United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *104th* CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, MONDAY, MARCH 13, 1995 *No. 46*

Senate

(Legislative day of Monday, March 6, 1995)

The Senate met at 12:30 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our new Chaplain is now with us, Dr. Lloyd Ogilvie. He will now open the Senate with a prayer. We are delighted to have this fine man with us.

PRAYER

The Senate Chaplain, Dr. Lloyd John Ogilvie, D.D., offered the following prayer:

Let us pray:

Almighty God, Lord of our lives and Sovereign of our beloved Nation, as we begin this new day filled with awesome responsibilities and soul-sized issues, we are irresistibly drawn into Your presence by the magnetism of Your love and by our need for Your guidance. We come to You at Your invitation. Our longing to know Your will is motivated by Your prevenient and greater desire to guide and inspire us. In the quiet of intimate communion with You, the tightly wound springs of pressure and stress are released and a profound inner peace invades our minds. We hear again the impelling cadences of the drumbeat of Your Spirit calling up to press on in the battle for truth, righteousness, and justice. Our minds snap to full attention, and our hearts salute You as sovereign Lord. You have given us minds capable of receiving Your mind, imaginations able to envision Your plan and purpose, and wills ready to do Your will. Anoint our minds with the liberating assurance that whatever You give us the vision to conceive, and the power to believe, we can completely trust You to help us achieve. Lord, fill our minds with Your spirit. Go before us to show us the way, behind us to press us forward, beside us to give us courage, above us to protect us, and within us to give us supernatural wisdom and discernment. Continue to bless our President and his Cabinet, the House of Representatives, and the men and women of the Senate as together they serve You as partners in solving the problems which confront us and grasp the full potential of Your destiny for our great Nation.

In Your all-powerful name, amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

WELCOMING OF NEW SENATE CHAPLAIN, DR. LLOYD JOHN OGILVIE

Mr. HATFIELD. Thank you, Mr. President.

It is my great honor to welcome the Senate's new Chaplain, Dr. Lloyd Ogilvie. It is my feeling that the Senate is going to be richly blessed by the presence of Dr. Ogilvie. Reverend Ogilvie is undertaking a difficult task, because he is succeeding our good friend, Richard Halverson. Reverend Halverson not only leaves a spiritual legacy behind him, but he also leaves some very difficult shoes to fill. Richard Halverson offered this body an example of humility, gentleness, and personal integrity. He will be missed, not only by the Senators, but also by the staff, support workers, pages, and the various workers who experienced his ministry.

In the committee's search of hundreds of extremely qualified applicants, Dr. Ogilvie stood out because of his emphasis on nurturing others through personal relationships. I am pleased to hear of his determination to keep the office of Chaplain nonpolitical, nonsectarian, and nonpartisan. He has indicated that his role as Chaplain is to act as an intercessor for the Senators, serving as a trusted prayer partner and a faithful counselor. In his opening prayers, he is committed to praying to God, not preaching to the Senators. I believe this is the correct approach to the chaplaincy. The last thing we need in the Senate is another bully pulpit, instructing us as to the proper political decision or action. Dr. Ogilvie will minister through friendships and relationships with Members. His emphasis will be encouragement, not persuasion.

When I mentioned all these qualified applicants, let me suggest one further fact. Dr. Ogilvie did not apply for the office of Chaplain. He was sought out for the office.

I am so excited that Dr. Ogilvie will be joining us in this capacity. I would like to take some time to reflect on his many accomplishments. I will highlight some of his greater accomplishments and then enter his résumé into the RECORD. If I were to highlight all of his life work, I am afraid my colleagues would accuse me of filibustering. Dr. Ogilvie is leaving his congregation at First Presbyterian Church in Hollywood, CA, where he has ministered since 1972. In his capacity as pastor of First Presbyterian in Hollywood, he sought to encourage leaders in entertainment, business, and the community in the Los Angeles area.

