of recognition he gets it. If there are other Members that want to have amendments considered they would go to him. If he thinks that he may support them, I imagine he will put them forward. And, if he does not, he will not.

So we are in a situation where we have effectively a very small gate. My good friend and colleague—again I say with deference to him—because he has always, as I have stated on every occasion, been entirely up front and entirely fair in dealing with all the members of the committee, Republicans and

Democrats alike. But he is caught in this position was well.

So it does seem to me that our colleagues ought to understand that effectively we have a clearance system here that unless an amendment is cleared through the acting majority leader we are being closed out. And I think the American people and our Senators ought to know that this is not a free-wheeling debate where we are going to have the opportunity for the Members who want to represent their States and their interests to be able to get recognized to be able to pursue that.

This is an extremely important amendment, and I hope we can deal with this amendment in a timely way. But at some time we are going to have to ask ourselves whether we are going to just go ahead and consider all of the nongermane amendments that come through our colleague over here and none of the nongermane amendments to be considered by other Members. Then we get into cloture, and they have taken care of those nongermane amendments. We will be just back on the germane amendments. It is a rather unusual way to proceed.

I just raise that now because there are those, myself included, who want to try to get at least some opportunity for recognition so that we would have a chance to offer at least a minimum wage amendment on this with a very short time agreement. We are effectively being closed out from that possibility. We understand that. But the other Members of the Senate ought to understand that as well. Hopefully the majority and minority leaders can bring their good common sense and judgment to help us find a way through this particular dilemma.

I will yield the floor because others want to speak. I will come back and speak to the substance of this measure. I want to again point out that the substance of this issue is enormously important. It is absolutely relevant. We ought to address it. It is extremely significant. But some time in the not-too-distant future I think we ought to have some kind of a decision about how we want to proceed.

This issue of illegal immigration is extremely important. We have supported the expansion of the border guards. We have supported the measures that Senator SIMPSON and I cosponsored—measures to try to create a more effective process for being able to identify the legitimate Americans versus illegals in the job market, which is extraordinarily important. There are other provisions as well in the illegal immigration bill which are very, very important and some which there is some difference on.

But we are in an unusual situation, and it is something that I know Members have to be concerned with as well.

Mr. SIMPSON. Mr. President, I can understand the frustration of the Senator from Massachusetts. He expressed that frustration in a very clear way. Let us then review the bidding so that we do all hear what we are doing.

We are dealing with illegal immigration. That has been the pending business before this body for over a week. The pending business of the Senate is the measure with regard to illegal immigration, which when we finish the amending process will probably pass by a rather significant vote. So if we are talking about important legislation, then surely we should be talking about this.

So what occurred here today is nothing mysterious, nothing sinister, nothing harsh. It is called legislating, and it is called using the rules of procedure, and it is done beautifully by the Democrats when they are in the majority and by the Republicans when they are in the majority.

So if we are talking about what is germane, what could be more nongermane than Social Security and an attempt to say that Social Security somehow is not to be dealt with when we do a balanced budget, when Social Security is $360 billion of the national budget.

That is what we are talking about, nothing mysterious, nothing sinister. What are we talking about that is germane about minimum wage? But there might be something very interesting and germane with minimum wage because the same people who are seeking an increase in the minimum wage are at the same time restricting efforts—some—restricting efforts to reduce the number of low-skilled immigrants who are entering under the family preference system.

I hope that we are able to divine that extraordinary difference. It is these low-skilled newcomers who flood the labor market which results then in stagnant wages. That is what happens. So this is one of the most curious parts of the entire debate to me.

I am not attributing that to Senator KENNEDY. I am attributing it to some who continue to resist the fact that we are trying to say that low-skilled persons are no longer required to come here under our immigration laws. We need people with skills. We need people with ability. We need people who are here to pull their share. We need people to come here whose sponsors say, ''When you come here, I will assure that you do not become a public charge.'' That is what we are up to here. No mystery, nothing sinister.

You asked how we could be precluded from dealing with things that are very important to Senator KENNEDY or to Senator DORGAN. The same would be my argument. I am being precluded from dealing with illegal immigration reform. And I think that we want to keep all those interesting balances before the body. That is a very important thing.

I wish to insert in the RECORD a very interesting column that was in the Washington Post in the Outlook section last Sunday about this extraordinary argument about the minimum wage and the extraordinary, remarkable flight from common sense of those who will not allow us to reduce the number of those people presently entering under the preference system.

We have a situation now with regard to naturalization, with regard to a movement toward naturalization created by the legalization of the 1986 bill, created by people who are stunned and alarmed by proposition 187 and think, boy, if they are going to treat people who are permanent resident aliens like that, I want to get naturalized. There is another movement toward that, and so you are going to have more numbers coming to the United States than you ever did before, even if we did the minimum under the ''legal immigration bill.''

And remember, there is a legal immigration bill at the desk which passed the committee by a vote of 13 to 4. That is legal immigration. There is also the illegal immigration bill, which passed the committee by a vote of 13 to 4, and that is what we are considering at the present time.

Let me assure you that if you are talking about germane and nongermane, there should be not much question, at least in the eyes of the general American public, of a certain thing which is total reality, which is sometimes difficult to attain here, that the reason we talk about them together—whether you split them or puree them is not the issue—split, whole or pureed, you do not escape the fact that over one half of the people who come here legally become the illegal aliens which are the subject of this bill.

Please hear that, I hope, and know that we are talking about people who come here, half of them who come here legally become illegal. They then go out of status with a tourist visa. They go out of status with a student visa. They then become part of the illegal community.

So those are some things, and we are not here to disrupt things but we are here to deal with the bill as we do health care, we do line-item veto, we do this and we do that, and try and proceed. If the entire exercise should end in an hour, I can assure you that it will come back at some future time, but I thank my colleagues on both sides of the aisle for at least processing four or five amendments. That is what we should be doing. There are two choices here: Be about our business on an illegal immigration bill or the leader will be required to pull up something else and the issue will simply never go away, either of the issues or all of the issues.

So I just wanted to express that with I hope some clarity, that we are moving on an illegal immigration bill with a significant amendment here at the present time.

Mr. FORD. Mr. President, will the distinguished Senator from Wyoming allow me to ask him a question?

Mr. SIMPSON. Indeed, I say to my friend from Kentucky, Mr. President.

Mr. FORD. The Senator from Wyoming understands better than most

why the minimum wage amendment is being placed here. That is about the only place we can get a chance to do it. He understands that well. And also the sense of the Senate on the balanced budget amendment, not using Social Security. He understands that question well. Could it not be worked out and taken off the bill? If a time agreement to vote on this bill—on those two questions be agreed to in 30 seconds, they would both be off the bill, would they not?

Mr. SIMPSON. Mr. President, it will be up to our leader to determine the course of business. The Senator from Kentucky and I both filled the role as assistant leader of our parties, and I think we both realize that we were somewhat muted on final decisions.

Mr. FORD. I understand that. But we do know that if the leaders would make a decision and give us the time for a stand-alone vote on it, these two items would not be on the immigration bill. And as we have seen both sides do in the past, you take an opportunity when it is presented to you. All I wish to know is if the Senator would agree that if the leaders would give us an opportunity to vote on minimum wage and the opportunity to vote on a sense of the Senate as it relates to the balanced budget, not using Social Security, that they would not be on this bill.

Mr. SIMPSON. Mr. President, I think that all of us know when we reach these sticking points in this body—and that is often—people then huddle and decide what to do. The leaders trust and admire each other and they will work together and move the legislation of the Senate. And that is the way it will always work.

On the other issue of minimum wage, I understand there are serious discussions going on about minimum wage, training wage, and getting the minimum wage to the people who do require it most and not to someone from a fine family that decided to go work in McDonald's for the summer and pretend that that is the issue of minimum wage when someone is a privileged young person who is simply in the work force.

There are real things here. For every horror story on one side, we have the horror story on the other side. That is the only way I have been able to exist in this body for 18 years.

So, for every one that is presented to us, then there is something on the other side about people who lose their jobs, employers who are on the edge and say, ''Minimum wage? I cannot do it.''

You can make fun of those people and say they should, I guess, be subsidized by the Government or something to pay the minimum wage. But the issue is, they say ''I will go broke. So, therefore, I will not do that. Or, if that is the law, I cannot do it and I'm out.'' That is an argument just as valid as the one about children and spouses and the working man, and all of those things are what the American people know and see that is what we do. And that is what we do.

So, I am going to leave the issue for resolvement to that. And know that, at this point, this procedure of filling the tree and moving forward is not a patented process by the Republican majority; it is a patented process by the Democratic majority when they are in power. It is a tool to move legislation.

We have two choices here. Pull up something else or move forward. How can anyone argue—regardless of the passion of what you want to present to the body—how can you argue about not moving forward with a very important bill, and that is what we are attempting to do. It really is not as strange as it would appear.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I agree that the points the Senator from Wyoming made are valid points which ought to be part of a debate on the minimum wage. But effectively we are being precluded from the opportunity for action and for resolution. That is all we are asking for, whether 13 million families are entitled to 30 minutes of the Senate's time so we can make a decision on the issue of the minimum wage and also the proposal of Senator DORGAN. That is really what we are asking. It is not a great deal, but in order to preclude the Senate from taking that action we are finding out that we are using the unusual—and it is unusual—process by which the only amendments we are going to debate are going to be the amendments of the Senator from Wyoming or amendments that come through the process of the Senator from Wyoming.

So this is not progress in the sense it is giving Members of the Senate an opportunity to be able to raise issues that are important. They are effectively precluded from that because they are denied the right of recognition.

So we have to press, again, and indicate at the first opportunity we are going to offer it. Eventually the opportunity is going to come, because eventually—and people ought to understand it—when the time comes, and the final amendment is either agreed to or rejected, that prior to the time there is going to be disposition or a vote on this, it is going to be open, and others will be able to offer their amendments. So it might take a little while to be able to do that. We understand that. But that will eventually be the reality on that.

Mr. SIMPSON. Mr. President, if I might.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I enjoy, obviously, the Senator from Massachusetts because he does his work with a—down there, always—a crinkle in his eye and a twinkle. I know that one. I have seen it many times. This is, really—this is theater. It is Shakespeare—minor, minor, I can assure you. It is street Shakespeare. I do it, too. I will be Lear, raging into the wind, and Senator KENNEDY will be Puck.

Let me tell you, the minimum wage, when the Democrats had the control of this body and the House of Representatives and the Presidency, never appeared in this Chamber under any scenario from the wings—not once. Not once did President Clinton ever suggest we deal with the minimum wage. And since it became something that appeared in the focus groups, or the Knight tracking polls, it has been mentioned 47 times by the President.

So it is theater. But, really, if you stay in this game long enough—and I have been legislating for 30 years and obviously love it, but I am ready to do something else—if you play with the wheel with the fanny kicker on it, it will come around and get you. Hear this from my friend, Senator Ted KENNEDY, as we dealt with the health care reform bill. The CONGRESSIONAL RECORD, April 18, 1996, page S3513, quote of my friend, Senator KENNEDY:

> Members of the Senate who are serious about insurance reform should vote against all controversial amendments—including medical savings accounts. Senator KASSEBAUM and I have agreed that we will vigorously oppose all such amendments—even those that we might support under other circumstances.

Now, with the approval of the body, I ask unanimous consent that we insert the phrase ''illegal immigration reform'' and then just adopt that, because that is exactly what I am saying.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, Senator SIMPSON may say that this is theater, but it has dramatic results, by our action or inaction, for the 13 million families that would be affected about whether we are going to address the increase in the minimum wage, No. 1.

No. 2, the Senator, by mentioning the health care debate, understands—or should understand or may understand after this—that the increase in the minimum wage was deferred at that time because the impact and the effect on the hourly worker was considered to be a 40-cent to 50-cent increase as a result of a health care system. Those of us who had responsibility in that asked the workers do they want us to fight for an increase in the minimum wage, or do they want us to try and fight for health care, and overwhelmingly they said health care. We know it is 40 to 50 cents an hour. That was the battle. That was the battle then.

So the idea that we did not bring it up then—we did not bring it up then because we were fighting for the expansion of health care for the protection of workers, and we were denied that opportunity to have it because of Republican opposition.

I keep reading about who is responsible and who is not responsible about it. It was basically a Republican decision not to permit a vote on the U.S. Senate floor on health care, in order to show that we could not deal with that issue, and the Congress was ineffective in dealing with it. We understand that. We are not trying to rewrite history at this particular time, and we should not attempt to do it here today. That was the bottom line.

The value of health care, if we had gotten it, would have been that 40 to 50 cents an hour. So, once the Republicans effectively defeated it we moved on in, in terms of the introduction of the minimum wage as one of the first orders of business, if you look on our side. It was one of the first six pieces of legislation, and we have been asking for a vote on it for over 1 year and still are denied it, even though the Republicans support it and even though Republican Presidents Eisenhower, Nixon, and Bush actually voted in support of that measure.

So, I welcome the opportunity to have a substantive judgment and decision on that matter, which, eventually, when we go through these various amendments, we will have the chance to do, because we are not going to be closed out. We can go on and use these Senate rules in a way to put our good friend and colleague as the gatekeeper for the amendments, and he can use the rules in that particular way. But you are not going to get away from acting on the minimum wage at some particular time.

Finally, I do not think I really have to justify the decision that was made with regard to health care. That was a judgment that was made by Senator KASSEBAUM as well as myself.

So, if the Senator wants to have that kind of dispute as a way of getting legislation effectively through, it is a procedure which is used at other times, generally when the floor manager and the minority agree. We differed on this legislation, for some very important substantive reasons.

So, I think the circumstances are very much different. All we are looking for is 30 minutes on the minimum wage. Then we can get about concluding this very important legislation and be able to vote on it. We had, as the Senator from Wyoming knows, excellent markups with overwhelming participation, Republicans and Democrats, in the Judiciary Committee.

It was a great tribute to the Senator from Wyoming, for the involvement of the Members and the expression of differing views, that this legislation was reported out of committee. I am sure the Senate is going to make a judgment on this measure as well. But the idea that taking 30 minutes or an hour out of this kind of debate while we are processing amendments is unreasonable is incorrect—I would be glad to cut back our time.

I do not think I have used very much time in agreeing with the amendments of the Senator from Wyoming on these measures. Surely, we can cut out 1 hour of this day or tomorrow or whenever to debate the minimum wage when we have had important Republican support. The issue will not go away. I appreciate and understand the Senator's position on it.

Mr. SIMON. Will my colleague yield for a question?

Mr. KENNEDY. I will be glad to.

Mr. SIMON. When Senator SIMPSON mentions the health care bill and your statement and Senator KASSEBAUM's statement that they would resist any amendments, is it not true that any Member could offer an amendment, and, in fact, Senator DOMENICI offered an amendment with Senator KERRY here in this body? Any single Member could have offered a minimum wage amendment at that point. The procedure we are following here is dramatically different. Is that not correct?

Mr. KENNEDY. The Senator is entirely correct. We did not attempt to gag the membership, which effectively this process does. The only way you get consideration is to have the Senator from Wyoming, with the position of the majority leader, recognized. That has been a time-honored tradition which I respect and support. If not, then it goes to the minority leader. Under the Senate rules, Senator DASCHLE could come out here and offer that amendment. Then Senator DOLE would have to come out here and proceed in order to block that amendment.

We could go through that kind of a routine and put the Senate in stalemate. I mean, we are all dealing with this and understand the nature of these rules. I suppose sometime that will come to pass. But what we are trying to do is get an orderly procedure to be able to go forward.

Just finally, I say to my friend and colleague, maybe these discussions about how we could try to find common ground in the minimum wage are going on, but I do not know where they are going on. I do not think those of us who have been most involved—myself, Senator KERRY, Senator WELLSTONE, other Members, and, to the best of my knowledge, Senator DASCHLE—are aware of these negotiations.

What we are aware of is the preposterous position that the majority leader of the House of Representatives put forward yesterday as a position of the Republicans in the House, which effectively would say we are going to repeal the EITC, and therefore save $15 billion. That would be funds that would go to the people who are working on the lowest rung of the ladder, the economic ladder, and then we will set up an entirely new entitlement with the Internal Revenue Code to subsidize these workers who are working in restaurants and as teachers aides and as other health aides, working in Head Start programs, cleaning out buildings, that they would still get the $4.25 but get another subsidy from the Federal Government—a new entitlement.

Of course, that subsidy will be paid for by taxes that are coming from other workers. That is a new entitlement, a new bureaucracy, a new subsidy for companies. If that is the proposal, why do we not just get about the business of debating it and disposing of it. Maybe there are those who want to do it. But as the Senator from Illinois points out, let us at least permit a vote on this measure. Let us at least permit the Senate to speak. Let us get a short time period and have a debate on it.

That is what we are prepared to do. We are not trying to say, well, we are not prepared to go through, even though we are being denied an opportunity to vote on the minimum wage, which has received Republican and Democratic support. We are not at this point saying, well, we are not going to play ball with you on immigration. We could certainly have done that. We believe that is an important measure. But up to this time that has not been done. Eventually we will, under the Senate rules, have an opportunity to have these offerings of amendments on the minimum wage on other measures.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I think we could go on—and we may—but I think, as we get back to the substance of minimum wage—and apparently the Senator does that—and I think I misspoke earlier about Shakespeare. I think Senator KENNEDY is King Lear and I am puck, because certainly he launched one end of the tempest there, and here I am. But we will resolve this.

We will move forward perhaps, or we will not. If suddenly the procedure fails at this time, we will come back to it tomorrow or the next day, whatever it may be. But since we want to talk about the substance of minimum wage, I think it is important then just quickly, if I may, to talk about it in connection with immigration, because the other day in debate the Senator from Massachusetts talked about janitors.

Do you know what happened to janitors in the last 15 years? Janitors in Los Angeles in public buildings were making $12 an hour or $14. You know what they make now? $6. You know why? Because we in this body have allowed a glut of immigration to come to the United States and especially to that city, and the union janitors no longer are in a job at $12. The nonunion foreign immigrants came and knocked off the union wage.

Now we have the situation—if we are wanting to talk about the plight of janitors—there is a study by the General Accounting Office noting that janitors in downtown Los Angeles office buildings had won excellent wages and working conditions through their unions since World War II. By 1983, the prevailing wage reached $12 an hour—this is a GAO report. The ability to deliver credible threats to strike if wage increases were not forthcoming played a very important role in that success.

