

of issues, from education to health care to veterans affairs, Paul fought tirelessly for what he believed was best for the people of Minnesota and the United States.

I admired Paul's conviction and passion in presenting his viewpoints and arguing his case. I admired his honesty and conscientiousness in standing up for what he believed. Most of all, I admired the goodwill and sense of fairness that he brought to this body. I hope that even though we won't always agree in our debates here, we can always keep alive that same spirit of goodwill, fairness, and openness.

Paul Wellstone wasn't from the South, but he possessed all the qualities of a Southern gentleman. He was never rude or mean-spirited toward those who disagreed with him, and he was unfailingly civil to both his allies and his adversaries. I feel fortunate to have had him as a colleague and blessed to have had him as a friend. He will be sorely missed.

I would like to pay tribute also to the two members of Paul's family—his wife Sheila and his daughter Marcia—who perished with him on October 25. Furthermore, three members of Paul's campaign staff—Will McLaughlin, Tom Lopic, and Mary McEvoy—and two pilots—Richard Conroy and Michael Guess—lost their lives in that accident. My deepest sympathies and my prayers go out to their families and friends in this time of loss.

ENHANCED PROTECTION OF OUR CULTURAL HERITAGE ACT

Mr. LEAHY. I am pleased that the Senate late last night passed S. 2598, the Enhanced Protection of Our Cultural Heritage, EPOCH, Act of 2002, which I introduced earlier this year with Senators INOUE, CLINTON, BINGAMAN, and BOXER. This legislation increases the maximum penalties for violations of three existing statutes that protect the cultural and archaeological history of the American people, particularly Native Americans. The U.S. Sentencing Commission recommended the statutory changes contained in this bill, which would complement the Commission's strengthening of Federal sentencing guidelines to ensure more stringent penalties for criminals who steal from our public lands.

This bill increases the maximum penalties for the Archaeological Resources Protection Act, ARPA, 16 U.S.C. §470ee, the Native American Graves Protection and Repatriation Act, NAGPRA, 18 U.S.C. §1170, and for 18 U.S.C. §1163, which prohibits theft from Indian tribal organizations. All three statutes currently impose a 5-year maximum sentence, and each includes a lower maximum for a first offense of the statute and/or a violation of the statute involving property of less than a specified value. The bill would create a 10-year maximum sentence for each statute, while eliminating the lower maximums under ARPA and NAGPRA for first offenses.

Such maximum sentences would be consistent with similar Federal statutes. For example, the 1994 law proscribing museum theft carries a 10-year maximum sentence, as do the general statutes punishing theft and the destruction of Government property. Moreover, increasing the maximum sentences will give judges and the Sentencing Commission greater discretion to impose punishments appropriate to the amount of destruction a defendant has done.

Making these changes will also enable the Sentencing Commission's recent sentencing guidelines to be fully implemented. The Commission has increased sentencing guidelines for cultural heritage crimes, but the statutory maximum penalties contained in current law will prevent judges from issuing sentences in the upper range of the new guidelines. Those new guidelines have the enthusiastic support of the Justice and Interior Departments, the Society for American Archaeology, the National Trust for Historic Preservation, numerous Native American nations, and many others.

Two of the three laws this legislation amends protect Native American lands and property. The third, ARPA, protects both public and Indian lands, and provides significant protection to my State of Vermont. For example, ARPA can be used to prosecute those who would steal artifacts from the wrecked military vessels at the bottom of Lake Champlain that date to the Revolutionary War and the War of 1812. U.S. attorneys can also use ARPA to prosecute criminals who take items that are at least 100 years old from a protected site on Vermont State property without a permit, and then transport those goods into another State. In addition, ARPA protects artifacts found on the approximately 5 percent of Vermont land that is Federal property, land that includes many "ghost towns" that have long been abandoned but are an important part of our history.

Those who would pillage the rich cultural heritage of this Nation and its people are committing serious crimes. These artifacts are the legacy of all Americans and should not be degraded as garage sale commodities or as fodder for private enrichment.

ACCURACY IN STATISTICS AND THE DEBATE OVER BIPARTISAN TAX RELIEF

Mr. GRASSLEY. Mr. President, I rise today to discuss the importance of accuracy in the debate over bipartisan tax relief.

I was very pleased to work with over one-fourth of the Senate Democratic Caucus in passing the largest tax cut in a generation. That legislation has been the subject of a coordinated attack by the Democratic leadership and some of its allies in the media. For almost a year and a half, I have responded to these attacks in committee, on the Senate floor, and in the media.