Through personal interaction and small group settings, Dr. Ogilvie attempted to help men and women find mutual support to face their problems and to follow their callings in their vocations by encouraging the individuals around them. One of the keys to Dr. Ogilvie's ministry has been listening. By listening closely to the concerns of those around him, he can respond by tailoring his ministry to directly respond to those concerns. I think this will be an invaluable tool in his ministries in the Senate. The Senate is a

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

dynamic body thus requiring an individual that can carefully listen and respond to the many concerns that we confront each day.

Dr. Ogilvie is an accomplished author of approximately 50 books, and he is a contributing author in many current religious magazines and periodicals. He is leaving his nationally syndicated weekly television show, ''Let God Love You,'' which has been on the air for 17 years. He is also ending his daily radio program of 10 years. Both of these programs are financed by Lloyd Ogilvie Ministries, a independent, nonprofit organization from which Ogilvie draws no salary or compensation.

It is my belief that Dr. Ogilvie will be successful because of his calling as a pastor to be available, approachable, and attentive. As he seeks to be influential in the spiritual lives of the Senators, I trust that he will always strive to be a faithful friend and confidant. And I know and am persuaded that he will be.

I look forward to his work, and I encourage all my distinguished colleagues to take the opportunity to get to know him.

Of course, like all of us, he brings to this new ministry his devoted, wonderful, accomplished wife, Mary Jane, as they have worked together on the Lord's ministry all of these years. He has a beautiful family who support him and each of whom is contributing to our society.

So, Mr. President, at this time, I ask unanimous consent that a biographical sketch, with background, education, degrees, awards, and pastorates be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD.

BIOGRAPHICAL SKETCH—LLOYD JOHN OGILVIE

BACKGROUND

Born in Kenosha, Wisconsin, September 2, 1930.

Married to Mary Jane Jenkins Ogilvie.

Children: Heather, Scott, Andrew.

EDUCATION

Public schools of Kenosha, Wisconsin.

Lake Forest College, Lake Forest, Illinois.

Garrett Theological Seminary, Northwestern University, Evanston, Illinois.

New College, University of Edinburgh, Edinburgh, Scotland.

DEGREES

Bachelor of Arts (Lake Forest College).

Master of Theology (Garrett Theological Seminary).

Doctor of Divinity (Whitworth College).

Doctor of Humane Letters (University of Redlands).

Doctor of Humanities (Moravian College and Seminary).

Doctor of Laws (Eastern College).

AWARDS (PARTIAL LIST)

Distinguished Service Citation, Lake Forest College.

Preacher of the Year, Religion in Media.

Angel Award, Religion in Media.

1982, 1986—Silver Angel Award (to Television Ministry).

Gold Medallion Book Award, 1985, ''Making Stress Work For You''. Presented by the Evangelical Christian Publishers Assn.

Salvation Army's William Booth Award, 1992.

PASTORATES

Gurnee Community Church, Gurnee, Illinois (Student Pastor).

Winnetka Presbyterian Church, Winnetka, Illinois (1956–62).

First Presbyterian Church, Bethlehem, Pennsylvania (1962–72).

First Presbyterian Church, Hollywood, California (1972–).

MINISTRY FOCUS

The consistent focus of the ministry of Lloyd Ogilvie through the years has been on the care, encouragement and support of business, political and community leaders. Beginning his ministry in Winnetka, Illinois working with the business leaders of Chicago, he developed a deep appreciation for the impact of leaders on society and their need to receive sensitive pastoral care to live out their faith in the pressures, stresses and immense challenges of their work. During this time of his ministry, Dr. Ogilvie developed a small group strategy to help men and women leaders and their families find mutual support and networking to face the problems and grasp the opportunities of their calling to serve God in their personal relationships, at work, and in the community. This emphasis was continued in his ministry to leaders and their families in the steel industry when he served as Pastor of the First Presbyterian Church of Bethlehem, Pennsylvania. He has pursued this calling during the past twenty-two years as Pastor of the historic First Presbyterian Church of Hollywood where he seeks to enable leaders in the entertainment community as well as business and community leaders in the greater Los Angeles basin.