I know where Senator KENNEDY is on that one. But Congress, those of us in Congress, overriding the recommendations of a Federal commission on which Senator KENNEDY and I served, continued a legal immigration program that poured hundreds of thousands of foreign workers into the country annually during the 1980's—hundreds of thousands. Thus, Washington, thus us, inadvertently provided the opportunity for aggressive, nonunion businesses to take the jobs or deflate the wages of union workers, union workers in the Los Angeles area, taking over the office building contracts. Most of the native born workers were then driven from their jobs. Real wages for the foreign born and remaining native born have fallen further toward and even down to the minimum wage. There is a tie here somewhere, and we will get to it. We will discuss it. Now I have opened Pandora's box once again, but realizing the hazard of that. But there is where we are. We go ping pong all day long. It is theater, any way you cut it.

Mr. KENNEDY addressed the Chair.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. The Senator from Florida has been very accommodative. I will just take one moment.

The Senator's comments are old news, old news to certainly this Senator and, I think, to most Senators. That is why in the legal immigration we have effectively cut out the unskilled workers. That was initially either a proposal of mine or Senator SIMPSON on which we both had agreement. So that particular feature is excluded.

The reason we are continuing to see the depression in terms of those wages is because of illegal, not the legal, because we have effectively terminated that.

I will welcome the opportunity for debate about how this legislation and the legal immigration is going to protect American workers. I say in fairness that the Senator from Wyoming had included in initial proposals some additional provisions for the protections of American workers which I supported. I think we could have expanded on it.

Now, with regard to the legislation actually reported out of the committee, we have moved back from those kinds of protections. I think it is enormously important that we have those kind of protections. We will have a chance to talk about that as well.

Mr. GRAHAM. Mr. President, the issue of illegal immigration is an extremely serious one for America. Few places are as affected by that issue as my State of Florida. My State represents approximately 6 percent of the population in the United States. It is estimated that 10 percent to 15 percent of the illegal aliens who are in the United States are in the State of Florida. Within the last 4 years there were periods in which over 4,000 persons from Haiti alone entered into small boats in order to get to the United States, primarily through Florida, and would have added further to that population of illegal aliens.

Mr. President, my concern, therefore, is not that this Congress should deal with this subject. It is important, critical that we do. Rather, I believe there are at least two areas of this bill through which a serious fault line runs. This is not Shakespearian theater. This is structural engineering. The first of those fault lines, and the two are related, is that while this bill has as its label, illegal immigration, S. 1664 says in its heading, in its title, ''To Amend the Immigration and Nationality Act to Increase Control Over Immigration to the United States by Increasing Border Patrol,'' et cetera. The focus of this bill is illegal immigration.

The first fault line, however, is that within this bill on illegal immigration there are major provisions which affect legal aliens, either totally affect legal aliens or substantially affect legal aliens. To pick one specific example which I hope will be dealt with before we complete action on this legislation, this bill that purports to deal with illegal immigration would change the conditions under which persons who are in this country with a legal status are allowed to adjust that legal status.

Since the early 1980's, the United States has recognized the special circumstances of Cubans coming to the United States and have had special provisions in which persons who were here legally of Cuban nationality can adjust their status. This bill, which purports to deal with illegal aliens would substantially restrict that right. This is only available to persons who are here legally. I cite that as just one example.

Other examples of the mixture of illegal and legal go to the fact that by changing the eligibility standards for legal aliens, substantial additional costs are going to be imposed upon the communities and States in which these aliens live. So the second faultline in this legislation are significant unfunded mandates which are being imposed upon States and local communities.

It is ironic, Mr. President, that the very first bill introduced in this Congress, S. 1, was a bill which had as its title the Unfunded Mandates Reform Act of 1995. Let me read from the statement of the purpose of the Unfunded Mandates Reform Act of 1995. The purpose of this act, which is now Public Law 104–4, the fourth bill that became law as a result of actions of the 104th Congress, the purposes of the act are:

> To strengthen the partnership between the Federal Government and State, local, and tribal governments; 2, to end the imposition in the absence of full consideration by Congress of Federal mandates on State, local, and tribal governments without adequate Federal funding in a manner that may displace other essential State, local, and tribal governmental priorities . . . 6, to establish a point of order vote on the consideration in the Senate and the House of Representatives of legislation containing significant Federal intergovernmental mandates without providing adequate funding to comply with such mandates.

Those were some of the purposes that led this Congress to adopt as its fourth legislative action of the 104th Congress the Unfunded Mandates Reform Act of 1995.

When the Senate was debating this proposal, Mr. President, the majority leader, Senator DOLE, stated,

> Mr. President, the time has come for a little legislative truth in advertising. Before Members of Congress vote for a piece of legislation, they need to know how it would impact the States and localities they represent. If Members of Congress want to pass a new law, they should be willing to make the tough choices needed to pay for it.

That statement by our majority leader was an important part of this Senate's determination to pass the Unfunded Mandates Reform Act of 1995.

So what are we about today, Mr. President? We are about legislation which would impose massive unfunded mandates on States and local communities in America. The Congressional Budget Office has, in a very limited time, reviewed this legislation's very broad sweeping impact on State and local governments. They have determined that this bill does, in fact, meet the $50 million threshold for unfunded mandates procedures due to the bill's requirements governing just two items: Birth certificates and drivers' licenses. Thus, although the bill would impact literally hundreds of programs run by State and local governments, just these two relatively minor programs reach the threshold of $50 million, which under the legislation constitutes unfunded mandates.

With respect to the all-encompassing deeming requirements imposed on hundreds of Federal, State, and local programs in this legislation, the Congressional Budget Office says,

> Given the scope and complexity of the affected programs, however, the Congressional Budget Office has not been able to estimate either the likelihood or magnitude of such cost at this time. These costs could be significant, depending on how strictly the deeming requirements are enforced by the Federal Government.

On another issue, the Congressional Budget Office has stated under the terms of means tested State and local tested programs,

> It is likely that some aliens displaced from Federal assistance programs would turn to assistance programs funded by State and local governments, thereby increasing the cost of these programs. While several provisions of the bill could mitigate these costs, CBO states that such tools would be used only in limited circumstances in the near future. At some point, State, and particularly local governments, become the providers of last resort, and as such we anticipate that they would face added financial pressure on their financial assistance programs.

Mr. President, this bill fails to meet the majority leader's truth-in-advertising test. It is not strictly an illegal immigration bill, and it does have serious

financial implications for States and local communities. We are preparing to vote on a bill that we truly have not the foggiest idea what the impact will be on our constituents. They certainly are extremely concerned and strongly supportive of resolving this issue of unfunded mandates.

I have a letter dated April 16 from the National Conference of State Legislatures. This letter is also joined by the National Association of Counties and the National League of Cities. This letter urges all Senators to support a point of order against S. 1664, the illegal immigration bill, based on the violation of the unfunded mandates bill. This so states—the President of the National Conference of State Legislatures, the President of the National Association of Counties, and the President of the National League of Cities—''This constitutes a critical test of your commitment to preventing cost shifts to an unfunded administrative burden on State and local governments.'' This is what the leaders of State and local governments have described as the seriousness of the issue of unfunded mandates raised by this bill.

During the Judiciary Committee markup of this bill, Gov. Tommy Thompson of Wisconsin and Gov. Bob Miller of Nevada wrote in a letter, dated March 6, on behalf of the National Governors' Association, expressing concern about ''administrative provisions contained in the bill,'' which, if enacted, ''could result in an unfunded mandate being passed on to State and local governments.''

This concern of Governors Thompson and Miller has, of course, now been confirmed by the Congressional Budget Office. Moreover, the National Association of Public Hospitals wrote to all Senators on April 12, noting, ''This bill will lead to an increase in the number of uninsured patients and exacerbate an already tremendous burden of uncompensated care on public hospitals.''

This gets to another point that I offered in the unfunded mandates bill, which seemingly has gone unnoticed by the Congressional Budget Office, despite a vote of 93 to 6. That was a provision, which is now part of the Public Law 104–4, which states that any Federal reductions in ''reimbursements to State, local, and tribal governments for the costs associated with illegal, deportable, and excludable aliens, including court-mandated expenses related to emergency health care, education, or criminal justice,'' constitute part of the potential new obligations imposed upon States and are subject to the point of order as unfunded mandates.

In numerous ways, S. 1664 does exactly that. It eliminates Federal reimbursement to the States, according to the Congressional Budget Office, by about $7 billion. I repeat, it eliminates Federal reimbursement to the States by about $7 billion over the period 1996 to 2002, a substantial portion of which is in health care costs associated with immigrants.

In short, this bill, once again, creates an enormous unfunded mandate on State and local governments. Once again, I repeat the quote from the Congressional Budget Office: ''Given the scope and complexity of the affected programs, however, CBO has not been able to estimate either the likelihood or magnitude of such costs at this time. These costs could be significant, depending on how strictly the deeming provisions are enforced by the Federal Government.''

Mr. President, while the CBO has been unable to do a comprehensive report, the National Conference of State Legislatures has undertaken that task. Our colleagues in the State capitals across the Nation, legislators, as are we, who administer these programs we are talking about today, have assessed what the impact will be on States. Although they were, like the Congressional Budget Office, limited in the time available to complete this analysis, the National Conference of State Legislatures developed a very conservative cost estimate for just 10 of the affected programs.

This study did not include Medicaid and 40 other Federal means-tested programs. What did the National Conference of State Legislatures find?

First, after contacting more than 10 States, States of varying size, they concluded that ''regardless of the size of the immigrant population, all States and localities will have to implement these unfunded mandates.''

In other words, the bill impacts a city in Iowa or Delaware just as it might in Los Angeles, CA, or Miami, FL. The bill requires all Federal, State, and local means-tested programs to have a new citizenship verification bureaucracy imposed upon them.

All programs, regardless of whether the new bureaucracy costs exceed benefits, regardless of whether it imposes a very large unfunded mandate on State and local programs, all programs are impacted by this bill. What are the estimated costs, even for just the 10 programs which have been studied? According to the NCSL study, ''The cost of these new requirements for 10 selected programs would result in a $744 million unfunded mandate.'' Repeating, ''The cost of new requirements for 10 selected programs would result in a $744 million unfunded mandate.''

The National Conference of State Legislatures adds, ''Of course, if the 40 other programs, including Medicaid, adoption assistance, and the WIC programs, are included, the unfunded administrative burdens on States and localities would substantially increase.''

Mr. President, the NCSL study indicates that unfunded mandates for just 10 programs will be $744 million. Once the other multitude of programs are analyzed, the costs imposed on State and local government could far exceed a billion dollars. It could very well amount to several billion dollars.

However, Mr. President, there are no provisions in the pending legislation to reimburse State and local governments for the administrative costs and the cost shifts which will be imposed upon them by this bill.

As the majority leader said on January 4, 1995, when we were passing the unfunded mandates bill:

> We do not have all the answers in Washington, DC. Why should we tell Idaho, or the State of Kansas, or the State of South Dakota, or any other State, that we are going to pass this Federal law and we are going to require that you do certain things, but we are not going to send you any money? So you raise taxes in the local communities or in your State. You tax the people, and when they complain about it, say, ''Well, we cannot help it because the Federal Government passed this mandate.'' So we are going to continue our drive to return power to our States and our people through the 104th Congress.

Those were the words of Senator DOLE on January 4, 1995. Mr. President, we have now come to a point of decision as to our credibility. When we passed this legislation, as the fourth bill of the 104th Congress, one of the items in the Contract With America, one of the items upon which State and local governments are now making important decisions, which they have believed the legitimacy of our representations that we are no longer going to be casually and in an unstudied way, imposing major costs upon them. Are we now going to be prepared to meet the test?

We have a bill which says that it only relates to illegal aliens; yet, an analysis indicates that it clearly has major impacts on legal aliens.

Second, we find that a significant part of that impact on legal aliens is to impose significant new unfunded mandates—financial responsibilities—on States and local communities. I do not think that is what we want to do. We have a choice. Clearly, a point of order is now available against this bill. We could end further discussion. I am reticent to raise that point of order because I believe it is important that we pass an illegal immigration bill that will in fact strengthen our ability to protect the borders of America and to assure that our lawful means by which persons can come to the United States are available and are not dismissed, as they have been so frequently in the recent past, by persons who come here illegally.

I also am reluctant to raise this point of order at this time because we still have an opportunity to correct this legislation and to remove those provisions which are imposing these mammoth unfunded mandates on States and local communities.

We are in a strange parliamentary process, but I hope that even through this byzantine process we will be able to consider those amendments that will be faithful to our commitments not to impose new unfunded mandates in the manner in which we are doing in this legislation upon our citizens at the State and local level.

So, Mr. President, my purpose in these remarks is to raise these two important structural defects in the bill—a mixture of impacts on legal aliens, and a bill that is labeled ''illegal immigration'' and the imposition of major unfunded mandates on States and local communities.

It is my hope that by raising these issues, it will contribute to reforming this bill in a way that brings a good engineer into the foundation of this legislation, pour some concrete, and strengthen the integrity of this legislation. If that is done, then the unfunded mandate point of order would no longer be available.

If that is not done, I want to assure my colleagues that the point of order will be raised because I am committed that we not only strengthen our resolve against illegal immigration but that we also demonstrate our credibility to not impose mammoth unfunded mandates on our State and local governments.

I ask unanimous consent that the letter and other material from the National Conference of State Legislatures be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL CONFERENCE OF STATE LEGISLATURES, NATIONAL ASSOCIATION OF COUNTIES, NATIONAL LEAGUE OF CITIES,

April 16, 1996.

DEAR SENATOR: On behalf of the National Conference of State Legislatures (NCSL), the National Association of Counties (NACo) and the National League of Cities (NLC), we are writing to alert you that according to both the Congressional Budget Office (CBO) and our own analysis S. 1664, The Immigration and Financial Responsibility Act of 1996, is in violation of P.L. 104–4, The Unfunded Mandates Reform Act.

Certain portions of S. 1664 would place unfunded federal mandates on states and localities through new national requirements for driver's licenses and birth certificates and by extending legal immigrant benefit restrictions to all federal means-tested programs. CBO estimates that the driver's license and the birth certificate mandates alone could cost states and localities in excess of $200 million. This clearly exceeds the $50 million threshold needed for a point of order against S. 1664 in accordance with P.L. 104–4.

In addition, a study by the National Conference of State Legislatures has found that the deeming requirements of S. 1664 would impose even greater unfunded federal costs on state and local governments. (CBO was unable to conduct an analysis of the deeming requirements, but stated that ''it is possible that the administrative costs associated with applying deeming requirements to some federal means-tested entitlement programs would be considered mandate costs as defined in P.L. 104–4.'') The NCSL study of just ten affected programs, not including Medicaid and 40 other programs, reveals that the costs to state and local government of these new requirements is $744 million.

As you know, ''deeming'' is attributing a sponsor's income to the immigrant when determining program eligibility. S. 1664 would extend deeming from three programs (AFDC, SSI and Food Stamps) to 50 federal means-tested programs including foster care, adoption assistance, school lunch and WIC. Regardless of the size of the immigrant population, all states and localities will have to implement these unfunded mandates. By mandating that state and local governments deem for all these programs, the legislation requires states and localities to extend a complicated administrative procedure to more than 50 federal programs. These mandates will require states to verify citizenship status, immigration status, sponsorship status, and length of time in the U.S. in each eligibility determination for the deemed federal programs. They will also require state and local governments to implement and maintain costly data information systems.

Therefore, we urge you to support a point of order against S. 1664 based on the violation of P.L. 104–4. This is a critical test of your commitment to preventing cost-shifts to and unfunded administrative burdens on state and local government.

NCSL, NACo and NLC will support subsequent amendments to reduce the scope of the deeming provisions and the onerous administrative requirements. We oppose the provision to extend the deeming requirements to all non-cash, federal means-tested programs. These mandates also garner almost no federal savings and should be eliminated as part of the Congressional commitment to eliminating cost shifts to state and local budgets and taxpayers. We urge you to support amendments to limit deeming to the federal programs that deliver income support and food assistance and to ensure that states and localities will not have to implement deeming for any program where administrative costs would exceed any estimated net savings or benefit expenditures.

Without this amendment, states and localities will have to deem applicants for everything funded by federal means-tested programs from foster care to children's soccer leagues to mobile meals to after-school tutoring programs. The administrative burden would severely restrict the number of services that could be provided and be a bureaucratic nightmare, especially for states and localities with fewer immigrants.

We also strongly support amendments to exempt vulnerable populations such as legal immigrants who become disabled after arrival, children under 18, pre-natal and post-partum women, and veterans and their families from the deeming restrictions. These groups are among the most vulnerable members of our communities. NCSL, NACo and NLC are also concerned about immigrants who enter the U.S. legally and comply with U.S. immigration laws in good faith. Legal immigrants who play by the rules should not be barred from the SSI program if they become disabled after arrival. No one can predict when they might suffer a disability; these immigrants must be included in the SSI program.

We are especially concerned about the impact of extending the deeming requirements to the Medicaid program. Without this program eligibility, many legal immigrants will not have access to health care. Legal immigrants will be forced to turn to state indigent health care programs, public hospitals, and emergency rooms for assistance or avoid treatment altogether. This will in turn endanger the public health and increase the cost of providing health care to everyone. Furthermore, without Medicaid reimbursement, public hospitals and clinics and states and localities would incur increased unreimbursed costs for treating legal immigrants. Exempting emergency Medicaid services from sponsor deeming is especially justified because emergency medical care must be provided by all hospitals with emergency rooms without regard to the patient's ability to pay or immigration status.

Finally, we are also concerned about the provisions mandating national standards for state and local documents such as birth certificates and driver's licenses. We support maintaining state and local choice in the design of these documents. These are very sensitive public policy issues. S. 1664 would preempt a number of state laws including those that specifically prevent using social security numbers as identification on driver's licenses and other identification cards. These mandates may violate the Supreme Court decision in New York v. United States that prohibits making states the administrative arm of the federal government. Furthermore, these provisions also place costly unfunded mandates on state and local governments that prevent such use of social security numbers or do not use tamper-proof paper for birth certificates.

We appreciate your consideration of our concerns and urge you to support these amendments to minimize the cost shift and unfunded mandates to states and localities.

Sincerely,

JAMES J. LACK,
New York Senate, President, NCSL.

DOUGLAS R. BOVIN,
Commissioner, Delta County, MI, President, NACo.

GREGORY S. LASHUTKA,
Mayor, Columbus, Ohio, President, NLC.

MEMORANDUM

To: Interested Parties.

From: Sheri Steisel, National Conference of State Legislatures. Jon Dunlap, National Conference of State Legislatures. Marilina Sanz, National Association of Counties.

Date: April 15, 1996.

Re: Unfunded Mandate Violations of More Than $900 Million In S.1664/S.269.