The basic premise of my responses has been that participants ought to be intellectually honest in the data used in the debate. Reasonable folks can differ on whether bipartisan tax relief is a good idea or not. We ought to conduct that debate in a fair and open manner.

Apparently, my responses caught the eye of a key opinion maker, Mr. Paul Krugman of the New York Times. Mr. Krugman is a regular columnist and focuses mainly on economic policy. Mr. Krugman took aim at me and my statements in a column, dated October 18, 2002. I ask unanimous consent that a copy of that op-ed be included in the RECORD.

Mr. Krugman defended the often-mentioned but seldom-sourced statistic on distribution of the benefits of the tax relief package. It's the statistic we hear over and over again. The statistic claims that 40 percent of the benefits of the tax relief package go to the top 1 percent of taxpayers.

Mr. Krugman claims that I did not have an alternative answer to the 40 percent statistics.

I responded in a letter to the editor, dated October 24, 2002.

My letter sources data from the unbiased, official scorekeeper of tax policy for Congress, the Joint Committee on Taxation. This data had been placed in the record in the statements Mr. Krugman criticized. That data, updated for the last year the tax cut is distributed, 2006, shows that the top 1 percent of taxpayers will receive a lower share of the benefits of the tax cut, 27 percent, than their burden, 33 percent. The remaining difference of 6 percent is distributed to taxpayers within comes below \$100,000. That's why Joint Tax concludes that the bipartisan tax relief makes the Tax Code more progressive.

By the way, this fact is not incidental. It reveals a key ingredient to our bipartisan success in 2001.

My Democratic partners in the bipartisan bill insisted that we make the Tax Code more progressive as a condition for their support. That was a condition that I shared with them. We would not have produced the bill in the Senate without their support.

Mr. Krugman struck back at me again in a column dated October 29, 2002. He claimed my letter was "misleading" because I did not include the benefits of death tax relief in the analysis. I ask unanimous consent that a copy of that op-ed be included in the RECORD.

I prepared a response to Mr. Krugman and submitted it to the New York Times editor. Unfortunately, the Times policy only permits two responses per person per year. So, Mr. Krugman can attack me every week if he wants to and my responses are limited. So, Mr. Krugman and the Times policy left me with the recourse of responding on the Senate floor. Otherwise, his charge would stand unanswered. That would be wrong.

Joint Tax does not distribute the death tax benefit because the analysis

requires a conceptual leap. Economists have attempted to distribute the death tax benefit.

For instance, the Clinton Treasury performed an analysis at about the same time the former President was readying a veto on a tax bill that contained death tax relief. Joint Tax attempted to distribute the same kind of analysis in the early 1990s, but abandoned it after finding problems with it.

If you only read Mr. Krugman's columns, you would think that this analysis is straight forward. It is not. Basically, to get to where Mr. Krugman and his allies want to go, you have to make a conceptual leap. You have to assume that heirs of an estate have the same income tax profile as the dead person. So, you need to ignore the reality that, for instance, tax-exempt organizations, can be heirs of an estate. You need to ignore the reality that, as a general matter, no two sets of heirs look the same for income tax purposes. For these reasons, an unbiased official source, like Joint Tax, does not distribute the death tax. That was the point I was not permitted to make in a response.

For the sake of argument, however, let's give Mr. Krugman the benefit of the doubt. Let's stack the deck further in his favor by assuming that all of the death tax relief provided in 2006 inures to the benefit of the top 1 percent. Let's perform this calculation even though it is analytically unsound. If you add that revenue loss, about \$4.6 billion for 2006, into Joint Tax's distribution table, you will find that the top 1 percent receive 29 percent of the benefits of the tax relief package. This compares with the 27 percent official Joint Tax figure. Recall that the top 1 percent bear 33 percent of the income tax burden. In this case, the 4 percent difference, once again, though to a smaller degree, increases the progressivity of the Federal tax system.

Mr. Krugman also cites an alternative tax burden, total Federal taxes, as the appropriate measure. Joint Tax's distribution analysis includes the Federal tax burden and as the projection for the last year shows the total Federal tax system was made more progressive.

Mr. President, I agree with Mr. Krugman on some things. We need to change the tone in Washington. If the tone is to change, all participants, including public servants, like myself, and opinion makers, like Mr. Krugman, must participate in the change.

Several things must happen if the tone in Washington is to change. The first thing that needs to happen is everyone must debate in an intellectually honest manner. This means when a statistic is used, the source should be referenced. Mr. Krugman's op-ed is the rare exception when the source of the 40 percent figure has been revealed. Over the last 18 months, in countless Congressional debates, in press reports, and other venues, the 40 percent figure has been used without attribution. At

every point when I have debated the other side of this issue, I have provided the source of my statistics.