In addition to his responsibilities as Pastor of the Hollywood Church, Dr. Ogilvie is a media communicator, author and frequent speaker throughout the nation.

Dr. Ogilvie believes that listening is the key to effective communication of the Gospel. His contemporary expositions of the Bible are in direct response to the most urgent questions and deepest needs of people in his congregation and throughout the nation. Through being attentive in conversations, extensive correspondence, and personal surveys of his national radio and television audiences, he seeks to feel the pulse of what people are thinking and feeling today. His messages, books, and the leadership of his congregation in Hollywood arise out of the ministry of listening to people's hopes and hurts and then to God for His answers in the Bible.

LOCAL CHURCH

As Pastor of his large congregation in the communications capitol, Dr. Ogilvie has developed the church's program in four major thursts—as a workshipping congregation, a healing community, an equipping center for the ministry of the laity, and a deployment agency for evangelism and mission. His guiding conviction is that all Christians are called into ministry and that the role of the local church is to equip them to be a bold, articulate apostolate of hope in the structures of society. This equipping program is carried out in in-depth study of the Scriptures, small group meetings throughout the Los Angeles basin, and retreats and conferences. Dr. Ogilvie consistently monitors the effectiveness of the ministry with these questions: What kind of people are we called to deploy in the world? What kind of church sets free that kind of people? What kind of church officers enables that kind of church?; and, What kind of pastoral leadership inspires that quality of vision?

Lloyd Ogilvie's strategy of leadership is to work with and through the lay Elders to shape the goals and program of the church. Along with a team of four pastors and ten program staff people, Dr. Ogilvie seeks to lead the church as a laboratory of experimentation with new forms of church life and innovative methods of meeting the needs of the members so that they can be contagious communicators of their faith and courageous witnesses in social issues.

Located at the center of population spread of the greater Los Angles community, the urban Hollywood church ministers to its immediate community and to members who live throughout the metropolitan and suburban areas. The vital program for members is coupled with a diversified outreach to meet the social needs of the community.

MEDIA MINISTRY

Lloyd Ogilvie's nationally syndicated radio and television ministry is called ''Let God Love You.'' The weekly television program is celebrating its seventeenth anniversary and the daily radio program is going into its tenth year. This media ministry is guided by a strong national Board of Directors of the Lloyd Ogilvie Ministries, an independent, non-profit organization. In 1982, the Directors adopted ''Ten Commitments'' for the development of the ministry and its financial accountability.

Dr. Ogilvie brings to this media ministry the same commitment to listening he expresses as pastor of his church. His messages on the ''Let God Love You'' programs are his part of an ongoing dialogue with his listeners and viewers. On very program he encourages them to write him about what's on their minds and hearts. His voluminous correspondence with people and a special yearly inventory of their deepest concerns provide the focus of his personal sharing of grace. The central purpose is to help people turn life's struggles into stepping stones by linking their problems to the promises and power of God.

Beginning sixteen years age with one television station in Los Angeles, the ''Let God Love You'' program is now seen throughout the nation on independent stations and cable networks. The media ministry is supported exclusively by viewer and listener contributions and all gifts are used only for costs of producing and airing the programs. Dr. Ogilvie receives no salary from the media ministry.

PUBLICATION MINISTRY: BOOKS AUTHORED BY LLOYD JOHN OGILVIE

A Future and A Hope; Word Books.

A Life Full of Surprises; Abingdon Press.

Ask Him Anything (Answers to Life's Deepest Questions); Word Books.

Autobiography of God, The (On the Parables); Regal Books.

Beauty of Caring, The; Harvest House.

Beauty of Friendship, The; Harvest House.

Beauty of Love, The; Harvest House.

Beauty of Sharing, The; Harvest House.