As you may be aware, on Friday (4/12/96) the Congressional Budget Office released its score of S.269 (now S.1664), the Immigration Control and Financial Responsibility Act of 1996. In this score, CBO states that a number of provisions in S.1664 would place unfunded federal mandates on states and localities. CBO estimates that the driver's license and birth certificate provisions alone could cost states and localities in excess of $200 million. This alone is a violation of the provisions of S.1, the Unfunded Mandates Act of 1995 and is certainly more than the $50 million threshold needed for a point of order against S.1664 on the Senate floor.

As for S.1664's new deeming requirements for all federal means-tested programs, CBO states that given the scope and complexity of the affected programs, they were unable to estimate these costs at this time. CBO found that ''it is possible that the administrative costs associated with applying deeming requirements to some federal means-tested entitlement programs would be considered mandate costs as defined in Public Law 104–4.'' As you know, S.1664 would extend deeming from the 3 current programs (AFDC, SSI, and Food Stamps) to more than 50 federal means-tested programs, most of which provide social services at the local level.

The National Conference of State Legislatures (NCSL) has developed cost estimates for 10 affected programs (not including one of the largest, Medicaid, and 40 other federal means-tested programs). We have consulted with more than 10 states of varying size. However, regardless of the size of the immigrant population, all states and localities will have to implement these unfunded mandates. The NCSL study found that the cost of these new requirements for 10 selected programs would result in a $744 million unfunded mandate. Of course, if the 40 other

programs, including Medicaid, Adoption Assistance, and WIC, are included the unfunded administrative burden on states and localities would substantially increase.

In the Senate debate, NCSL and NACo will strongly support a point of order against S.1664 and subsequent amendments to reduce the scope of the deeming requirements and the administrative burden the requirements place on states and localities.

NATIONAL CONFERENCE OF STATE LEGISLATURES

UNFUNDED MANDATES IN IMMIGRATION BILL: COST ESTIMATE OF S.269/S.1664 DEEMING MANDATE

Enclosed are the following: (1) the list of programs that we believe meet the unfunded mandate criteria contained in S.1 Unfunded Mandates Act and CBO's interpretation of the law; (2) an estimate of the infrastructure, training and implementation costs that states and localities would incur in order to implement deeming for these 10 programs; and (3) the list of over 40 additional federal means-tested programs that do not meet the criteria in S.1 but the states and localities would also have to implement deeming for. We estimate that the total cost of the deeming unfunded mandate in S. 1664 for the 10 programs that meet S.1 criteria is $743.66 million. These costs rise substantially when all other federal means-tested programs, such as Medicaid, Adoption Assistance, WIC, and others, are included (see attachment part III).

Assumptions about deeming

In order to comply with the deeming mandates in S.269 (''to implement deeming for all federal means-tested programs'') we believe that states and localities will have to adhere to a process similar to the following.

A citizenship verification must be made for all applicants of all federal means-tested programs. This means that each applicant must have an interview with a caseworker who will verify citizenship status and check valid documentation (e.g., birth certificate, passport, etc.). We do not believe that a written attestation of citizenship will be sufficient because any applicant for assistance could claim citizenship status, even illegal immigrants. Federal means-tested programs that do not have an intake process and an eligibility determination system in place will have to create them to provide a credible verification of citizenship status. We believe that creating these systems and hiring staff to administer them will be very costly (see #1 below).

After establishing who the noncitizens are, the caseworker must use the System of Alien Verification of Eligibility (SAVE) secondary verification process to determine which noncitizens have sponsors. As with the citizenship verification, we believe that requiring a written attestation of sponsorship status is not credible because of the enormous loophole in creates. At this time the SAVE secondary verification process is the only credible way to verify sponsorship status. With extensive training, caseworkers may be able to identify as many as ⅓ of all noncitizen applicants who would not have sponsors without accessing SAVE through secondary verification. Therefore, we estimate that ⅔ of all noncitizen applicants will need to be checked for sponsorship through the SAVE secondary verification process.

States and localities report that it currently takes INS an average of 3.5 weeks to respond through secondary verification on sponsorship requests for the three programs that deem. We would expect this time lag to increase as more programs deem (whether it be the 10 that meet S.1 criteria or the 50-odd possible means-tested programs) and SAVE's secondary verification process is overwhelmed. This may conflict with federal application processing requirements leading to difficulties with audits and quality control sanctions, especially in programs like AFDC, Medicaid, Foster Care and IV–D Child Support.

After INS informs the caseworkers about sponsorship, caseworkers must calculate deemed income. State and local administrative staff will have to be trained to verify citizenship, identify immigration documents, use the SAVE secondary verification process, calculate deemed income and understand deeming exceptions to make this process workable and credible. In addition to infrastructure and training costs, states and localities will also experience on-going implementation costs associated with the staff time needed to access SAVE and make the complicated deeming calculation.

For more information please contact Jon Dunlap, or Sheri Steisel, in NCSL's Washington, DC office.

I. SELECTED FEDERAL MEANS-TESTED PROGRAMS AFFECTED BY DEEMING UNFUNDED MANDATE IN S. 269:

No Intake Process and No Current Deeming Requirement: School Lunch, School Breakfast, Child and Adult Care Food Program, Vocational Rehabilitation, Title XX Social Services Block Grant.

No Current Deeming Requirement: Foster Care, IV–A Child Care, IV–D Child Support, Medicare—QMB.

Deeming: Food Stamps, AFDC.

II. COST ESTIMATE

We have separated the costs into three parts: (1) capital/infrastructure; (2) staff training; and (3) on-going/implementation.

1. Capital and Infrastructure Costs: A citizenship verification must be made for all applicants of all federal means-tested programs. This means that each applicant must have an interview with a caseworker who will verify citizenship status and check valid documentation (e.g., birth certificate, passport, etc.). Federal means-tested programs that do not have an intake process and an eligibility determination system in place will have to create them to provide a credible verification of citizenship status.

A. What federal means-tested programs do not have an intake process?

1. Examples: School Lunch/Breakfast, Child and Adult Care Food, Title XX, Voc. Rehab.

B. What is the cost for creating an intake process?

1. Number of programs needing intake process = 4.

2. Number of new staff/program needed to admin. new intake processes:

a. School Lunch-Breakfast = 1 staff/school district 14,881 school districts = 14,881 staff (American School Food Service Association).

b. Adult and Child Care Food = 1 staff/county x 3,042 counties = 3,042 staff.

c. Title XX SSBG = 1 staff/county 3,042 counties = 3,042 staff.

d. Vocational Rehabilitation = 1 staff/county 3,042 counties = 3,042 staff.

3. Total number of new staff to create new intake processes = 24,007 staff.

4. Average annual salary of new staff = $30,000/staff/year (National Eligibility Workers Association and National Association of Social Workers).

5. Total cost of new staff = 24,007 new staff $30,000 avg. staff salary = $720.21 million.

6. Creating or updating eligibility manual (including pictures of acceptable documentation) and reprogramming computers = $2 million (this could be higher, we are checking with state welfare agencies)

Subtotals: New Staff = $720.21 million, Other Costs = $2.0 million, Federal Administration Contribution = $0 (None of these programs would be federal admin. funds).

Total: $722.21 – $0 (Fed Share) = $722.21 million.

2. Staff Training for Immigration Verification, SAVE and Deeming Administration: After establishing who the noncitizens are, the caseworker must use the System of Alien Verification of Eligibility (SAVE) secondary verification process to determine which noncitizens have sponsors. With extensive training, caseworkers may be able to identify as many as ⅓ of all noncitizen applicants who would not have sponsors without accessing SAVE through secondary verification. Therefore, we estimate that ⅔ of all noncitizen applicants must be checked for sponsorship through the SAVE secondary verification process. When INS informs the caseworkers about sponsorship, caseworkers must calculate deemed income. State and local administrative staff will have to be trained to verify citizenship, identify immigration documents, use the SAVE secondary verification process, calculate deemed income and understand deeming exceptions.

A. Staff time costs: 1 day training at $15.00/hour8 hours=$120.00/day/person.

B. Trainer's costs: $1200/training session (Center for the Development of Human Services—NY).

C. Number of people needing training:

1. school lunch-breakfast=14,881 staff.
2. child and adult care food=3,042 staff.
3. Title XX=3,042 staff.
4. Vocational Rehabilitation=3,042 staff.
5. IV–E Foster Care=3,042 staff.
6. Medicare QMB=3,042 staff.
7. IV–A Child Care=3,042 staff.
8. IV–D Child Support=3,042 staff.

Total=36,175 staff.

D. Number of people trained per session=35 (Ctr. for Dev. of Human Services—NY).

F. Total number of training sessions: 36,175 staff/35=1,033 sessions.

G. Total cost/session=$1,200 trainer+($120/person35 attendees=$4,200 staff time/session)=$5,400.

Subtotal: Total cost of start-up training=$5,400 (cost/session)1033 (number of sessions)=$5.58 million Total Federal Administration Contribution=$1.8 million (30% Federal reimbursement after accounting for average of 50% federal administrative reimbursement for most programs but no federal assistance for the large nutrition programs such as school lunch/breakfast and child and adult care food admin. cost).

Total: $5.58 million–$1.8 million (Fed Share)=$3.78 million.

3. On-Going Implementation Costs: After consulting with a range of state and local officials, including LA County, Colorado, New York, Rhode Island, Iowa, West Virginia, Virginia, Minnesota, and Texas, we believe that the on-going implementation of deeming will be cost prohibitive. According to the 1994 Census, 15 million noncitizens reside in the U.S. After consulting with the INS and the urban Institute, we estimate the approximately 10%, or 1.5 million, will apply for a federal means-tested program each year. This percentage would be even higher if we used research from George Borjas, a well-known immigration demographer, who estimates immigrant public assistance use at closer to 20%. Many noncitizens will apply for multiple programs or apply for a single program multiple times. We are unsure about how to account for the number of noncitizens who might file multiple applications. Because no comprehensive information system exists to record and unify data on all federal means-tested programs, each application will require a separate verification and inquiry of the SAVE secondary verification system. After consulting with Los Angeles County, we multiply the number of

applicants by a factor of 1.5 to account for additional procedures resulting from multiple applications. After consulting with the INS, we estimate that if caseworkers receive extensive training in reading immigration documents, they will be able to vet up to ⅓ of all noncitizen applications. The remaining applications will have to be referred to the SAVE secondary verification process. We estimate that 50% of all secondary SAVE inquiries will require a deeming procedure (Congressional Research Service). We divide the total number of SAVE inquiries in half to bet the total number of deeming procedures per year.

A. Total number of noncitizens applying for selected federal means-tested programs per year = # SAVE 2nd verifications inquiries to be scored by CBO: 15 million non-citizens in U.S. (census 1994)—10% (1.5 million) apply for one of the selected federal means-tested programs—we use a 1.5 multiplier for selected federal means-tested programs (1.5 million 1.5 multiplier = 2.25 million applications)—One-third of applications can be vetted through immigration document checking (2.25 mil − 742,500 = 1.49 million) = 1.49 million SAVE inquiries per year for the selected federal means-tested programs.

B. Total number of deeming procedures/year = 1.49 million 2nd SAVE inquiries .5 for noncitizens without sponsors = 742,500 deeming procedures/year for selected programs.

C. Average cost per inquiry of SAVE 2nd verification (staff time, costs for accessing save):

1. 30 min. of staff time per 2nd verification inquiry at $15.00/hour = $7.50/inquiry of staff time (HHS Office of Inspector General).

2. Other costs for accessing SAVE might include phone, copying, mailing, etc. = $1 million.

D. Average additional cost of administering deeming procedures (reinterview, calculation, exemptions).

1. 1.5 hours staff time/deeming procedure at $15.00/hour = $22.50/deeming procedure (National Eligibility Workers Association survey).

E. On-going training costs:

1. Avg. annual turnover of caseworker staff = 10% (National Association of Social Workers).

2. Number of new staff/year = 36,175 staff 10% turnover = 3,617 new staff/year.

3. Number of new training sessions/year = 3,617 new staff/35 per session = 103 sessions/year.

4. Total cost of on-gong training/year = 103 sessions $4,500/session = 556,200/year.

Subtotals: SAVE inquiry costs = $7.50/per inquiry 1.49 inquiries = $11.18 million. Other ongoing admin. costs = $1.0 million. Deeming staff costs = $22.50/per deeming procedure 742,500 procedures = $16.71 million. On-going training cost = $556,200.

Federal Administrative contribution: $8.84 million (30% Federal reimbursement after accounting for average of 50% federal administrative reimbursement for most programs but no federal assistance for the large nutrition programs such as school lunch/breakfast and child and adult care food admin. costs).

Net Total: $29.45 million (On-going cost) − $8.84 million (Fed Share) = $17.67 million.

Estimated total net Capital/Infrastructure cost: $722.21 million.

Estimated total net training cost: $3.78 million.

Estimated total net on-going implementation cost: $17.67 million.

Estimated total net cost: $722.21 million + $3.78 million + $17.67 million = $743.66 million.

IV. OTHER FEDERAL MEANS-TESTED PROGRAMS

Medical Benefits: Medicaid, Maternal and Child Health Services Block Grant, Migrant Health Centers, Community Health Services, Title XX Family Planning Services.

Cash Benefits: SSI-Supplement, Adoption Assistance, Emergency Assistance to Needy Families with Children. Child Care Development Block Grant.

Food Benefits: WIC, Summer Food Service Program for Children, Commodity Supplemental Food Program, Special Milk.

Housing Benefits: Section 8 Housing Assistance, Public Housing, Rural Housing Loans, HOME, Rural Rental Housing Loans, Section 236 Interest Reduction, Farm Labor Housing Loans and Grants, Section 101 Rent Supplements.

Education Benefits: Title I Grants for Educationally Deprived Children, Pell Grants, Head Start, Stafford Loans, Even Start, College Work Study, Supplement Education OPP. Grants, Perkins Loans, State Student Incentive Grants.

Services: Community Service Block Grant, IV–B Child Welfare, Emergency Food and Shelter Program.

Jobs and Training: Adult Training Program, Summer Youth Employment, Youth Training Program, Foster Grandparents, Senior Companions, Senior Community Service Empl.

Energy Assistance: LIHEAP, Weatherization Assistance.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Ohio.

Mr. DEWINE. Mr. President, let me first compliment my colleague and friend from Florida for his very fine statement, particularly in regard to his recitation of the unfunded mandates that are in this bill. I have several of the same concerns that he does.

We have an employer verification system here that is going to cost money. It is going to cost money for employers. It is going to cost money for States and local communities.

I have other serious concerns about this employer verification system as well.

My colleague from Michigan, Senator ABRAHAM, will be offering later in this debate an amendment dealing with that employer verification problem that is in the bill. My friend from Florida has also pointed out another, I think, very important problem, a huge unfunded mandate; that is, the birth certificate changes that are required in this bill.

I think it is going to come as a shock, when we get into this debate, to my colleagues and to the American people to find that under the terms of this bill the birth certificates that every American has are still going to be valid after the bill passes. They just will not be able to use them much for anything. You are going to have to go back to the place where the birth took place and get a new birth certificate if you want to get a passport or if you want to use it for other official business. It is just going to be absolutely a total nightmare.

Now is not the time to get into this in detail, but I will be offering an amendment at the appropriate time to strike that provision because it would be very, very ironic that a U.S. Congress that has put itself on the block and said finally we are going to heed what local elected officials are telling us, finally we are going to listen, finally we passed this unfunded mandate bill saying we are not going to do this anymore, or at least, if we do, we are going to recognize that we are doing it and admit that we are doing it—it would be the height of irony if this Congress which said that would pass such a huge unfunded mandate that my colleague from Florida has pointed out is absolutely huge.

Imagine telling everybody in this country that your birth certificate is still valid technically but you just cannot use it for much of anything. Imagine the cost to the counties, or whatever local jurisdiction you have in your home State that issues birth certificates, when people start flocking back and going home to get these new birth certificates issued to qualify. The only way they qualify is if some Federal bureaucrat in Washington, DC, says, ''Well, yes, that is OK. That type of format is OK. The paper is OK. The format is OK. The information is OK. Yes, you can use that type of birth certificate.'' A huge unfunded mandate that is absolutely crazy.

I think when my colleagues look at this issue and we get into the debate about the cost of this, people are going to really be shocked.

Let me turn, if I could, Mr. President, to what I understand is the pending business; that is, the Simpson amendment that deals with open field searches.

Let me just bring my colleagues up to date, or kind of capsulize exactly where we are on this issue. This issue was looked at by the Judiciary Committee. In fact, by a vote of 12 to 5, Senator SIMPSON's position was rejected. The position that he has taken and the position that this amendment would take would be to reverse—let me say that again—reverse a very delicate compromise that was reached in 1986 in the Simpson-Mazzoli bill in regard to open field searches.

Let me go back and review very quickly some of the history behind this. In 1984, the U.S. Supreme Court said that a search warrant was not required for open field searches but in its opinion invited Congress to look at the issue and to take action in this regard.

In 1986, some 2 years later, when we looked at this whole issue of illegal immigration, Congress did speak, and it was an integral part of that compromise. A very delicate compromise was worked out when I was in the House of Representatives. Senator SIMPSON was the leader here in the Senate. That compromise provided that, for an open field search, a search warrant would, in fact, be required. So, if we accept the Simpson amendment, it really is a rejection of a compromise that was made in 1986.

The bill, Mr. President, as it currently stands on the Senate floor with the vote by the Judiciary Committee—a 12 to 5 vote to reject the Simpson position on open field searches—the current bill is the status quo. The current

bill is where the law is today. I want to emphasize that.

Let me talk a little bit about the merits of this issue. The current law is that the INS has to get permission to conduct a search in an open field involving agricultural workers. That is the same situation that exists today if the INS wants to go into a restaurant or wants to go into some other building and conduct a search. If they want to conduct a search, under current law, they can get permission, which oftentimes is granted; but if they cannot get permission, then current law treats all employers and all employees equally in this regard. The INS has to go in and get a search warrant, if they do not get permission. That is true whether they are dealing with a building or whether they are dealing with work that is taking place on a farm or a ranch.

To change this, as the Simpson amendment would do—first of all, there is no compelling reason to do it. In fact, there is no reason to do it at all.

In fact, there is no reason to do it at all, if you ask the INS. They are the ones enforcing it. They are the ones who have the duty imposed by Congress to get the search warrant.

What the INS says is we do not need to change the law. They are not here asking for the change. We do not need the change in the law is what the INS says. They are the ones who in a sense we have been restricting.

Second, a change in the law, which adoption of the Simpson amendment would be, puts a burden on farmers, and, yes, on ranchers. I do not have to remind anyone in this body who has a farmer or a rancher in their State—and that includes every State I guess—how time sensitive the harvest of any crop is.