The source of the data is important because, in an honest debate, any biases should be revealed. The source of Mr. Krugman's statistic is Bob McIntyre of the Citizens for Tax Justice. I respect Mr. McIntyre as a spirited liberal advocate of his version of tax reform. Mr. McIntyre's organization has an agenda. It is a tax policy agenda that tends to be on the left side of the political spectrum. There are competing organizations on the right side of the political spectrum such as the Heritage Foundation. These organizations also produce data on tax legislation. I doubt Mr. Krugman would ever use alternative analyses. If he did use these analyses, I would expect him to cite the source.

There are also unbiased sources of data. An honest debate ought to bring out that data and distinguish it from data produced from biased sources. The Joint Committee on Taxation, established in 1926, is an unbiased source of data on tax policy. By definition, Congress' official tax policy scorekeeper, Joint Tax works for the House and Senate. Joint Tax works for both sides of the aisle. Senator MAX BAUCUS, a Democrat from Montana, is the current Chairman of Joint Tax. Last year, Congressman BILL THOMAS, a Republican from California, was Chairman.

Opponents of the bipartisan tax relief package, like Mr. Krugman, do not use this objective source of data.

If we are to change the tone in Washington, not only do we need to be honest about statistics, but we should put statistics in the proper context. Mr. Krugman uses the tax benefit figure in isolation. Mr. Krugman ignores the context of tax burden. Joint Tax's distribution analysis for 2006, shows that taxpayers who received the greatest reduction in their tax burden were those with incomes between \$10,000 and \$40,000. For instance, taxpayers with incomes between \$10,000 and \$20,000 will enjoy a reduction in their tax burden of 13.6 percent. Taxpayers with incomes over \$200,000 will see their tax burden reduced by 6.1 percent. This example, drawn from Joint Tax, not a conservative think tank, puts the benefits of the tax cut in context.

I agree with Mr. Krugman's objective. I also agree with many of his sentiments about my late friend, Senator Paul Wellstone. Senator Wellstone liked a good and vigorous debate. He did so in an intellectually honest manner. Let's change the tone in Washington. Mr. Krugman has a role as an opinion maker who opposes last year's bipartisan tax relief package. I welcome a lively exchange with him and others of his view. All I ask is that we have that exchange in intellectually honest terms.

So I describe a real difference in the approach of midwestern transparent Iowans and that of an ivory tower easterner.

I ask unanimous consent to print the aforementioned materials in the RECORD.

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

WASHINGTON, DC.

October 30, 2002.

Re "For the People," by Paul Krugman (column, Oct. 29): I continue to call for unbiased tax data in policy debates.

To the EDITOR,
The New York Times,
New York, NY.

MAYBE YOU CAN TAKE IT WITH YOU

I share many of Mr. Krugman's sentiments about my late neighbor and friend, Senator Paul Wellstone. As the Senate's only working farmer, I was a ready partner of Senator Wellstone in efforts to help family farmers.

Mr. Krugman described the data in my letter as "misleading." His dispute lies not with me, but with Congress' official, unbiased, tax policy scorekeeper, the Joint Committee on Taxation. Joint Tax says "estate and gift taxes are not included due to uncertainty concerning the incidence of those taxes."

The uncertainty arises, in part, because estate tax relief goes to the estate's heirs, not the dead person. For income tax purposes, generally the person earning income is alive to enjoy it. Attempts to distribute the estate tax benefit are, at best, a very rough calculation. In effect, those who take Mr. Krugman's view, believe the dead person benefits from estate tax relief. Only those in the ivory towers of academia believe you can take tax relief to the grave.

Sincerely,

Senator CHUCK GRASSLEY,
Ranking Member, Finance Committee.

[From the New York Times, Oct. 29, 2002]

FOR THE PEOPLE
(By Paul Krugman)

Ghoulish but true: as Minnesota mourns the death of Senator Paul Wellstone, many of the state's residents have been receiving fliers bearing a picture of a tombstone. The flier, sent out by a conservative business group, denounce the late senator's support for maintaining the estate tax. Under the tombstone, the text reads in part: "Paul Wellstone not only wants to tax you and your business to death . . . he wants to tax you in the hereafter."