Bush Is Still Burning, The (The ''I Am'' Sayings of Jesus); Word Books.

Climbing the Rainbow—Claiming the Covenant Promises of God; Word Books.

General Editor and Author of:

—Communicators Commentary on Book of Acts; Word Books.

—Communicators Commentary on Books of Hosea, Joel, Amos, Obadiah, Jonah; Word Books.

Congratulations—God Believes in You; Word Books.

Conversation With God; Harvest House.

Cup of Wonder, The (Communion Messages); Tyndale Books.

Discovering God's Will in Your Life; Harvest House.

Drumbeat of Love (Acts); Word Books.

Enjoying God; Word Books.

Falling into Greatness (Psalms); Thomas Nelson.
Freedom of the Spirit; Harvest House.
God's Best for My Life (Daily Devotional); Harvest House.
God's Transforming Love; Regal Books.
Greatest Counselor in the World, The; Servant Publications.
Heart of God, The; Regal Books.
If God Cares, Why Do I Still Have Problems?; Word Books.
If I Should Wake Before I Die; Regal Books.
Jesus The Healer [form. Why Not?] (The Healing Ministry); Revell Co.
Let God Love You; Word Books.
Life Without Limits; Word Books.
Living Without Fear; Word Books.
Longing to Be Free; Harvest House.
Lord of the Impossible; Abingdon Press.
Lord of the Loose Ends (''He is Able'' claims of the Epistles); Word Books.
Lord of the Ups and Downs; Regal Books.
Magnificent Vision, The (Form. ''Radiance of the Inner Splendor''); Vine Books.
Making Stress Work for You; Word Books.
Silent Strength (Daily Devotional); Harvest House.
Turn Your Struggles Into Steppingstones; Word Books.
Twelve Steps to Living Without Fear (Large Print); Word Books.
Understanding the Hard Sayings of Jesus (formerly ''The Other Jesus''); Word Books.
When God First Thought of You (I, II, III John); Word Books.
You Are Loved and Forgiven; Regal Books.
You Can Live As It Was Meant To Be (I & II Thess.); Regal Books.
You Can Pray With Power; Regal Books.
You've Got Charisma; Abingdon Press.

Also, Dr. Ogilvie is the General Editor of the 32-volume Communicator's Commentary being published by Word Books, Inc. In addition, he is a contributing author in many current Christian magazines and periodicals.

SPEAKING MINISTRY

Lloyd Ogilvie's ministry as a speaker involves him in speaking engagements at conventions, conferences, renewal retreats for clergy and laity, and universities and secular gatherings.

LISTED IN

Who's Who in America.
Who's Who in the World.
Who's Who in the West.
Leaders of the English Speaking World.
Contemporary Authors.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. HATFIELD. Mr. President, I am now going to propound, on behalf of the Republican leader, two unanimous-consent agreements that have been cleared on the Democratic side.

Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture on the Kassebaum amendment No. 331, scheduled for today, be vitiated and, further, that the vote now occur on Wednesday, March 15, at 10:30 a.m.

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

Mr. HATFIELD. Mr. President, I further ask that the cloture vote scheduled for Tuesday of this week be postponed to occur on Thursday, March 16, at a time to be determined by the majority leader after consultation with the minority leader.

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

ORDER OF PROCEDURE

Mr. HATFIELD. Mr. President, I am authorized to indicate there will be no rollcall votes during today's session of the Senate.

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. DOMENICI. 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. DOMENICI. Mr. President, I ask that I may speak for 2 minutes as in morning business.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for morning business not to extend beyond 30 minutes with Senators permitted to speak therein.

Mr. DOMENICI. Mr. President, last week during the debate on the balanced budget amendment, there was more than a little debate about the use of Social Security funds in calculating our annual Federal deficit. The fact is that much of the discussion was misleading, and some of it was just not true. But in all our discussions of the issue, few explain the truth of what this Government is doing more succinctly than columnist Charles Krauthammer did in his op-ed page in the Washington Post last Friday.