I experienced this in my home county. My family ran a seed business for many years. And when it came time to harvest the wheat, they harvested the wheat. You had a fine window in there to get it done. If you did not do it at the time to do it, you might lose the crop. It might rain; you might have problems. The same is true for any perishable crop—tremendous disruption of going in and conducting these searches without a search warrant. That is one of the compelling reasons that this was such an important part of the compromise that was reached in 1986 in the Simpson-Mazzoli bill.

In addition to the burden that this amendment would place on employers, equally important, and maybe even more important, is the burden it is going to place on employees.

Open fields. Let us think of the real world. Let us think of the real world. INS would drive by and look at this open field. Where are they going to go? It is not unreasonable to think that there is certainly a distinct possibility, however well intentioned people who work at INS are, that they are going to go where they see people look a little different than the vast majority of Americans, or at least the vast majority of people in most parts of the country, that they are going to go where maybe someone's skin is a little browner. They are going to go where they have some suspicions.

I think that is wrong. I think they should be held to the same standard they have been held to for the last decade under the Simpson-Mazzoli compromise, and that is they have to get a search warrant. It is not too burdensome.

Again, I think it is important that all employers be treated equally and all employees be treated equally. The situation has to be dealt with in the same sense, and that is true of the status quo, and that will be changed if the Simpson amendment today is adopted.

What was the background of this? What led to people looking at this and saying, ''Hey, there is a problem.'' It is my understanding that before the 1986 act was passed, 15 percent of the illegal immigration problem in the work force was in agriculture and yet 75 percent of all searches, all the raids occurred in agriculture. That is no coincidence. They went where it was easier. They went where they could see into the open fields. I would submit they sometimes may have gone where somebody's skin was brown or somebody looked a little different, looking at that as a good prospect. I think it is wrong to change that law.

We are going to hear the argument in the Chamber that the only law enforcement agency that is required to have a search warrant in an open field situation is the INS. Yes, that is technically true. To state that is to state the obvious, but it is also looking at it from a very simplistic point of view. Those of us who have been involved in law enforcement know that searches by law enforcement agencies that are looking at what we consider to be crimes historically—rape, murder, theft—they are not just going and looking at fields and walking into those fields because they see who is working there. That just is not the way it works. There is a normal progression of the research that has to be done, the evidence that has to be presented, even if the plain view doctrine to go onto a field does in fact apply, which I think it does. That is frankly the argument that proponents might make, comparing apples and oranges—just a totally different situation.

Senator HATCH received a letter on March 13, and this letter is signed by a number of groups in this country that oppose the Simpson position. Let me read the names of these groups and then let me take a brief excerpt from the letter itself.

Groups that oppose this amendment include the American Farm Bureau Federation, Agricultural Affiliates, American Association of Nurserymen, American Sheep Industry Association, California Farm Bureau Federation, Florida Strawberry Growers Association, Florida Fruit and Vegetable Association, Illinois Specialty Growers Association, Michigan Farm Bureau, National Cattlemen's Beef Association, National Council of Farmer Cooperatives, Northern Christmas Trees and Nursery, Northwest Horticultural Council, Society of American Florists, Sun-Maid Growers of California, Texas Produce Association, United Fresh Fruit and Vegetable Association, Ventura County Agricultural Association, Virginia State Horticultural Society, Wasco County Fruit Produce League, Washington Growers Clearinghouse, Western Growers Association, Wisconsin Christmas Tree Producers' Association, and Wisconsin Nursery Association.

Let me point out that this letter, dated March 13, obviously did not have to do with this specific amendment. What it did have to do with is the same identical subject. Let me quote from this letter. This letter was signed by the groups that I just read. This is paragraph 2.

> S. 269 also proposes to repeal the open agricultural field search warrant requirement enacted as part of the Immigration Reform and Control Act of 1986. This provision requires Immigration and Naturalization Service to obtain the permission of the property owner prior to entering the property searching for illegal aliens, or to obtain a search warrant. This is the same procedure required of INS searching for illegal aliens in any other workplace, such as factories, restaurants, and retail establishments enclosed by buildings or other structures. This provision of current law affords growers the same protections from warrantless searches and unreasonable disruption of business activity enjoyed by any other businesses with walls and doors.

The fourth paragraph reads in part as follows, again the same letter signed by the same groups:

> Prior to enactment of the open agricultural field search warrant requirement, INS was accused in several instances of unlawful detention of America's citizens and legal permanent resident aliens, damage to crops and property, violations of property rights, and injuries to agricultural workers fleeing INS searches. We believe the requirement that INS obtain either property owner permission or a search warrant prior to conducting a search for illegal aliens has fostered cooperation between INS and growers, and has reduced property damage, crop losses and farmworker injuries.

Again I would point out in light of this statement that I just read, that is INS' position in the sense that they are not asking for a change in the law.

Let me also cite, if I could, Mr. President, a letter from the American Farm Bureau Federation—actually not a letter but a statement that was put out. I have no date on this but it was within the last month. Let me just read a portion of this:

> Farm Bureau has been very active in lobbying Capitol Hill to seek retention of the open-field search warrant provision enacted as part of the 1986 Immigration Reform bill. The provision of S. 269 repealing the open-field search warrant requirement has received no examination in public hearings, despite the fact that it reverses policy adopted by clear majorities of both Houses of Congress during the 1986 reform debate.

Continuing the quote now:

Congress enacted the so-called open-field search warrant requirement as a part of the 1986 immigration reform bill in response to concerns among the agriculture community that farmers were treated differently by Immigration and Naturalization Service as a result of the nature of their business; that it is conducted outdoors rather than indoors and it thus had been more vulnerable to abusive searches.

That is a partial quote from the letter.

Let me also point out what the INS can do today, again under the current status of the law, again under the 1986 compromise, the Simpson–Mazzoli compromise.

They can go in property in hot pursuit. They can do that today. We do not need to change the law today to do that. They can do that hot pursuit. Further, they do not need a search warrant if the land is located within 25 miles of the border. So, again, two of the problems, or what you might think would be serious problems, have been dealt with and were dealt with in 1986.

Finally, of course, to again restate the obvious, if permission is granted, consent is given, they can go on right now.

So let me state I think this is an important issue. The Simpson amendment changes the status quo. I see my friend is on the floor and may at this point or later want to respond. But I think the status quo is correct. The Judiciary Committee voted by a 12-to-5 vote to keep the status quo. The INS does not see a reason to change the law, and therefore I ask my colleagues to vote against the Simpson amendment.

The PRESIDING OFFICER. The Senator from Wisconsin [Mr. FEINGOLD], is recognized.

Mr. FEINGOLD. Mr. President, I rise today in opposition to the legislation before us. Before I do, let me just say a word or two about the comments about the minimum wage. I am pleased that that issue is being discussed at this time. I am pleased to see the reemergence of some bipartisan support for an increase in the minimum wage. I think the time is now. Whether it be on this piece of legislation with a limited time agreement or some other piece of legislation in the near future, I think it is something we ought to take up now rather than wait until later. It is at least of as great importance as the matter before us today.

But I do rise in opposition to this bill. I fear this legislation not only embraces the wrong approach to curbing illegal immigration, but I think it contradicts past efforts to reform the Federal regulatory framework and to prevent the Congress from passing unfunded Federal mandates that will needlessly burden employers and local governments alike.

In 1994, we witnessed a very emotional and pointed debate in California over a ballot issue that we have all come to know and describe as proposition 187. That debate, which evolved into a rhetorical backlash against both legal and illegal immigrants, clearly demonstrated that the issue of immigration has the very strong potential to further divide and alienate those in our communities who are now faced, even more than at any time in the past, with the daily anxieties of economic insecurity and social instability.

During the extensive consideration of this legislation in the Senate Judiciary Committee, I did oppose certain efforts to curtail legal immigration, whether it was an effort to prevent families from reuniting with loved ones or an effort to place additional hurdles before persons who are fleeing persecution in their home countries and have a legitimate right to ask for asylum. As I indicated then, my strong support for preserving ample levels of legal immigration does not compromise in any way my feeling, and the feeling I think of every Member of this body, that we do need to take bold and aggressive steps to curtail illegal immigration.

I do believe there are reforms that are responsible and reasonable, and that we should make every effort to pursue on this bill. For example, the bill authorizes the hiring of over 4,500 new Border Patrol agents over the course of the next 5 years. This massive increase in personnel will nearly double the existing number of Border Patrol agents under the jurisdiction of the INS.

I was also, therefore, pleased that an amendment I offered in committee was adopted by the committee, which provides that these many new personnel will be hired and adequately trained, pursuant to appropriate standards of law enforcement.

I am also strongly supportive of provisions in S. 269, offered by Senator KENNEDY, to enhance the penalties for virtually all forms of alien smuggling and document fraud, as well as related offenses.

Additionally, these provisions provide stiff penalties for those individuals who operate sweatshops which force people, many in this country illegally, to work in often inhumane conditions for minimal compensation. Like these new enforcement personnel and alien smuggling penalties, it is critical that any measure we consider to curtail illegal immigration be targeted against those who are actually breaking our laws.

Nothing stands in more stark contrast to this sort of targeted approach than what I believe to be the single most troubling component of this legislation and that is the creation of a new, costly and massive worker verification demonstration project which is intended by the proponents, I believe, to lead to a nationwide verification system within a few years.

The worker verification proposal contained in this legislation, and the worker verification concept itself, is not a targeted approach to confronting the problem of illegal immigration. Instead, it is an approach which seeks to deputize thousands of business owners and farmers and other entrepreneurs, and virtually turn our Nation's workplaces into some kind of internal border patrol, mini-INS's, if you will. These employers are then charged with the responsibility of navigating a complex new electronic verification system in an effort to root illegal immigrants out from a massive American work force.

I find it shortsighted and untenable to suggest that we cannot combat illegal immigration without requiring every person in America to have his or her identity checked by a Federal data base each time each person in this country applies for a job or for Government assistance. Despite good-faith efforts by the proponents of this provision to try to build in adequate privacy protections, the fact remains that every time an American applies for a job he or she will be stepping into a civil liberties minefield, if this system develops as I am concerned the authors intend.

Who in our society will be required to have their identities verified? Potentially everyone. It could be the 40-year-old father of four, applying for an executive position with a Fortune 500 company. It could be a 20-year-old college student applying for student aid. If I am reading this bill correctly, even a 12-year-old paper boy could have to have his identity verified by a Washington official before he could be hired to deliver newspapers. That, I am afraid, is the practical effect of a national worker verification system. It is light-years away from a targeted approach. And it is based on the proposition that it is perfectly appropriate to have ID checks potentially required from 98 percent of our population, that which consists of U.S. citizens and legal immigrants, in order to root out the 2 percent of our population that is here illegally.

During judiciary hearing consideration of this bill, the junior Senator from Michigan and I offered a bipartisan amendment to strike the worker verification concept from this legislation and replace it with stronger enforcement and penalties for those who break the law by overstaying their legal visas. Although the committee accepted these new provisions relating to visa overstayers, our amendment to strike worker verification proposals lost on a tie 9 to 9 vote.

The original nationwide system was later replaced by the so-called demonstration projects. But make no mistake, Mr. President, the fundamental flaws contained in the original proposal remain. Only now we will go through a somewhat longer process before it is actually imposed nationwide on all Americans.

Senator ABRAHAM and I will offer an amendment later on during this debate to strike those demonstration projects and programs and will speak more on this at another time. But it is strangely ironic, Mr. President, that some of the same Senators who stood here on the Senate floor a year ago and cried

out for meaningful regulatory reform legislation now are some of the strongest advocates for a massive national worker verification system and that somehow that is an appropriate solution for our illegal immigration problems.

Another provision of this legislation that is troubling to me relates to birth certificates and driver's licenses. The bill currently requires all Government agencies to begin issuing uniform Federal birth certificates based on standards developed here in Washington, DC. Moreover, no Government agency may accept for official purposes a birth certificate or driver's license that does not meet the Federal guidelines established in this and presumably future legislation.

Originally, this provision required agencies to collect fingerprints or other biometric data. The Department of Justice referred to these fingerprinted birth certificates as ''de facto national identification documents.''

Thankfully, we were able to delete the fingerprinting requirement in the Judiciary Committee, but I think it demonstrates the steps that some are willing to take in this area. I do not believe for 1 minute that we have seen the last of this fingerprinting idea. Even without the fingerprints, I think this provision is still distressing. For example, the bill language requires every State department of motor vehicles to begin issuing driver's licenses with safety features as prescribed by a Federal regulatory agency. This language also states that anyone applying for a driver's license must present certain information as designated by the National Department of Transportation to establish their identity.

So, if the Department of Transportation elects to promulgate a regulation next year requiring every State department of motor vehicles to begin collecting fingerprints, it would be legal under this legislation. So we see the fingerprints very easily coming back in, despite our efforts in the committee, through another route. Moreover, this section seems to ignore one of the 104th Congress' few bipartisan successes so far, the enactment of legislation to stop the Federal Government from passing unfunded mandates on to local and State government agencies.

I think the Chair and I both know that one of the most consistent themes you hear in our home States is that they did not want new unfunded mandates.

I recently received a letter from the Wisconsin Department of Transportation outlining their very justifiable concerns with these birth certificate and driver's license provisions. They are concerned, of course, with the cost that they will incur as a result of this new Federal mandate. The Wisconsin Department of Transportation has estimated these provisions could cost my State alone up to $3 million to comply with requirements relating to a specific Federal format for these documents and antifraud security features, not to mention Federal verification of all birth certificates and driver's licenses.

This letter states that the Wisconsin Department of Transportation ''views this bill as yet another unfunded Federal mandate. The costs associated with it are substantial.''

The letter also points out that this State agency has had its operating budget reduced by 6 percent by the Wisconsin State legislature and Governor and would have no means, Mr. President, no way by which to pick up these additional costs that this new Federal mandate would impose.

Mr. President, that is why I and the Senator from Ohio, Senator DEWINE, and others view this provision as completely contrary to the letter and the spirit of the unfunded mandates legislation passed by this body just over a year ago and signed into law by President Clinton.

There is not a word in this bill, Mr. President, about how the local and State agencies are to pay for this costly new procedure of issuing uniform Federal birth certificates and driver's licenses, even though it is plainly obvious that such a process is going to be an enormous financial burden on such entities.

Mr. President, let me also take this opportunity to express my concerns about provisions in the legal immigration bill that are likely to surface in the near future. Although the Judiciary Committee, on a strong vote, split the two bills, split the legal and illegal immigration bills, there may well be another attempt to put these provisions back in this bill. I hope not, because these are very different issues.

In committee, Mr. President, I was a cosponsor of the Kennedy-Abraham amendment to restore adequate levels of family immigration because I consider it to be essential to allow U.S. citizens to reunite with their children, their parents, and other loved ones who may be residing in other countries.

There may be some abuse of our current family immigration system, but that does not mean we should completely prohibit a U.S. citizen from reuniting with their 22-year-old daughter, their 66-year-old parent, or their 15-year-old brother. Those were in fact the so-called reforms that were included in the original Simpson legislation and later expunged from the bill during committee markup.

Considering the House voted decisively to remove all cutbacks of legal immigration from their bill, it is my hope that we have seen the last of efforts to further restrict family immigration.

Mr. President, I also have serious concerns with the provisions in the legal immigration bill relating to persons seeking asylum in this country.

Originally the bill required anyone seeking asylum to do so within 30 days of entering the United States or their claims would be invalid. I joined the junior Senator from Ohio and others in fighting this 30-day time limit because it was harsh, it was arbitrary, and would have likely had disastrous consequences for thousands of persons who have, in most cases, fled their homelands to escape persecution, torture or worse for expressing thoughts and opinions counter to those held by those governments in other lands.

We have had, no doubt, serious problems and abuses with our past asylum process. Previously, a large number of nonmeritorious claims were filed in an effort to obtain certain benefits that asylum claimants are entitled to, such as automatic work authorization. This practice did result in a mammoth backlog of pending applications that have prevented or delayed some very legitimate claims from being processed in a timely fashion.

Unfortunately, though, Mr. President, lost in all the hyperbole about this problem is the fact that the Clinton administration has made tremendous progress in clamping down on asylum fraud and abuse. As a result of these new administration reforms, in the past year alone, new asylum claims have been cut in half, and INS has more than doubled their productivity in terms of processing pending claims.

Mr. President, these promising reforms by the Clinton administration are in their infancy, and we should not mandate such a harsh and arbitrary deadline that is likely to not only be disastrous for legitimate asylum seekers, but also completely unnecessary. During committee markup, an amendment was adopted that extended the 30-day deadline to 1 year and also provided an exception to this time limit if the applicant had good cause to wait for more than 1 year. I found this acceptable because it provided legitimate asylum seekers a waiver if they had justifiable reasons for waiting beyond the 1-year period.

Unfortunately, the committee report language is more restrictive with respect to this waiver process than I had anticipated and hoped.

Mr. President, America has a proud history of representing a safe haven for those who believe in democracy and who have been tormented for embracing particular political and religious viewpoints. We should continue to do so. I intend to work with the Senator from Ohio, Senator DEWINE, and others in restoring and guaranteeing a fair and suitable waiver process.

Mr. President, as we debate this issue over the next few days, we must be mindful of the inherent dangers that this immigration issue encompasses. We find ourselves today in the heart of an election year. History has shown that it is not uncommon for politicians, not only here, but in many countries, to use the issue of immigration to further divide people, in this country to divide Americans along racial, ethnic, and cultural lines.

Playing to the fears of the American people on this issue may only provide further ammunition to those who seek to exploit those fears and coax the American people into believing that immigrants come to the United States only to commit crimes, to collect welfare benefits, and to steal jobs away from working Americans. That is an injustice, not only to the immigrants who currently reside in the United States, but an injustice as well to the historical legacy of immigrants who came here with purpose and promise and, as we must acknowledge, built this great Nation.

Let me say this at this point. I do not doubt for a minute the intentions of the Senator from Wyoming in this regard. In many ways he has been a very important source of not only expertise but moderation and thoughtfulness on this issue. I believe he has made a good-faith effort to reform a system that is clearly in need of some repair. I do regret that I have some fundamental disagreements with respect to how we should address those flaws in the current immigration system.

I look forward to working with other Senators in attempts to improve this legislation and passing reforms that truly differentiate between those who play by the rules and those who choose to break them.

Mr. SIMON. Mr. President, I want to join, first of all, in the comments that Senator FEINGOLD made about Senator SIMPSON.