To be fair, the people who mailed out those fliers—which are carefully worded so that the cost of the mailing doesn't officially count as a campaign contribution—didn't know how tasteless they would now appear. Yet in a sense the mass mailing is a fitting epitaph; it reminds us what Paul Wellstone stood for, and how brave he was to take that stand. Sometimes it seems as if Americans have forgotten what courage means. Here's a hint: talking tough doesn't make you a hero; you have to take personal risks. And I'm not just talking about physical risks—though it's striking how few of our biggest flag wavers have ever put themselves in harm's way. What we should demand of our representatives in Washington is the willingness to take political risks—to make a stand on principle, even if it means taking on powerful interest groups.

Paul Wellstone took risks. He was, everyone acknowledges, a political who truly voted his convictions, who supported what he thought was right, not what he thought would help him get re-elected. He took risky stands on many issues: agree or disagree, you have to admit that his vote against authorization for an Iraq war was a singularly brave act. Yet the most consistent theme in

his record was economic—his courageous support for the interests of ordinary Americans against the growing power of our emerging plutocracy.

In our money-dominated politics, that's a dangerous position to take. When Mr. Wellstone first ran for the Senate, his opponent outspent him seven to one. According to one of his advisers, the success of that ramshackle campaign, run from a rickety green school bus, "made politics safe for populists again."

If only. Almost every politician in modern America pretends to be a populist; indeed, it's a general rule that the more slavishly a politician supports the interests of wealthy individuals and big corporations, the folksier his manner. But being a genuine populist, someone who really tries to stand up against what Mr. Wellstone called "Robin Hood in reverse" policies, isn't easy: you must face the power not just of money, but of sustained and shameless hypocrisy.

And that's why those fliers are a perfect illustration of what Paul Wellstone was fighting.

On one side, the inclusion of estate tax repeal in last year's federal tax cut is the most striking example to date of how our political system serves the interests of the wealthy. After all, the estate tax affects only a small minority of families; the bulk of the tax is paid by a tiny elite. In fact, estate tax repeal favors the wealthy to such an extent that defenders of last year's tax cut—like Senator Charles Grassley, who published a misleading letter in Friday's Times—always carefully omit it from calculations of who benefits. (The letter talked only about the income tax; had he included the effects of estate tax repeal, he would have been forced to admit that more than 40 percent of the benefits of that tax cut go to the wealthiest 1 percent of the population.) To eliminate the estate tax in the face of budget deficits means making the rich richer even as we slash essential services for the middle class and the poor.

On the other side, the estate tax debate illustrates the pervasive hypocrisy of our politics. For repeal of the "death tax" has been cast, incredibly, as a populist issue. Thanks to sustained, lavishly financed propaganda—of which that anti-Wellstone flier was a classic example—millions of Americans imagine, wrongly, that the estate tax mainly affects small businesses and farms, and that its repeal will help ordinary people. And who pays for the propaganda? Guess. It's amazing what money can buy.

In an age of fake populists, Paul Wellstone was the real thing. Now he's gone. Will others have the courage to carry on?

[From the New York Times, Oct. 25, 2002]

A TAX CUT FOR WHOM?

TO THE EDITOR: Re "Springtime for Hitler," by Paul Krugman (column, Oct. 18): I stand by my call for unbiased tax data in policy debates. Some observers claim that 40 percent of last year's tax cuts went to the top 1 percent of taxpayers. The Joint Committee on Taxation, Congress's official, unbiased source, says the top 1 percent will receive 27 percent of the income tax cuts in 2006, the latest projection available. Taxpayers with incomes of \$200,000 and less will receive the majority of the tax-cut benefits, with 67 percent.

The real story is that despite those cuts, the top 1 percent of taxpayers will still pay 33 percent of federal income taxes. They will receive a lower share of the income tax cut, 27 percent, than their burden, 33 percent.

The joint committee says the taxpayers who will receive the greatest reduction in their tax burden have incomes between

\$10,000 and \$40,000. Those with incomes between \$10,000 and \$20,000 will enjoy a reduction of 13.6 percent. Those with incomes of more than \$200,000 will see their burden reduced by 6.1 percent. Intellectual honesty demands putting tax data in context.

— CHUCK GRASSLEY.

[From the New York Times, Oct. 18, 2002]

(By Paul Krugman)

SPRINGTIME FOR HITLER

You may recall that George W. Bush promised, among other things, to change the tone in Washington. He made good on that promise: the tone has certainly changed.

As far as I know, in the past it wasn't considered appropriate for the occupant of the White House to declare that members of the opposition party weren't interested in the nation's security. And it certainly wasn't usual to compare anyone who wants to tax the rich—or even anyone who estimates the share of last year's tax cut that went to the wealthy—to Adolf Hitler.