Our title here is ''United States,'' not Senator from Wyoming, Senator from Colorado, Senator from Illinois, Senator from California or Wisconsin. ALAN SIMPSON has served the people of Wyoming well. But he has also been a U.S. Senator who has looked at the broad scope of things and has been a real legislator and has contributed immensely.

I will differ with him on this particular amendment. Let me add, I will differ with my friend from Wisconsin, Senator FEINGOLD, with whom I rarely differ, on this matter of pilot verification that he was just talking about.

Senator SIMPSON has reminded us over and over again on the floor that we have to stop the magnet that is the economic pull to people to come into this country illegally. So we passed, a few years ago, employer sanctions. It was a matter of controversy. I ended up being a minority on this side, joining the Senator from Wyoming and voting for that.

Employer sanctions have not worked as well as we had hoped. I think the key is verification. Unless we are willing to try a pilot verification program, and here is where I differ with my friend from Wisconsin, I do not think you will have any meaningful way of stopping a steady flow of people who come up here for economic reasons. To say we are going to just have a slight tap on the wrist to employers and tell people who are desperate, ''We are going to be tougher on you if you come up here and try to work,'' they will still come up here and try to work.

I point out one other reason on the verification, and that is the GAO report that says there is discrimination. If you appear to be Hispanic or Polish or Asian, and particularly if you speak with a bit of an accent, it is inevitable, unless we have some system of verification, that there is going to be discrimination. I think it is important, and I think we will have a close vote on this, but I think it is important that we have a pilot verification program.

The question on this immediate amendment is, is it worthwhile to give up some basic liberties in order to have this amendment, and are we going to accomplish that much? I think we will not accomplish very, very much at all in terms of discouraging the employment of illegal workers here. I think it is one more step in taking away basic civil liberties.

The reason this passed originally, we had a lot of problems with people who would be driving down the highway, and all of a sudden they look at a field and it looks like there are a bunch of ''foreign-looking workers there.'' They stop, go out, and make a raid.

We have a tradition in our country with the fourth amendment you have to go into court in order to have a search. We ought to abide by that. Now, the argument is made, well, you can have that search. You can go into court. How many farmers are going to go into court? It just is not going to happen. It makes it very costly.

Second, whenever you give people in any field arbitrary power, whether it is law enforcement or anything else, there is an invitation to corruption. I think we have to recognize that. This can be a shakedown kind of thing.

My staff has given me two examples of the kind of abuses that take place when you do not go in to court. As far as I know, and the Senator from Wyoming can correct me, as far as I know, there have been no denials for any Immigration Service requests to have a search of the field by the courts. Maybe they have existed—I do not know. In Pasco, WA, INS agents entered a field for 29 straight days searching for undocumented workers. On some occasions the agents drove their trucks across the bean fields, causing substantial damage to the bean crop. The latter part of that is not that significant, but if you want to go 29 straight days to search somebody's field, you ought to go into court 29 straight days to get a court OK for doing that.

In Othello, WA, INS agents entered a farm four times in 1 month looking for undocumented workers. Their last three trips were without a warrant, and they found no undocumented workers. They arrested two workers who were Japanese, but it turned out they were exchange students who had a lawful right to be in this country.

Finally, Mr. President, I have been here, now, 22 years in the House and the Senate. We always find some excuse for giving up basic civil liberties. I think we ought to be very, very careful on this. If there is an overwhelming reason to have an infringement on the fourth amendment that is kind of gray, maybe we should consider it. It ought to be an overwhelming reason. This is not an overwhelming reason to violate that basic constitutional protection.

My hope is the amendment will be defeated. My vote, with all due respect to my friend from Wyoming, will be in opposition to his amendment.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Chair. Mr. President, I join with those in thanking the distinguished chairman of the Immigration Subcommittee of the Judiciary Committee, the Senator from Wyoming, for what is extraordinarily thankless on a subject that perhaps has more controversy than almost any other I have seen since I have been in the U.S. Senate.

I will give my views on the bill that is now before us, the Immigration and Nationality Act of 1996. I come, obviously, along with my colleague, Senator BOXER, from the State most heavily impacted by illegal immigration in the Nation. The presentation of the Immigration and Naturalization Service to the Judiciary Committee showed that California is on a tier all by itself. The estimates on numbers vary, but they go anywhere from 1.6 million to 2 million, 3 million, and even 4 million people in our State illegally, depending upon whom one chooses to believe. Most authorities agree that the right number is in the vicinity of 2 million people in California illegally right now.

One concern is overriding—that illegal immigration is a serious problem. Additionally, it is the responsibility of the Federal Government, not the States, to prevent it. Californians went to the ballot and overwhelmingly approved the most stringent of propositions, proposition 187.

One part of proposition 187 provided that if a youngster is in this country illegally, he or she could not go to a public school. A teacher would have to act as an INS agent and ferret out that youngster and remove him or her from school. Even more strongly, the people said that if the parents are here illegally, that youngster would still be denied the right to a basic elementary school education.

The people of California overwhelmingly approved it. I believe one of the reasons they did was out of frustration, because the Federal Government has not responded to what is an increasing and growing problem.

The bill before us today tackles illegal immigration at the border, mainly by adding strength to our Border Patrol and border facilities. In the past 3 years, the administration and the Congress, both Houses and both parties, have come together, recognizing the

need and beginning to improve border infrastructure, such as lights and infrared-seeing devices, and manpower. And the Border Patrol has, for 3 years in a row, had additions of about 700 agents a year.

This legislation would add an additional 700 Border Patrol agents in the current fiscal year, and 1,000 more for the next 4 years, bringing the total number of agents to 4,700 by the year 1999. That is more than double the entire force that was in place when I came to the U.S. Senate 3 years ago. It would establish a 2-year pilot program for interior repatriation. The reason for that is, people come across, they are picked up, they are held for an hour, they are sent back right across the border to Tijuana. Three hours later, they try again, the same thing happens, and they try again and again. The pilot project would try to determine whether people who are repatriated into the interior of the country are less inclined or less able to cross that border again illegally than those not repatriated to the interior of the country.

The bill would add 300 full-time INS investigators for the next 3 fiscal years to enforce laws against alien smuggling, something that, today in America, is a $3 billion industry.

As a matter of fact, last week, the Justice Department made 23 arrests in California, which showed that organized gangs from New York to California were all participating in the alien smuggling of illegals from China to the United States in boats, transferring them to fishing boats, landing them, providing drop houses, and moving them back to New York.

The bill would add alien smuggling and document fraud offenses to the list of predicate acts under our Nation's racketeering laws, something many Federal prosecutors have told me is extremely important.

The bill would increase the maximum penalty for involuntary servitude to discourage cases like the one we saw recently, where scores of illegal workers from Thailand were smuggled into our country, then put in an apartment building with a fence around it and forced to work in subhuman conditions against their will in southern California.

This bill would strengthen staffing and infrastructure at the border, and it would provide for facilities for incarcerating illegal aliens. It would require all land border crossings to be fully staffed to facilitate legal crossing.

I can tell you that in San Diego, CA, at the border crossing gates, there are hours of waiting. There are 24 crossing gates at this one station. Only one-half of them are manned. Consequently, people engaged in legal, normal commerce sit at that gate and wait, sometimes for many hours, backed up in traffic.

This bill would increase space at Federal detention facilities to at least 9,000 beds. That is a 66-percent increase in detention capacity for the incarceration of criminal aliens. I can tell you, Mr. President, out of 120,000 inmates in the California Department of Corrections, between 15,000 and 20,000 of them are illegal immigrants, serving felony time in California. The cost to the State is literally hundreds of millions of dollars a year.

The bill would create a demonstration project in Anaheim, CA, to use INS personnel to identify illegal immigrants in prison, so that they can be more rapidly deported.

Historically, the way Congress has handled illegal immigration is through what are called employer sanctions. I think the intent—although I was not here, and the Senator from Wyoming knows far better than I—was that the reason most illegals—and I say ''most''—come here illegally is because of the lure of jobs. That is the magnet. Therefore, if you remove this magnet and prevent people from working illegally, you will deter illegal immigration.

In order to work, though, employer sanctions need an accurate method of verifying whether an applicant for a job is legally entitled to work. Up to this point, relying primarily on employer sanctions, the basis on which all illegal immigration is handled in the United States, has been a colossal failure. The reason for the failure is that employers have no reliable way to determine if a prospective employee is legally entitled to work.

Let me explain why. Presently, if an employer is interviewing someone for a job, he or she might say, ''Can you show me that you are legally entitled to work?'' They can present to the employer 29 different documents, under present law. Under present law, no prospective employer can say, ''May I see your green card?'' That is a violation of law. So they must take one, two, three or four of the 29 different methods of identification offered.

If somebody came in to me and I said, ''Do you have an identification to show that you are a resident of California?'' They would say, ''Oh, yes,'' and hold up this card. I would see that it is a California identification card, and its address is Interlock, CA, and it has a State seal on it. It is encased in plastic, and it looks very legal to me. Wrong. This very card is a forgery. Or they might hand me a Social Security card, and I would look at it and see all the traditional signs. The paper looks right, the color looks right. There is a number on it and a signature, just like on my own Social Security card. Could I trust it? No. This is a forgery.

The fact of the matter is that on the streets of Los Angeles, CA, you can buy both of these cards for under $50, and you can get them in 20 minutes, and they can have your photograph printed on them. You can purchase documents there anywhere from——

Mr. SIMPSON. Mr. President, I object to this procedure. This is totally out of order.

The PRESIDING OFFICER (Mr. COVERDELL). The Senator has a right to—

Mr. SIMPSON. It is a crude exercise, a truly crude exercise.

CLOTURE MOTION

The PRESIDING OFFICER. The clerk will report.

Mr. SIMPSON. What is the status of the present situation?

The PRESIDING OFFICER. A cloture motion has been sent to the desk.

The clerk will report.

Mr. SIMPSON. What is the correct procedure? Is that motion appropriate in the midst of a singular address, at the time of an opening statement with regard to a piece of legislation?

The PRESIDING OFFICER. Allow the Chair to consult with the Parliamentarian.

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

The PRESIDING OFFICER. The Senator does not have the floor.

The clerk will report.

Mrs. FEINSTEIN. I believe I had the floor, Mr. President.

Mr. SIMPSON. Mr. President, the Senator from California has the floor.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Dorgan amendment No. 3667 regarding Social Security:

Byron L. Dorgan, Max Baucus, Daniel P. Moynihan, Barbara A. Mikulski, Tom Daschle, J.J. Exon, Joe Biden, Paul Simon, Joe Lieberman, John F. Kerry, Paul Sarbanes, Fritz Hollings, D.K. Inouye, Wendell Ford, Claiborne Pell, John Glenn, Russell D. Feingold.

The PRESIDING OFFICER. The Senator from California has the floor.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, before I was interrupted, the point I was trying to make is that no matter how well intended an employer is, it is extraordinarily difficult to tell the difference between real documents and counterfeit documents, and that is what enables illegal immigrants to obtain welfare. They are ineligible for cash welfare programs under Federal law now. However, if they have false documents, they can obtain the very things that they are prohibited from obtaining—whether it is Social Security, whether it is SSI, or whether it is AFDC.

An entire industry of counterfeit documents has grown up in California. The most frequently counterfeited document is a birth certificate. You can pay anything from $25 for a Social Security card to $1,000 or more for a passport, as well as personal identification documents.

These documents are so authentic-looking that employers cannot tell the difference. In fact, it is estimated that tens of thousands of illegal immigrants today receive welfare benefits in California by using counterfeit documents.

This bill makes a major effort to reduce this problem. It reduces the number of acceptable employment verification documents from the current 29 to 6 so that employers are better able to determine which documents are valid. Employers will only have to review 6, not 29.

Also, the bill doubles the maximum penalties against employers who knowingly hire illegal aliens, increasing them from $2,000 to $4,000 for a first offense with graduated penalties for subsequent offenses. Therefore, the bill adds substantial teeth to the employer-sanction laws. It establishes a pilot program to test the verification system under so that employers can readily and accurately determine an applicant's eligibility to work.

The system could also be used to determine an applicant's eligibility for public benefits, therefore, avoiding welfare fraud. It also attacks the serious problem of document fraud by setting Federal standards for making key identification documents, birth certificates, and drivers' licenses tamperproof and counterfeit resistant. The result is that the most counterfeited document, a birth certificate, would be counterfeitproof, as would drivers' licenses.

The bill before us would increase the criminal penalties for document fraud, including raising the maximum fine for fraudulent use of the Government's seal to $500,000, and increasing the fine for lying on immigration documents to $250,000 and 5 years in prison. The bill also denies the earned-income tax credit to persons here illegally.

You might say, is this a strong, tough bill? I would have to say, yes. It is a strong, tough bill. Former Congresswoman Barbara Jordan and the immigration commission which she chaired said this eloquently. ''We are a Nation of laws.'' We are also a Nation that has the most liberal immigration quotas in the world today. No country absorbs more foreign-born people than does the United States of America in the course of a year.

So there is more opportunity for an individual to come to the United States than virtually any other place on Earth. Therefore, because we are a Nation of laws and because we have a liberal immigration system, it is not unjust, unfair, or unwise to require that we follow our laws and make sure that we enforce the prohibition against illegal entry into our country.

The largest source of illegal immigration, next to visa overstays, comes from people who slip across our borders. That is what this bill addresses. The bill also addresses visa overstays. As many as 700,000 people a year overstay their visas. This bill would require that immigrants who overstay their visas either be deported or be denied future visas. So there is some visa enforcement in this legislation.

The need for the legislation has been and will be explained at length over the course of this debate. From the point of view of my State, the problem of illegal immigration is severe. Forty-five percent of the Nation's illegal immigrants now reside in California. That is between 1.6 million and 2.3 million, as I mentioned earlier. Fifteen percent of illegal aliens are in our State prisons. Forty-five percent, or 150,000, of all pending asylum applications come from people in California, and 35 percent, or 40,000, of the 113,000 refugees entering the U.S. claimed residency in California in 1993.

Our county governments are being forced to absorb more and more of the costs of medical care, social services, and incarceration for illegal immigrants, and those costs are going up—not down. In the 1996–1997 fiscal year, California will spend $454 million in incarceration costs for criminal aliens.

So it is fair to say that the State most affected by this bill is the State of California. This U.S. Senator strongly supports this legislation. The need is very clear.

Mr. President, at a later time, I would like to complete this statement, and also at the appropriate time to present a series of amendments that deal with certain unresolved issues.

I have some major concerns about the triple fence in the bill, about the fact that cases brought under the bill be tried in Federal court rather than in State court, and that the deportation documents be written in Spanish as well as in English. I hope I can offer these amendments at a later time.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank my colleagues for their patience in the procedure intervening there. Without question, I see why you are all gathered at the desk for some reason. Yes. Is there something sinister going on?

Nevertheless, we have a cloture petition which was quite surreptitiously slid to the desk, which was remarkable to watch. I have never seen that in 18 years of my presence here. I have found in my time here that those who remain obsessed about certain aspects of legislation almost always find that that obsessive behavior is often visited subsequently on the perpetrator.

That is not my idea. That is just the way that works. It is always a more genial approach. I visited with Senator DORGAN this morning, told him exactly what the lay of the land was and why. I did not receive that same courtesy.

Enough of that. We can debate that at any time in the future. It seems to me the present status of the issue is with regard to this amendment on the current ban on open-field searches. That is the amendment at hand. I would just add one dimension to that, and then I think we are ready to go to a rollcall vote on that, unless there is further debate. I ask any of those who wish to further debate this issue to present themselves.

Senator SIMON asked a valid question, and I cannot tell you how much I have enjoyed working with that gentleman through the years. We met when we were State legislators in 1971. We kept close ties and worked together here in a very steady, bipartisan fashion.

He asked a question. He wondered if there were denials when INS agents sought warrants to search open fields and inquired if I knew of any.

I do not know of any denials either, but I do know this, that the requiring of agents to prepare an affidavit, find a judge, and get a search warrant has resulted in a great reduction in immigration enforcement in agriculture. That I do know. In fact, it has practically eliminated employer sanctions enforcement in agriculture. Of course, that was the purpose of it. As I say, it was a rather unholy alliance at the time, still perhaps defined as that, when you have the ACLU joining with the agricultural growers, who I found to be absolutely insatitable with regard to everything I ever proposed. It is estimated now that 40 percent or more of the field workers in west coast agriculture are illegal.

Some of my colleagues in the debate have pointed out that although probable cause requires more than mere appearance, immigration officers will search on that basis anyway. I would say, in response to that argument, if immigration officers would be willing to ignore the legal requirements for warrantless searches, why do my colleagues believe that these officers follow the current requirements for a warrant? I believe that we should assume that immigration officers, like other law enforcement officers, generally follow the law. Of course, there are exceptions. We should try to minimize the number of such exceptions by vigorous oversight of INS and disciplinary action against the INS officers who do violate the law.

Mr. President, I remind my colleagues the reason the present ban was added to the law in 1986 was that there was no constitutional right at all of the type that my friend from Illinois, Senator SIMON, had described. That is why only—only—INS officers are required to have a warrant to enter and to search open agricultural fields even when they have probable cause to believe that unlawful activity is taking place, which is the present constitutional standard and the one applied to law enforcement officials in every other Federal or State agency.

Why—and this is the purpose of my amendment—should only the INS officers need a warrant? Of all Federal law enforcement personnel, why should the INS alone and their officers need a warrant even when they have probable cause, and only for agricultural fields? It makes no sense.

That is a phrase that has been used in the debate from time to time, that something may make no sense, and in this event I think this is a classic case of that. Why should every single other law enforcement agency of the Federal Government have this power to do warrantless searches except the INS? The reason: to take care of growers who use blatantly so many illegal agricultural workers and say they are dependent upon them, and if they did not have them, they would go broke.

I have heard that argument now for 17 years. In the course of responding to some of the arguments in the opening statements or comments, let me assure my colleagues that all of this effort here is not the creation of Senator ALAN SIMPSON of Wyoming. Every single thing that has been presented to the body has not been possibly more considered, more debated, more crafted—I do not know what it could be—than this issue because we have had it through the years with the Select Commission on Immigration Refugee Policy.

That is where the ideas came from. That was the Commission in 1980. Some say, where do these things come from? Where does this evil spirit come from?

There is no evil spirit. Everything I have been trying to do with regard to legal immigration is a direct result of the work of the Barbara Jordan Commission. I hope that that will be heard. I notice that sometimes detractors of the legislation will say, ''How could it possibly be that we are turning our back?''

''How can it possibly be that we are so treating these people who play by the rules?''

''How can it possibly be that we could turn our back on the Statue of Liberty?''

Ladies and gentlemen, we are not doing that. Does anyone here believe that former Congresswoman Barbara Jordan would be involved in such an effort? That is absurd and bizarre.

When someone says, ''Well, do you realize this is going to apply to everyone?'' the answer is, yes, it will apply to everyone. When we do this final procedure, whether it is this year or in 6 years or in 10 years, and when we have a more secure and verifiable document and when we have a more secure system, whether it is the call system or whether it is documentation or whatever it may be, of course, it will apply to everyone. If it did not, then it would be truly discriminatory.

If it is some document, are we going to ask it only of people who look foreign? Of course not. It is for people who look foreign and bald Anglo-Saxons like me, too. That is how it works. It happens only twice in a lifetime. You use it when you are seeking funds from a State or Federal Government on welfare or public assistance; you present or go through this verification procedure. That is one. The other one is simply at the time of seeking employment. That is two. That is it. There is no third strike and you are out. That is it.

We hear of the great burden placed on American citizens. Ladies and gentlemen, why do you think proposition 187 came about? It came about because of the great burden on the people of California who are tired of that burden. The greatest burden on the people of the United States is people who are gimmicking and using our systems. That is a lot greater gimmick, a lot greater burden than somebody asking when they go to work—and remember you already do that when you go to work. There is a form called the I–9. It is one page. I hear the argument, what will employers think when they have to go through this exercise? I tell you what they will probably think: ''Thank Heaven somebody came to change the law so we wouldn't have to go through 29 documents. Thank Heaven somebody changed the law so that if I ask a person for a different or additional document, I am not charged with discrimination. Thank Heaven they are going to start working out something where I do not need the I–9.'' That is in this bill. That is what we have. All of these so-called reforms that are sometimes rather negatively portrayed, all came from either the Select Commission on Immigration and Refugee Policy, chaired by Ted Hesburgh, or the Commission on Immigration Reform chaired by former Congresswoman Barbara Jordan. They were not ripped from the air to vex American employers, nor were they ripped from the air to turn our back on our heritage of legal immigration. That is not where they came from. They have a fine-founded, deep-rooted source in the realistic work of two very splendid commissions. I hope that will be recalled in the course of the activities.

I call the question on the amendment with regard to open field searches.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this issue, although a fresh one for Congress, is an issue that has been out there and around for a number of years. It was debated on the floor of the U.S. Senate in 1983 and 1986. I will make some brief comments. I know there have been some excellent comments made by Senator SIMON, Senator DEWINE, and others, but I will just very briefly mention my concerns about what this proposal would do and what it would not do.

It is important to point out exactly what the statutory prohibition against open field searches is about. It does not prevent law enforcement authorities from engaging in searches if they observe criminal conduct such as drug activity taking place. So, if they observe criminal conduct, they can move towards the presence in the field in pursuit of the illegal activity which has been observed.

All this does is it simply prevents INS officials from walking onto a field without a warrant and demanding that workers produce immigration documents. If the INS conducts a search, for example, in the front office, they need a warrant. If they conduct a search in the barn, they need a search warrant. In 1986, provisions simply stated if they do it in the fields, they have to get a warrant as well.

The prohibition against warrantless open-field searches ensures that foreign-looking agricultural workers are not subjected to harassment or unfair treatment simply because of the color of their skin. We know now, by and large, those who are working out in the fields are American citizens, ever since we freed ourselves from the bracero program. There are a number of illegals out there as well. It is difficult to estimate the percentage, to be sure. But, by most observations, the great majority of the individuals who are working out in those fields are American citizens. So we are talking about protecting American citizens.

If, as we said, the search is going to be in the front office or out in the barn, there has to be a warrant. Why? Because we are concerned about the rights and liberties of American citizens. The American citizens working out in the field, if there are observations about activities, there is every legitimate reason and authority to pursue those. But, nonetheless, what we have to do is look at what the conditions were prior to 1986. We see the abuses that were rampant in many parts of the country by the INS, just for the very reasons we are outlining our opposition to the amendment which has been identified today.

This is not just an issue of protection for the individuals. It is also an issue of safety. I will not take the time to read into the RECORD about what has happened when there is a sudden INS raid in some of these agricultural areas in the fields, about trucks moving across the open fields, sometimes in the evening time, and the great distress and the panic that anyone would feel when they are confronted with significant numbers of police authority chasing them through the fields in search of various identity cards.

That happened. That was more the case than not during that period of time. Then, in 1986, we insisted on getting a warrant in order to try to address that issue. I find there has been very little, other than general observations, that would justify going back to the law prior to 1986.

The prohibition against the warrantless open-field searches ensures that foreign-looking agricultural workers are not subjected to harassment or unfair treatment simply because of the color of their skin. Those who support the repeal of the statutory ban contend that the fourth amendment provides sufficient protection against the unreasonable searches of agricultural workers. This is simply not the case. Nor is the fact that INS officers, without this provision, would be able to enter open fields with impunity and be able to ask

anyone for identification. The fourth amendment was around prior to 1986, and this is when all these abuses occurred.

The reason for this warrant has been well documented in the abuses that took place prior to 1986. If anyone goes back and reads the record during that period, there is page after page about what was happening out in the fields and the real issues of safety for many American citizens who were working in the fields at that time as a result of these kinds of raids.

Since then, we have had the warrant. I do not believe the case has really been made in the course of the hearings that that has really impeded the effectiveness in trying to deal with the fundamental issues of jobs in the workplace. We are working on that issue. We have provided very important, I think, additional steps, both in trying to reach documents in terms of the antifraud provisions that have been built into this legislation, including the pilot programs that will be initiated to find out what is effective, and in protecting American workers from displacement or as a result of foreign workers. The prohibition against the warrantless open-field searches is working well. It is a necessary safeguard against the abuses of individual rights. We should retain it.

I have a more extensive comment upon that measure, which I will perhaps get into later on, or include it as part of the RECORD.

Mr. President, it is now 2:30, 20 minutes of 3. We have been on this legislation since 10:30 this morning. We have taken a number of the amendments, half a dozen amendments that might have been found to be not germane if we moved toward cloture. I know there are others as well, and those are important, extremely important, measures. I think the Senate should address them at some time on the basis of their merits. But we are in the situation now where we have a cloture motion that has been entered on the Dorgan amendment that will ripen, based upon the Senate schedule, probably an hour after we go into business on Friday or at a time when the majority leader effectively chooses, based upon his ability to move toward this measure.

We are faced, again, with the situation that if we move toward a cloture motion—for example, say, we were able to move it on the underlying amendment—that would have to be done prior to a cloture motion on the bill. Because if we put a cloture motion on the bill, all that we have done today would effectively be discarded. So we would need to have a cloture motion on the underlying amendments in order to have them acceptable, so that we would have them irrelevant. Then you would need a cloture motion, and if that was not taken, or if we did get it, there would still be 30 hours on that proposal and then you would get a cloture motion on the underlying legislation on which there would be some 30 hours.

So we have ourselves now wrapped into a situation in which, I must say, in terms of the overall progress on this legislation, even though we have spent the full day on it, is difficult really to perceive what is being accomplished. Even if we continue to go on to additional amendments that would be offered, we would, by necessity, have to address the Dorgan amendment first. Or there is the possibility of possible disposition of the Dorgan amendment prior to the time that we would move toward other action.

That is really a question and issue up to the majority leader. But I am reminded now as we come to a quarter of 3 in the afternoon, that we are going to be voting cloture on the Dorgan amendment. Even if they get cloture, we would still have some period of time before we would be able to move to these other issues. If we get cloture on the underlying amendment, which has been amended today, there still would be a period of time for Senators to comment on that before we ever got a cloture motion on the bill itself, and all because we have not had the ability to get a limited period of time to vote on the minimum wage, effectively, and Senator DORGAN's as well. We will have spent all of this time, whichever amount of time that we have that is now going to be required for Senate action—and I am prepared on these matters to vote. I would like to speak and address the Senate briefly. But I think, as we see during the course of the day, we have not trespassed on the Senate's time.

Basically, on the earlier amendments, we were making brief comments in support of them. These are measures which we have debated and discussed during the course of our own deliberations. As a matter of fact, this amendment, I think, was rejected in the Judiciary Committee when it was addressed by the members of the committee. So these are not really new issues for many of us on the Judiciary Committee, very important measures for all of the members. But many of us have—all of us, I think, on the committee have—taken positions on it.

So, we are quite prepared to justify those positions, raise some of our concerns, and move forward. But because we are denying at least a 1-hour consideration—we could cut that even further on this legislation—or giving us a time definite on a clear bill on the minimum wage with time allocated, we have effectively spun the wheels of the Senate during the course of the day. We will be coming back to revisit these measures, as well as the underlying measure, as well as the Dorgan amendment because of the cloture motion, in the next several days.

So it gets back to the question whether we are going to do this nicely or not do it nicely. We are quite ready to try to work out a time definite for a vote on the minimum wage and to do it with a short timeframe. I know the Senator from North Dakota is prepared to do that, to move ahead in terms of all the different amendments on this legislation and consider those. I certainly would support that way of proceeding.

But, effectively, all of our interests and all of our rights are being shaved because of the unwillingness of the majority leader, in this case, to give us a chance to vote on this measure. Here we are at a quarter of 3, having thought we were really making progress, and finding ourselves tied up on an issue which is of enormous importance and in which the Senator from Wyoming and the Senator from California and other Members have spent a long time and understand how important it is as an issue for this country.

So we are caught in this particular dilemma. We are caught in the dilemma where we want to see action or resolution on the illegal immigration, but we also feel that we ought to be able to have a short time period set aside to speak to the issues which are of fundamental economic importance to 13 million American families. We think their interests are important, too. We think their interests should at least demand a half hour or an hour of the Senate's time this afternoon. We think their interests should be addressed in a reasonable way or an agreement made that, if not upon this bill, that we will be at least afforded an opportunity to do it as a clean bill so as not to interfere with the ordinary deliberations of the Senate.

We have had brief discussions and comments earlier today about why we did not bring this up before. We have explained about those major issues that we were addressing in the last Congress, the comprehensive health program that would have made about a 40- or 50-cents-an-hour additional benefit to workers. The workers themselves and working families have said they would prefer that measure to just the increase in the minimum wage. After we had disposed of that, unfortunately, the workers themselves were left further behind, and now it gives an additional sense of urgency for the increase in the minimum wage.

A number of us over a year ago began the process of raising this issue in sense-of-the-Senate resolutions, as amendments, or wherever we possibly could. Each and every time, even though a large number of the Members of the Senate supported the Senate addressing this issue—and on the last vote that we had, we had Republican and Democrat Senators alike; a majority, including unanimity among the Democrats and a very strong group of Republicans who indicated that they supported it. Raising the minimum wage is the majority will of the Senate.

We are just asking for the Senate to be able to make a statement, make a judgment. We may be successful; we may not be. But I do believe that we are entitled to a determination of what the will of the Senate is on that particular issue. So, we are caught in this

situation where we effectively are being denied that. But we are still asked to go ahead and consider some of the measures on the immigration bill.

On the one hand, they are saying, look, why are we not just going ahead on the immigration bill and trying to move ahead? And on the other hand, we are asking, at least—we are quite prepared to move ahead on immigration, but at some time, somewhere, somehow, we ought to be permitted to get a time where we can address this question of the minimum wage.

None of us were denied the opportunity to make some progress this morning on some of these measures. But at some time we have to ask ourselves, when and who is going to speak for those Americans and American families that are on the bottom rung of the economic ladder and speak for them to make sure that their economic interests are attended to? We continue every single day—every single day—to read more about corporate profits and corporate salaries. We read about the increasing accumulation of wealth in the top 1 percent, 5 percent. We have come to understand the continued loss of those working families that are on the bottom rung of these matters.

We have seen in the last 20 years a 25-percent increase in productivity and about a 25-percent reduction in terms of purchasing power for workers earning the minimum wage, which is completely incongruous.

What is most troublesome of all, Mr. President, is when we have had this issue that has been before us and where we have had statements, ''Well, we're trying to work out a process to be able to address it,'' we have the majority leader in the House of Representatives coming up today—and it is printed in newspapers all over this country—who says, ''Well, we've got a new way of addressing the economic problems of the needy in our society. What we are going to do is abolish the earned-income tax credit,'' which President Reagan had indicated was the best program to address the problems of poverty in this country—strong support by a Republican President.

We have the statements that were made by Mr. Armey that we are going to phase that down and collect $15 billion in the next 5 years, 5 to 7 years—$15 billion. We know where that is going to be collected from with the elimination of the earned-income tax credit. That is going to come from these same working families that are eligible for the increase in the minimum wage. Then what we will do is we will still keep the minimum wage where it is, but we will develop a massive new subsidy entitlement program that will be run by the Internal Revenue Service that will provide the difference between the $4.25 and the $7 or $8 an hour depending upon how many children the particular worker had, which would be basically a subsidy to these industries—a taxpayer subsidy to the industries. It would cost the taxpayers a great deal more because they would have to provide for the funding and the resources to be able to pay that subsidy, and at the same time instead of letting these families rise out of poverty, which effectively would reduce their ability to draw upon the various safety net programs, because their incomes would move up to be too high. If we raise the minimum wage, on the other hand, they would go out of those safety net programs and thereby be less of a drag on the American taxpayers because they would then no longer be eligible for these programs. So we would save tax revenues there.

That is an important part of this whole proposal. By providing the increase in the minimum wage, we would be cutting some in those safety net programs by moving people above the eligibility thresholds. They would be making more than they had been, so they would not be eligible for support systems. That saves funds and resources that would have to be paid in by American taxpayers.

But, no, our Republican friends say, no, we will leave it at $4.25. We will draw down some $15 billion from these same families. We will put in place a new entitlement program run by the Internal Revenue Service. When I heard that I was so surprised that the leaders of the Republican House who have been spending all of their time castigating the IRS, now believe they can run a complicated program that will pay so much an hour to someone that has one child, so much an hour to someone that has two children, if they are married, so much, so much if they are separated, and follow this monthly, evidently, across the landscape wherever these needy people are going to be—imagine the bureaucracy that will be needed, imagine what the costs will be for that bureaucracy, and what it would mean for these people.

Mr. President, this is a wonderful, wonderful program because as Mr. ARMEY pointed out, they would save $15 billion out of the earned-income tax credit. The value of the increase in the minimum wage is $3.7 billion in one year. For those people that say that this is an inflationary kind of impact, $3.7 billion in 1 year when the total GDP is about $7 trillion, and our budget, $1.65 or $1.7 trillion we are talking about—of course it is not inflationary. We are talking about $3.7 billion that will be added to the value of good work, for working families in this country.

There is another reason that I believe it was urgent to bring this measure up on the floor today. We do not see, really, any interest by the leadership, the opposition leadership, in trying to work out, at least, some important and responsible alternative.

I am basically opposed to trying to compromise this measure any longer, because quite frankly, when my initial proposal was advanced, it was for three 50-cent increases with an inflator to correspond to the increased cost of living.

What did we do in terms of compromising that effort to try and bring people together on it? We said, ''All right, we will drop the third year even though by that time it will be justified merely to maintain the cost of living. We will put that aside, and beyond that we will put aside the cost of living inflator as well. We will put those two aside.'' Mr. President, that was a painful decision in terms of trying to protect the purchasing power of working families.

Now we are being asked to say, ''All right. Just wait around a little while. Sometime when we get ready to do it, we are going to do something. You will get a vote on something that will deal with wages, something that will deal with some other matters that you might not like.'' That is generally the way it is put. ''You might not like the combination of things we put together but you will get your vote.''

We reject that out of hand. Working families ought to reject it because that is failing to provide the kind of respect for those families that they deserve. You are toying with the lives of those families that are at such high risk today. So many of those, Mr. President, are women that are out there, working, and working hard, and the impact of the increase in the minimum wage is very, very important in terms of their children.

This is basically a women's issue and basically a children's issue. There will be 7 million females that will be affected; 5 million of those are adult women. Four million of those women are 25 years of age or older. Of the 12 to 13 million that will be affected, 4 million will be women 25 years of age or older. We find when we study this measure, when we look at those that are heads of households and those that are being affected or impacted by this, we find that, once again, it is the great majority of women that are the ones that are affected.

Mr. President, 60 percent of all the women who are working to earn the minimum wage are married and 23 percent are single heads of household. That represents 2 million women who are the heads of household with children. It is almost unbelievable that any person in this country who is a head of a household, single, woman, dependent on the minimum wage at $4.25 an hour is going to be able to make it for herself and for her children. And this is at a time when we have seen our own earnings here in the Senate increase three times since the last increase in the minimum wage. We see where corporate income has gone up 23 percent in this last year alone.

Mr. President, in all of the reports that we have seen, even as of this morning from the Council of Economic Advisers, all of them describe how well this economy is basically doing, how sound it is today. We did not have nearly the strength in the American economy in 1989 that we have at the present time. At that time we had

President Bush supporting this measure and a majority of the Republicans, including Senator DOLE, Congressman GINGRICH, supporting the increase of the minimum wage. What has changed? We have the real purchasing power now for those workers being as low as it was in 1989, when the economy was not as strong and when we still took action on the minimum wage. Why not now?

One of the arguments, of course, is that we will lose jobs. This is very interesting, Mr. President, because sometime in the future we will talk about the various studies, 12 in all, that show just the opposite. I will not take the time this afternoon to get into them, but if you look at the various studies that have been done with regard to the minimum wage, you cannot make that case about losing the jobs. You can take a more important relevant factor, and that is what is happening in the States recently.

My State of Massachusetts, over the objection and over the veto of our Republican Governor, increased the minimum wage by 50 cents. What has happened since the increase took effect in January of this year? What has happened is unemployment has gone down in Massachusetts, and unemployment in our neighboring State of New Hampshire, which did not raise it, has gone up.

I hope we will have a chance to debate those issues about loss of jobs. It is always interesting to hear those who are opposed to an increase in the minimum wage saying, ''I am concerned about those young minorities and all those Americans that are needy. We want to protect them.'' All you have to do is look at the studies that are out there, about what they want—94 percent of them want an increase. They are prepared to see an increase in the minimum wage because they do not believe, as I do not believe, that it will threaten their job.

Imagine you had over 120 million Americans working.

If you took 100 people that were making the minimum wage today and said it will be a 1-percent loss of jobs, but you can have a 25-percent increase in your pay, what do you think their reaction is going to be? ''We want to get that increase, and we will take our chances.'' We believe that job loss is a myth, as has been demonstrated in study after study. Job growth is happening in my own State of Massachusetts, and in other States, and nationally we will be able to see an expansion of the job market, which has been true in many cases.