O.K., maybe we should discount remarks by Senator Phil Gramm. When Mr. Gramm declared that a proposal to impose a one-time capital gains levy on people who renounce U.S. citizenship in order to avoid paying taxes was "right out of Nazi Germany," even the ranking Republican on the Senate Finance committee, Charles Grassley, objected to the comparison.

But Mr. Grassley must have thought better of his objection, since just a few weeks later he decided to use the Hitler analogy himself: "I am sure voters will get their fill of statistics claiming that the Bush tax cut hands out 40 percent of its benefits to the top 1 percent of taxpayers. This is not merely misleading, it is outright false. Some folks must be under the impression that as long as something is repeated often enough, it will become true. That was how Adolf Hitler got to the top."

For the record, Robert McIntyre of Citizens for Tax Justice—the original source of that 40 percent estimate—is no Adolf Hitler. The amazing thing is that Mr. Grassley is sometimes described as a moderate, his remarks as just one more indicator that we have entered an era of extreme partisanship—one that leaves no room for the acknowledgment of politically inconvenient facts. For the claim that Mr. Grassley describes as "outright false" is, in fact, almost certainly true; in a rational world it wouldn't even be a matter for argument.

You might imagine that Mr. Grassley has in hand an alternative answer to the question "How much of the tax cut will go to the top 1 percent?"—that the administration has, at some point, produced a number showing that the wealthy aren't getting a big share of the benefits. In fact, however, administration officials have never answered that question. When pressed, they have always insisted on answering some other question.

But last year the Treasury Department did release a table showing, somewhat inadvertently, that more than 25 percent of the income tax cut will go to people making more than \$200,000 per year. This number doesn't include the effects of estate tax repeal; in 1999 only 2 percent of estates paid any tax, and half of that tax was paid by only 0.16 percent of estates. The number also probably doesn't take account of the alternative minimum tax, which will snatch away most of the income tax cut for upper-middle-class families, but won't affect the rich.

Put all this together and it becomes clear that, such enough, something like 40 percent of the tax cut—it could be a bit less, but probably it's considerably more—will go to 1 percent of the population. And the adminis-

tration's systematic evasiveness on the question of who benefits from the tax cut amounts to a plea of *nolo contendere*.

Which brings us back to the new tone in Washington.

When Ronald Reagan cut taxes on rich people, he didn't deny that that was what he was doing. You could agree or disagree with the supply-side economic theory he used to justify his actions, but he didn't pretend that he was increasing the progressivity of the tax system.

The strategy used to sell the Bush tax cut was simply to deny the facts—and to lash out at anyone who tried to point them out. And it's a strategy that, having worked there, is now being applied across the board.

Michael Kinsley recently wrote that "The Bush campaign for was against Iraq has been insulting to American citizens, not just because it has been dishonest, but because it has been unserious. A lie is insulting; an obvious lie is doubly insulting." All I can say is, now he notices? It's been like that all along on economic policy.

You see, some folks must be under the impression that as long as something is repeated often enough, it will become true. That was how George W. Bush got to the top.

BASELINE FOR FISCAL YEAR 2003 SPENDING FOR TEA-21

Mr. INHOFE. Mr. President, as we wrap up business for the 107th Congress, I would like to engage in a brief colloquy with my Environment and Public Works Committee and budget Committee colleagues regarding an issue that will set the groundwork for reauthorization of the surface transportation program next Congress. Specifically, what the baseline figure will be for the program. Will it reflect the fiscal year 2003 enacted spending level or the pending CR level.

As my colleagues know, although Section 137 of Public Law 107-240, Making Further Continuing Appropriations for fiscal year 2003, provides that the highway program be funded at the fiscal year 2002 level of \$31.8 billion, section 137 limits total annual obligations for the program to not more than \$27.7 billion. Given that the fiscal year 2003 enacted level for surface transportation may not be known until after the President's fiscal year 2004 budget proposal is submitted, I have a concern that we could be faced with an artificially low baseline figure. I hope we can reach agreement now that it would be the intention of the Budget Committee to use the highest possible figure as the baseline for fiscal year 2003 when developing their fiscal year 2004 resolution. Ideally I would like to see a baseline of \$31.8 billion.

At a minimum I hope that next year's Budget Resolution will ensure that all revenues into the highway account of the Highway Trust Fund will be available to the EPW Committee for authorization with the existing budgetary protections.

I know we can all agree that a strong surface transportation program creates and preserves jobs, and thereby boosts the economy. Beginning reauthorization discussions with a low baseline figure stunts the value of the economic