So, Mr. President, we find that the case is compelling. We have the various studies about the minimum wage, about what has happened historically on this minimum wage, going back to the year 1949, on the issues of job growth or job loss. We went, in 1949, from 40 cents to 75 cents. The national economy improved from 5.9 unemployment to 5.3 percent. In 1955, it went from 75 cents to $1. In 1961, from $1 to $1.15. Unemployment decreased from 6.7 to 5.5 percent. It went from $1.25 to $1.40 in 1967. In 1974, it went from $1.60 to $2. Despite a recession, retail employment increased from 1978 to 1981. Employment increased by 8.3 million jobs and 1.4 million retail jobs. From 1990 to 1991, a recession that was underway quickly leveled off.

Mr. President, I do not believe that those statements and studies that proclaim the dangers of job loss can really be justified. They certainly cannot in terms of the history of the increase in the minimum wage. Mr. President, all you have to do is look at this chart here, which demonstrates the increase in the total number of jobs, up to about 118 million jobs from 108 million in 1991.

Since we had the increase in 1991, we have seen the steady increase in the total employment numbers. And look at what has happened in the most recent times, in my own State of Massachusetts, and look at what happened the last time we increased the minimum wage.

Mr. President, this chart is another indication about what has been happening. This is from 1979 to 1993. ''Growing apart. Real family income.'' This is what happened in terms of America's working families. From 1959 to 1970, each of these groups, the bottom 20, second 20, and mid 20, all across the top all moved up together. From 1980 to 1993, we have seen a growing apart in America. Those on the bottom rungs have been falling further and further behind.

Mr. President, you can see on this chart here about what has been happening to the purchasing power of the minimum wage. In constant dollars, you go as high as $6.45 in 1966, and $5.95 in 1976. It went up a small amount in 1990–91 as the increase in the minimum wage took effect—some 90 cents, and since that time, it has been dropping. It would, today, be right down there at the lowest level in 40 years. That is measuring the real purchasing power.

At the same time, Mr. President, here we have the difference between what has been happening to the Dow Jones Industrial Average, somewhat below 2,000 here, and up over above 5,000 now. This is between 1979 and 1995. This is good. This is an indication of economic strength and growth. We are glad these are the circumstances. But, on the other hand, look at what has been happening, in purchasing power, to the minimum wage. As the Dow Jones has been going up in that very steep rise, we see the real minimum wage going lower and lower.

Mr. President, this chart here shows what is happening to the real pay of workers, and in terms of the CEOs' pay. ''Green Tree is a Money Tree.'' ''$65.6 Million Package Angers Compensation Critics.'' These are newspaper articles. We find these extraordinary increases.

Mr. President, compare CEO pay with what happens in a minimum wage family. Three weeks of earnings. This chart indicates the $510 a minimum wage family would have earned compared with the tens of thousands of dollars a CEO of a major company would have earned and the dramatic disparity that has taken place.

Here are the final two charts, Mr. President. Wage earners from $4.25 to $5.14. Who are these individuals? What you see here is 31 percent are 16 to 19 years old. Over 20 years of age, almost 70 percent.

Mr. President, if you take the total value of earnings of the 90-cent increase in the minimum wage, 76 percent of that money will go to a family that is below the average income for the Nation. That is, 76 percent will accrue to families in the lower half of incomes.

That is an important figure. I do not believe it is as dramatic as the 2 million American women that are single heads of households with children, trying to make a go of it, but it is dramatic.

This chart shows 60 percent are women and for men, some 40 percent. Again, it is an issue for women, an issue for children, and it is an issue of fundamental economic justice. This Senate is familiar with this issue. It is uncomplicated. We have debated it and discussed it. It is time that the majority leader gives us a time to vote on a clean bill with time limits.

Mr. SIMPSON. Mr. President, I will inquire of my friend from Massachusetts, Senator KERRY. How much time do you require?

Mr. KERRY. I ask my friend for maybe 10 minutes. I do not think I will use it all.

Mr. SIMPSON. I am trying to get a unanimous-consent request to a time certain for the vote on this amendment. So if I might get Senator KENNEDY's attention. I am trying to obtain a unanimous-consent agreement that a vote occur on or in relation to the pending amendment at the hour of 3:40, or at a time when the group returns from the White House with regard to the activities in the signing of the antiterrorist bill. Would that be appropriate at 3:40 so our Members might be apprised of this?

Mr. KENNEDY. Well, Mr. President, I will consult with the leadership to find out what the disposition is. At that time, I will report immediately to the Senator. They will not be returning until 3:30 or 3:45, Republicans and Democrats alike. So we are in a situation where we are not in a position to make the judgment at this time. As soon as the leaders return, we will consult with them to find out what their disposition would be in terms of this issue.

Mr. SIMPSON. The pending business is the amendment. Let me respond briefly to the remarks of Senator KENNEDY. I am fully aware—I think all of us are aware—of what this is. It is, again, an attempt to drive the issue of minimum wage into the work of the

U.S. Senate. There is nothing else to this. I referred to it earlier in the day as somewhat like theater, with myself in the role of Puck and Senator KENNEDY in the role of King Lear. It is about class warfare.

It is about the rich versus the poor. It is about poor women and poor children. Ladies and gentleman, if we cannot grasp the issue of what we are talking about—we are talking about an issue which on one side the economists tell us that, if it passes, employers will quit hiring anybody.

I love the debate about human rights. It is a touching thing. But the best human right is a job. You do not get a job if the employer is not hiring people.

It is always stunning to me that some—I do not attribute to a person in any sense—but some who have this strange feeling that they love employees and hate employers. Employers employ employees.

I heard one part of the debate several days ago that the taxpayers are not going to pay this—that the employers are going to pay it. Well, who are employers? Employers are taxpayers.

It is the most remarkable flight of phantasmagoria, whether it is spun—whatever way you spin it—or whether we do it nicely, or whether we have to do it harshly, or whether we just watch a continual obsessive activity with two amendments that everybody knows are good stuff. It is pretty molten right now—dealing, mix them while they are hot. And they are molten, and everybody is watching. But that is really not the way it is.

What we ought to do is just get right with it because if we do not America will stop, and we will be dealing with illegal immigration in a separate matter.

I am not obsessed with illegal immigration. Let me say that. If you want to bury the dead right now on that, that is fine with me. I do not think the issue will go away. But I want the RECORD to be very clear where the sponsor of the legislation is. And the sponsor of this legislation is saying you can do anything you want with this. I have plenty of work to do. I am missing a hearing today on veterans that I was to chair as chairman of that committee.

I am stunned at the essence of the debate and the class warfare aspects about it.

So I just want to throw into the mix so we all chomp around on it. It is like bear meat. The more you chew it, the bigger it gets.

I know this is shocking. We should not really ever do this. But the Congressional Budget Office reports. Guess who pays the taxes in America? Who pays the most taxes? The rich. I know that is a shocking thing. I wish I had not said it.

So let us just put it in. The top 1 percent of all tax, the top 1 percent of the people in America, pay 15.8 percent of all taxes. The top 5 percent of all the rich in America pay 31 percent of all taxes. The top 10 percent of all the ugly rich in America pay 42.7 percent of the taxes. And the top 20 percent pay 59.2 percent of the taxes that fuel the Government of the United States. And most of them are called ''employers.'' I guess the rest of them are called ''rich.''

But I have always had a philosophy that we should not talk about the rich versus the poor. We should not talk about hitting them a little more. What we should do is confiscate every cent of those on the Forbe's list and the Fortune 500—take it all, every stock certificate, every Treasury bill, every yacht, every ranch—and guess what? It would be about $349 billion, and would run the country for 83 days.

It is absolutely bizarre to hear exercises of that nature with regard to the rich versus the poor while the real issue is how do you get a job and how do you keep a job? If we are talking about the women, the children, and all the rest of it in theater, then let us let the American people know. No wonder they look at both sides and all of us in these types of debates and say, ''I mean, I cannot believe it.''

Does anybody here think that those—some of us—over here care less about children, or less about women, or less about men, or the poor? Bizarre, absurd, and offensive, best described as absolutely offensive that somehow those of us on the other side of an issue are simply uncaring, and do not have any compassion. That is balderdash of the first order.

And I guess, as someone said, ''minimum wages'' mean minimum jobs. As one person said, they say there are 8 million new jobs. I know. I have three of them.

So that is where we are. But where we really are is dealing with illegal immigration and that is going to be difficult enough.

I just have been advised of a remarkable thing which I will put in the RECORD—a news release that the INS has given us phony figures on legal immigration. Instead of 800,000, it would be closer to 1 million, and here they were—their minions were giving us a press conference the day we are debating this bill on March 28 so that everybody could read up and see how we are diddling America. We do not need to do anything up here because the report released that day said ''widely circulated.'' Oh, indeed it was. They said, ''Well, we reported what it was. We just did not spin the future.''

So they have left us now with a situation under any scenario where legal immigration is going to go up a million a year, and that they have lied to us and given us phony figures that there are at least 100,000 to 150,000 persons a year off.

So now we are going to have that debate. Somewhere along the line we are going to have an honest debate about honest numbers. I think the people of America will demand that. I would like to know how anyone is going to get around addressing that issue with this kind of Jim Crackry, and it is extraordinary. It is hard to imagine.

I cannot imagine my friend, Doris Meissner, being part of that. I am sure she will have an opportunity to explain her position because there will certainly be hearings that will be joined in a bipartisan way on that particular bizarre and false information which was to prevent us from doing anything in the law to lower legal immigration because they, bless them, were doing it themselves, and they lied. That is another one in this line of work that goes with our particular conduct.

So now I ask unanimous consent that the vote occur on or in relation to the pending amendment 3730 at the hour of 3:30, and, further, that time be divided as follows: Senator KERRY, 10 minutes; and Senator DEWINE, 5 minutes.

Mr. CRAIG. Mr. President, reserving the right to object.

Mr. KERRY. Reserving the right to object, those times go beyond 3:30. It is contradictory. If you have 5 minutes and 10 minutes, it goes beyond 3:30. Therefore, if the order is set for 3:30, to fill the time we do not vote at 3:30. The unanimous consent request asked for a total of 15 minutes and it is now almost 20 after. I am trying to reconcile.

Mr. SIMPSON. I amend my request to the time of 3:40.

Mr. KERRY. Thank you.

Mr. CRAIG. Reserving the right to object, Mr. President, I must tell the chairman that I am opposed to this amendment. I need the time to express that opposition, and I would ask for 5 minutes to do so.

Mr. SIMPSON. Mr. President, that is perfectly appropriate. We have been holding the amendment open and asking for those who wished to debate it, and Senator DEWINE has been good and vigorous in that. I appreciate having the participation.

I would expand the unanimous-consent request to 3:45 for an extra 5 minutes for the Senator from Idaho.

Mr. CRAIG. Mr. President, I appreciate the chairman for accommodating me. I have been chairing the Veterans' Committee in his behalf. I thank him very much.

Mr. SIMPSON. Now wait. That deserves a little added comment, Mr. President. He indeed can have any time he wants.

Mr. CRAIG. I thank the manager.

Mr. SIMPSON. I was required to chair a hearing and could not do that, and my friend from Idaho graciously agreed to do that with the Secretary of Veterans Affairs. I deeply appreciate that. Here I am urging him to come forth and he was doing my work. My abject apologies. I appreciate what he did do for me today in every respect.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Wyoming? The Chair hears none, and it is so ordered.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for up to 10 minutes.

Mr. KERRY. I thank the Chair, and I thank the Senator from Wyoming.

Mr. President, let me respond, if I may, to a couple of comments made by the Senator from Wyoming. I am pleased to support the efforts of my senior colleague from Massachusetts, Senator KENNEDY, and I thank him for his persistent efforts to try to push this on the agenda. I regret that the reaction of my colleague from Wyoming is to suggest that raising the minimum wage is somehow not an appropriate effort in the Senate; that it is intruding on business of the Senate.

Raising the minimum wage is the business of the Senate. It is the business of the Senate particularly when you consider the fact that all four of the amendments approved for debate are amendments of the Republican Party. In effect, what is happening here is that the legitimate process of the Senate under the rules by which amendments are permitted, are part of the business of the Senate, the minimum wage is being closed out by parliamentary tactics of the Republican Party that does not want a vote on it.

I would suggest respectfully to my friend that this is not an issue of class warfare. There are countless rich people in America who support raising the minimum wage. There are countless people at the middle, at the upper, and at the very top level of our economy, all of whom believe that it is fair to raise the minimum wage.

I ask unanimous consent that an article which appeared in the Wall Street Journal, which one might have thought would not have articulated such an opinion, on April 19, last week, be printed in the RECORD. It is an article which says, ''Minimal Impact From Minimum Wage. Increase Won't Have Much Effect on Economy.''

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 19, 1996]

MINIMAL IMPACT FROM MINIMUM WAGE INCREASE WON'T HAVE MUCH EFFECT ON ECONOMY

(By Jackie Calmes)

WASHINGTON.—Here's an economic prediction should Congress, as suddenly seems likely, raise the minimum wage: The costs will be smaller than opponents suggest, just as the benefits will fall short of supporters' claims.

While nearly all economists agree a minimum-wage increase can theoretically cost jobs and spike inflation if some employers cut payrolls or raise prices in response, they add hastily that actual effects depend on the specific proposal at hand. And President Clinton's relatively modest call for a 90-cent increase over two years, to $5.15 an hour, would have little negative impact, most agree. The same would be true if a liberal Republican proposal for a $1 increase became law.

But even if such increases wouldn't hurt the economy, they likewise would do little to help average workers even though Democrats have made the issue a fundamental part of their response to the problem of continued wage stagnation. Labor economist Gary Burtless of the Brookings Institution, a proponent of the minimum-wage increase, says flatly, ''It's not going to help the middle-class worker.''

Whenever an increase is the issue, some conservative economists and lawmakers always are tempted to refight the original Depression-era battle over whether there should be such a law in the first place. ''I find it hard to support an increase in the minimum wage at all,'' says economist Marvin Kosters at the American Enterprise Institute.

But on the narrower question of the increase now proposed, a broad range of economists generally come together. That is illustrated by the endorsement from 101 of them, including several Nobel laureates, of the president's initiative. They concluded the overall impact on workers and the economy would be positive.

Likewise, Chairman Joseph Stiglitz of Mr. Clinton's Council of Economic Advisers cites the modest level of the proposed increase and the declining value of the current $4.25-an-hour rate, now at a 40-year low in buying power. He says this explains why his current support for an increase doesn't contradict the negative things that, as a university professor, he once wrote about the minimum wage in an economics textbook.

Yesterday, at a meeting with House Democrats, Treasury Secretary Robert Rubin said a moderate increase would have ''no statistical effect on the economy.'' He called the proposal ''without question . . . the right thing to do four our economy.''

Still, there are costs; the question is how much.

Lawrence Lindsey, a governor at the Federal Reserve Board, says internal staff studies suggest a 90-cent increase would reduce employment by about 400,000 jobs over the long term. And that could have implications for inflation, he said. Assuming roughly half of those who lose jobs join the ranks of the structurally unemployed, the ''natural rate'' of unemployment—that is, the rate below which inflation begins to accelerate—would rise somewhat. And Fed Chairman Alan Greenspan recently told a House subcommittee, ''I think the evidence is persuasive'' that a boost in the wage floor increases unemployment.

John Taylor, an economics professor at Stanford University who was a member of President George Bush's Council of Economic Advisers, says of a minimum-wage increase, ''I'm pretty much of the view, having looked at it and written about it, that it costs jobs of low-skilled and minority workers.'' Of the specific proposals on the table, he says, ''This is not as bad as raising it to $6, but it's still going to cost jobs.''

And just last month, House Majority Leader Dick Armey of Texas dismissed the idea that Congress would vote to increase the minimum wage, snapping, ''I'm not interested in increasing the number of nonworking poor.''

But Mr. Burtless argues, ''When the minimum wage is as low in relationship to average wages as $4.25 is now to average wages in the United States, then even a rise of $1 an hour is not going to dis-employ that many people.'' Moreover, he says the effect on inflation would be small because, he has calculated, the pay of minimum-wage employees equals less than 1% of all compensation paid to U.S. workers.

At Harvard University, economics professor Lawrence Katz says ''there are no ways of improving the conditions of poor or low-wage working people that don't have some costs or some distortions.'' But he says the current low minimum wage argues for ''a modest increase,'' adding that ''the evidence suggests that the gains to low-income working people outweigh the employment costs.''

Meanwhile, the current debate has heightened attention to a recent study of Princeton professors Alan Krueger and David Card, who found no drop in employment among New Jersey's fast-food restaurants after the state raised its minimum wage in 1992 by 80 cents, to $5.05 an hour. (New Jersey is one of 10 states that have set minimum-wage levels above the federal standard.) Critics have challenged their methodology but, Mr. Krueger says, ''most academic studies find very little or no job loss. Indeed, about two dozen impartial academic studies have found insignificant evidence of job loss.''

So who benefits? Last year just over 5% of workers were paid the minimum wage. Economists generally agree those making just above the minimum wage, up to $6 an hour, could see a bump in pay as an indirect consequence of a minimum-wage increase. The liberal Economic Policy Institute estimates that 11.7% of the work force, of about 12.2 million people, make between $4.25 and $5.15.

* * * * *

Mr. KERRY. In fact, 101 economists have all signed a letter, three of them Nobel laureates, suggesting this would have absolutely minimal impact just as it has since 1938.

It is not as if we are suddenly coming to the floor and debating some new concept in America. This was passed in 1938, and it has been passed again and again and again, that we have increased the minimum wage. On some occasions we have increased the minimum wage when it has been worth more than it is today. It is now worth 27 percent of what it was in 1979. If we let it go to the end of this year, it will be at a record 40-year low.

Leaving aside rhetoric about rich and poor, let us consider the rhetoric of work, the rhetoric of getting off welfare, the rhetoric of the values of our society. If you are going to value work, you have to pay people a fair wage for the day's work. What we are effectively saying, if we are going to ask people to vote below the level of poverty, is that we do not believe that a day's work in the United States is what it has been worth since 1938 or at those periods where we have raised the minimum wage to reflect what we thought it ought to be with respect to that day's work.

Someone in my office was walking down to Union Station for lunch today and on the way back bumped into a panhandler and had a conversation with the panhandler, and asked him, ''How much do you manage to collect out here during lunch hour?'' He said, ''I usually make about six bucks out here during lunch hour.''

So what the Republican Party is suggesting is that people ought to go to work for a wage that is worth less than a panhandler can make in 1 hour during lunch hour near the Nation's Capitol.

Is that a value of work? It seems to me, Mr. President, that if we are going to tell people you ought to get off of welfare and you ought to go to work, we ought to reflect the reality of who is working for what in this country. The fact is that, of those people on the

minimum wage, 62 percent of the people on the minimum wage now live in a household in which someone else is also working. The vast majority, 46 percent, of those people in the work force in America are women; 60-plus percent of those working for the minimum wage are women. They are not teenagers; they are people out there struggling to try to work to break out of poverty.

The fact is that you can work at the minimum wage in the United States today for the full 40-hour week without health care, without a pension benefit, without any of the kinds of benefits that most workers get, and you are working at three-quarters the rate of poverty. The maximum salary you take home is $8,500 a year. Our Republican friends seem to suggest it is OK for people to work for $8,500 a year and it is OK for them simultaneously to suggest taking away $32 billion of the earned-income tax credit over a 7-year period.

So they want to have it both ways. They want to suggest that they can give a $245 billion tax break, most of which—these are not our words; this is the result of their construction—most of which goes to people who already have money. It is just a fact. If you are earning $300,000 a year, in the Republican tax break, you get about $12,000 a year. But if you are working at $30,000 a year or less and you are getting the earned-income tax credit, your taxes go up.

That is not class warfare. That is just a fundamental question of fairness. Is it fair to give somebody who earns $300,000 a year $12,000 more and take away money from somebody earning $30,000 a year? The theory of that is that if you do make a lot of money and you work harder, you ought to make a lot more, but if you do not make a lot of money and you work harder, you ought to earn less. It is the most incredible equation I have ever heard of in my life.

We are going to raise the minimum wage sometime around here. We are going to do it. We are going to do it because this issue is not going away. It is just like in the past. In 1989, we finally raised the minimum wage. Eighty-six Senators joined together to raise the minimum wage. All we are trying to do is get it back to that level when 86 of us were able to agree that it was the right thing to do. We will raise the minimum wage, but it will be after an extraordinary amount of expended political capital and energy and, frankly, wasted time. Ultimately, we are going to come to some kind of agreement around here because that is ultimately what I think most people will agree is fair.

The last time we raised the minimum wage—it is very interesting—Senator DOLE, the majority leader, said and I quote:

> This is not an issue where we ought to be standing and holding up anybody's getting 30 to 40 cents an hour pay increase at the same time that we are talking about capital gains. I never thought the Republican Party should stand for squeezing every last nickel from the minimum wage.

But here we are in 1996; it is worth less, and yet we are not just squeezing every nickel from it; we are squeezing every penny out of it at the very same time Republicans are talking about a tax break for a whole lot of people who make a lot more money than people on the minimum wage.

Mr. President, I do not think we ought to be talking about rich versus poor. We ought to be talking about basic economics and what is good for the Nation. Every decade we have debated this you hear the same arguments. People come back and say: ''Oh, you can't do this because we are going to lose jobs.'' But in fact we do not lose jobs. America keeps growing. America gets stronger. America is creating more jobs.

The fact is that studies have shown, for instance, in New Jersey, when New Jersey raised the minimum wage, measured against Pennsylvania, the argument was, ''Oh, don't do this because Pennsylvania will have an unfair advantage, and all the jobs are going to go across the border to Pennsylvania.''

Well, lo and behold, Messrs. Card and Krueger did a study, Princeton University did a study, Rutgers University did a study, and it showed that jobs increased. We have had testimony from chief executive officers of businesses who not only pay the minimum wage but they also give full health care to their workers, and they find that their business grows, they prosper, and they are able to actually hold on to people because they treat them decently.

So I think this is an issue, the time of which has come, because the minimum wage is simply worth less than it was worth a few years ago. If we do not raise the minimum wage, we will have reached the unconscionable fact in this country that it is at the lowest it has been in 40 years at the very time that people are making the most political hay out of the rhetoric of going to work, getting off welfare, and living out American values. American values also require fairness. I hope we are going to have that fairness in this debate somewhere in the next days.

The PRESIDING OFFICER. The Senator from Idaho is recognized for up to 5 minutes.

Mr. CRAIG. Mr. President, I come to the floor in opposition to the amendment that we will soon be voting on, that the chairman of the committee has brought to the floor. I say that because I believe that America, out of fairness and justness, wants to stay with current law. Current law, now known as the McClure amendment, treats agricultural growers the same as all other businesses and business owners. I think it is important that we maintain the balance of fair play and property rights as recognized by current law.

The Simpson amendment in effect says if a farmer could put walls around or a roof over his or her fields, then the INS could not conduct an open-field warrantless search. But since this farmer cannot do that in a 10-acre, 50-acre, 100-acre, 500-acre field, since he cannot build a roof over his or her field, that workplace does not enjoy the same private property rights as all other workplaces. The McClure amendment, now current law, is applying the same INS search warrant procedures to all employers.

In this instance, I would argue the Senate ought to maintain the kind of fairness of the current law. If you want to search for illegal aliens, then you get the employer's permission, or if you have probable cause, then you get a search warrant. That is called fairness and equity in this society. I think that is what we have to strive for.

The McClure amendment applies only to unjustified searches and only to the Immigration and Naturalization Service. It does not apply to any other law enforcement agency such as DEA or State or local law enforcement officers. I think that is important to specify. INS agents in hot pursuit of illegal aliens or others who are violating the law could still enter the field. In other words, we have not created a wall here; we have created a protection of property rights.

The McClure amendment was originally passed because of evidence that the INS was abusing open-field searches. In my State of Idaho, prior to this law being in place, we had numerous occasions when, without notification, INS agents, with drawn guns, were running through orchards in the State of Idaho. That, to me, is a formula for disaster. Innocent people could accidentally become hurt as a result of this. And it did nothing, absolutely nothing, to enforce the laws as they currently were at that time.

The McClure amendment was originally passed for a lot of these reasons. The unlawful detaining of American citizens I have already mentioned. If current law protects property rights, then apparently there was a violation of property rights. I believe the Simpson amendment—not intending to do so—could see us fall backwards into that circumstance that I think would be very dangerous to do. It could result in the injuring of agricultural workers, causing damage to crops and property that is already well documented, that has occurred in the past.

Here is what is interesting. The Judiciary Committee voted 12 to 5 to reject a similar Simpson amendment and retain basically current law. They were right to do so. I cannot understand for the life of me, if that was the vote of the committee, that we are back here on the floor with this amendment.

I ask unanimous consent a letter from the National Council of Agricultural Employers and also a letter from Dean R. Kleckner, president of the American Farm Bureau Federation, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL COUNCIL OF AGRICULTURAL EMPLOYERS,
Washington, DC, April 16, 1996.

DEAR SENATOR: The Senate will begin voting on amendments to the Simpson Immigration Reform bills tomorrow. Two of those amendments are detrimental to agricultural employers:

1. Simpson Amendment to repeal the agricultural search warrant provisions of the Immigration Reform and Control Act of 1986.

2. Kennedy Amendment to strike the intent standard for document abuse discrimination.

The search warrant provision under current law requires the Immigration and Naturalization Service (INS) to obtain permission from the property owner prior to entering the property to search for illegal aliens, or to obtain a search warrant. This provision affords growers the same protection from warrantless searches and unreasonable disruption of business activity enjoyed by any other business. By a vote of 12 to 5 in the Judiciary Committee mark-up, Senator DeWine successfully struck from the immigration reform bill earlier language to repeal the search warrant provision. Please uphold this decision and vote against Senator Simpson's amendment.

Also during Judiciary Committee mark-up, an intent standard for document abuse discrimination was added to the legislation. Under current law, employers are held strictly liable for document abuse discrimination if they ask a job applicant to provide a specific employment authorization document or request more documents than are required under the law. Even though applicants are not denied a job and alternative documents are accepted by the employer, the Office of Special Counsel at the Department of Justice has taken the position that the mere requesting (as opposed to requiring) of particular documents is an automatic violation of the law. This position is held regardless of the employer's intent and whether or not anyone was denied employment. Senator Kennedy's amendment would delete the intent standard from the reform legislation and replace it with language that essentially restates current law. Please vote against the Kennedy amendment.

Thank you for your consideration on these issues.

Sincerely,

SHARON M. HUGHES,
Executive Vice President.

A FARM BUREAU SPEEDLINE,
Washington, DC, April 16, 1996.

DEAR SENATOR: The American Farm Bureau has two concerns with regard to the illegal immigration reform bill under consideration by the Senate today. First, Sen. Alan Simpson (R–WY) will offer an amendment to his illegal immigration reform bill, S. 1664, to repeal the current-law requirement that INS agents obtain either a property owner's permission or a search warrant prior to entering agricultural fields in search of illegal aliens.

This requirement was enacted as part of the Immigration Reform and Control Act of 1986. The amendment to accomplish this, offered by then-Sen. James McClure (R–ID), attracted bi-partisan support. An amendment to strike a similar proposal originally included in the predecessor bill to S. 1664 was stricken by the Senate Judiciary Committee on a bipartisan 12–5 vote, approving a motion offered by Sen. Mike DeWine (R–OH).

The Administration has indicated neutrality on this issue, and has further indicated that the Department of Justice will not change its enforcement practices even if the open-field search warrant requirement is repealed.

Second, Sen. Edward Kennedy (D–MA) will offer an amendment to strike the intent standard provision of S. 1664. This provision of S. 1664 would create a new intent standard for discrimination allegations based on employer requests for more or different employment eligibility documents to prove work authorization. Farm Bureau supports this provision, and we oppose Sen. Kennedy's amendment to strike it.

The American Farm Bureau Federation urges you to oppose the Simpson and Kennedy amendments.

DEAN R. KLECKNER,
President,

Mr. CRAIG. Mr. President, I urge my colleagues, when this vote occurs in a few moments, to abide by current law and private property rights and the protection of the security of individuals. Consider the risks that could result as a result of us voting for the Simpson amendment and returning to law what this Congress rejected by substantial margin several years ago and has retained as the right position to hold when it comes to open-field searches and agriculture employers.

I yield the remainder of any time that I have.

The PRESIDING OFFICER. The Senator from Ohio is recognized for up to 5 minutes.

Mr. DEWINE. Mr. President, I want to speak again in opposition to the Simpson amendment. I commend my colleague from Idaho for his very eloquent statement.

I urge my colleagues to retain current law, to retain the compromise that was made in 1986, and to vote the same way as the Judiciary Committee did, by an overwhelming vote of 12 to 5.

This bill does represent, as it is written today, the status quo. I think it would be a mistake to change that. It is interesting to note that the INS says there is no reason to change current law.

What is the history of this? Go back to 1984. You had a Supreme Court decision that said, in fact, you did not need a search warrant to go into an open field. But the court, in essence, invited Congress to speak on the issue.

Two years later, with the Simpson-Mazzoli bill, Congress did speak on the issue and said that an open field, when used for agriculture employment, should have the same basic protection, that the employees and employers should have the same basic protection that they had if that business had been conducted within a building, if we had been in a restaurant or another form of business. So, what the status quo does is keep a level playing field and keep both types of businesses being dealt with by the INS the same way.

We look at this many times from the point of view of the employer and say it would be unfair to ranchers, unfair to farmers, because of the time-sensitive nature of agriculture, to allow these searches without a search warrant. That is true. I think we also have to look at it from the point of view of the employee, because the reality is that before the law was passed, even though agriculture represented only 15 percent of the problem of illegal workers in the work force, 75 percent of the raids occurred in agriculture. I do not think you have to stretch your imagination too far to understand one reason why. It is easier. It is easier.

The other reason is, however good, however well intentioned the employees of the INS are and the agents are, when they look into a field and see brown faces, they think that may be a place we need to go. That is a problem. It is a problem that we do not need to return to.

My friend has just pointed out we need to talk about what the current status of the law is and what it is not. It says you have to have a search warrant. But many cases are resolved, obviously, by consent. If you have consent, the INS can go onto the property. Current law also provides that if INS is in hot pursuit, they can go onto the open field. Finally, current law also says if you are within 25 miles of the border, this provision does not apply; INS can go onto the property.

So I urge my colleagues—we are just a few minutes away from the scheduled vote—I urge them to support the position of the Judiciary Committee, a 12 to 5 vote. Support current law. Support the employees and employers. Keep in mind the position of the INS who sees no reason for any change in law.

I would also ask my colleagues to keep in mind the position of the American Farm Bureau. I also talked about this issue. I already read the names on the other letter that I talked about, a letter dated March 13, 1996, to all the members of the Judiciary Committee—American Farm Bureau, Agricultural Affiliates, American Association of Nurserymen. It goes on and on and on with basically a page of names. Their position is to keep the current State of the law and to oppose the Simpson amendment. I thank the Chair.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, it has been a good debate. I think I know where it is going with the vote, that all the votes are not there for my particular activity. But let us be very clear. I say to Senator DEWINE and Senator CRAIG—let me tell you, the law before 1986 was that the INS could go do a warrantless search, ladies and gentlemen. Before we changed the law, with this linkage of the ACLU and the agricultural workers and the growers, the law of the United States was just like this for everybody else.

The FBI could go into a field in plain view for a body or drugs, and with a warrantless search go forward. The INS could do that, the FBI could do that, the DEA. In 1986 we changed it. So the requirement that we have now is the special law. That is what is fascinating in this debate, I must say. I just think

I have been here too long. This was on the books.

There is not a single other law enforcement agency in the United States, when they come upon an open field and in plain view see something that gives them probable cause to believe there is a violation of the law—they go and do it. The only agency of the Federal Government that cannot is the INS. That is where we are. At least let us be realistic about what we have done. We retain it. That is the way it is. Move on to the next item of business.

But let us be totally candid. And let us not have anybody with their own opinion; let us all have our own facts. That was the law before 1986.

But I just want to add—since we were talking, I think, about the minimum wage for a moment—here is the one you want to keep in mind with the minimum wage and all you have heard all day long. This is from the New York Times of April 19, 1996. It is called ''Minimum Wage: A Portrait.'' Here is the portrait as compiled by the New York Times. There are three little items of interest.

Number of times in 1993 and 1994, when Democrats controlled Congress, that President Clinton mentioned in public his advocacy of a minimum wage increase: 0.

Next little item:

Number of times the President has done so in 1995 and 1996—through March 11—when Republicans have controlled Congress: 47.

Since March 11 there have probably been 47 more. Then finally:

Number of Congressional hearings Democrats held on the minimum wage in 1993 and 1994: 0.

Pure theater.

Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 3730 offered by the Senator from Wyoming. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

The PRESIDING OFFICER (Mr. THOMPSON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 20, nays 79, as follows:

[Rollcall Vote No. 80 Leg.]

YEAS—20

Bryan	Johnston	Rockefeller
Byrd	Lautenberg	Simpson
Chafee	Levin	Stevens
Glenn	Lieberman	Thomas
Grassley	Murkowski	Thompson
Gregg	Nunn	Thurmond
Hollings	Reid	

NAYS—79

Abraham	Baucus	Bingaman
Akaka	Bennett	Bond
Ashcroft	Biden	Boxer
Bradley	Frist	McCain
Breaux	Gorton	McConnell
Brown	Graham	Mikulski
Bumpers	Gramm	Moseley-Braun
Burns	Grams	Moynihan
Campbell	Harkin	Murray
Coats	Hatch	Nickles
Cochran	Hatfield	Pell
Cohen	Helms	Pressler
Conrad	Hutchison	Pryor
Coverdell	Inhofe	Robb
Craig	Inouye	Roth
D'Amato	Jeffords	Santorum
Daschle	Kassebaum	Sarbanes
DeWine	Kempthorne	Shelby
Dodd	Kennedy	Simon
Dole	Kerrey	Smith
Domenici	Kerry	Snowe
Dorgan	Kohl	Specter
Exon	Kyl	Warner
Faircloth	Leahy	Wellstone
Feingold	Lott	Wyden
Feinstein	Lugar	
Ford	Mack	

NOT VOTING—1

Heflin

The amendment (No. 3730) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

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

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

FURTHER CONTINUING APPROPRIATIONS FOR 1996

Mr. SIMPSON. Mr. President, this has been cleared with the Democratic leader. I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 175 regarding a 1-day extension of the continuing resolution.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A joint resolution (H.J. Res. 175) making further continuing appropriations for the fiscal year 1996 and for other purposes.

The Senate proceeded to consider the joint resolution.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the measure be considered read the third time and passed, the motion to reconsider be laid upon the table, that any statements relating to the measure be included in the RECORD.

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

The joint resolution (H.J. Res. 175) was read the third time and passed.

Mr. SIMPSON. Mr. President, I ask unanimous consent that Senator GRAHAM now be recognized for up to 15 minutes for debate on the continuing resolution.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I wish to be recorded as voting no on the continuing resolution.

Mr. President, nearly 1 month ago, after passing the 12th continuing resolution, we are now enacting the 13th continuing resolution. At the time we passed the 12th extension of the budget for fiscal year 1995, I said it was the last one that I would support.

Mr. President, I am here to keep my word. Frankly, the lack of leadership by this Congress is a national embarrassment. It is nearly 7 months into the fiscal year 1996, and we still do not have five budgets for five of the most important agencies of the Federal Government. This is no way for the world's largest economic entity to manage its resources.

It is almost as if the Congress has become addicted to this form of Band-Aid budgeting. When you think about it, there is a correlation between a drug addict's action and those of this Congress. We began this process on September 30, 1995, when we passed the first continuing resolution.

I analogize that action on September 30, 1995, as a casual, occasional user of marijuana. As we have proceeded over the days, weeks, and months since then, we have continued to become more and more addicted to this approach, to this avoidance of difficult decisions, to the willingness to say we failed to do it today so we will put it off until tomorrow.

Today, Mr. President, we are mainline injecting heroin as we sell ourselves: ''Oh, we only need one more day and we will be able to resolve this impasse.'' We have heard that ''one more day'' so many times. I remember distinctly when we voted on the 12th continuing resolution that the leadership of the appropriations process in the House of Representatives said they were so close to reaching a final resolution that would have carried us through the balance of the fiscal year and avoided the necessity of the 12th continuing resolution, and that failing that small increment to close on a final agreement, now we were going to have to use the period made available by the Easter-Passover recess. That certainly would be a period of time in which we could come to closure on this matter.

We failed again. Now, again, we are taking the heroin of a temporary extension of a budget that is more than a year old as a means of avoiding difficult decisions. We are acting, also, Mr. President, like the drug addict who is in a state of denial. We are denying that our failure to reach decisions was having serious effects on Americans. I believe that clearly our actions are having serious effects. They are not just the serious effects on the faceless bureaucrats under which we often wish to assign our failures to act.

The fact is that the Band-Aid approach to budgeting has broad ramifications. Just last month when we voted on the 12th continuing resolution, I used examples that have been