Mr. President, I ask unanimous consent that that column, entitled ''Social Security 'Trust Fund' Whopper,'' be printed in the RECORD.

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

[From the Washington Post, Mar. 10, 1995]

SOCIAL SECURITY ''TRUST FUND'' WHOPPER

(By Charles Krauthammer)

Last week, Sens. Kent Conrad and Byron Dorgan management to (1) kill the balanced budget amendment, (2) deal Republicans their first big defeat since November and (3) make Democrats the heroes of Social Security. A hat trick. How did they do it? By demanding that any balanced budget amendment ''take Social Security off the table''—i.e., not count the current Social Security surplus in calculating the deficit—and thus stop ''looting'' the Social Security trust fund.

In my 17 years in Washington, this is the single most fraudulent argument I have heard. I don't mean politically fraudulent, which is routine in Washington and a judgment call anyway. I mean logically, demonstrably, mathematically fraudulent, a condition rare even in Washington and not a judgment call at all. Consider:

In 1994 Smith runs up a credit card bill of $100,000. Worried about his retirement, however, he puts his $25,000 salary into a retirement account.

Come Dec. 31, Smith has two choices: (a) He can borrow $75,000 from the bank and ''loot'' his retirement account to pay off the rest—which Conrad-Dorgan say is unconscionable. Or (b) he can borrow the full $100,000 to pay off his credit card bill and keep the $25,000 retirement account sacrosanct—which Conrad-Dorgan say is just swell and maintains a sacred trust and staves off the wolves and would have let them vote for the balanced budget amendment if only those senior-bashing Republicans had just done it their way.

But a child can see that courses (a) and (b) are identical. Either way, Smith is net $75,000 in debt. The trust money in (b) is a fiction: It consists of 25,000 additionally borrowed dollars. His retirement is exactly as insecure one way or the other. Either way, if he wants to pay himself a pension when he retires, he is going to have to borrow the money.

According to Conrad-Dorgan, however, unless he declared his debt to be $100,000 rather than $75,000, he has looted his retirement account. But it matters not a whit what Smith declares his debt to be. It is not his declaration that is looting his retirement. It is his borrowing (and overspending).

Similarly for the federal government. In fiscal 1994, President Clinton crowed that he had reduced the federal deficit to $200 billion. In fact, what Conrad calls the ''operating budget'' was about $250 billion in deficit, but the Treasury counted the year's roughly $50 billion Social Security surplus to make its books read $200 billion. According to Conrad-Dorgan logic, President Clinton ''looted'' the Social Security trust fund to the tune of $50 billion.

Did he? Of course not. If Clinton had declared the deficit to be $250 billion and not ''borrowed'' $50 billion Social Security surplus—which is nothing more than the federal government moving money from its left pocket to its right—would that have made an iota of difference to the status of our debt or of Social Security?

Whether or not you figure Social Security in calculating the federal deficit is merely an accounting device. Government cannot stash the Social Security surplus in a sock. As long as the federal deficit exceeds the Social Security surplus—that is, for the foreseeable forever—we are increasing our net debt and making it harder to pay out Social Security (and everything else government does) in the future.

Why? Because the Social Security trust fund—like Smith's retirement account—is a fiction. The Social Security system is pay-as-you-go. The benefits going to old folks today do not come out of a huge vault stuffed with dollar bills on some South Pacific island. Current retirees get paid from the payroll taxes of current workers.

With so many boomers working today, pay-as-you-go produces a cash surplus. That cash does not go into a Pacific island vault either. In a government that runs a deficit, it cannot be saved at all—any more than Smith can really ''save'' his $25,000 when he is running a $100,000 deficit. The surplus necessarily is used to help pay for current government operations.

And pay-as-you-go will be true around the year 2015, when we boomers begin to retire. The chances of our Social Security benefits

being paid out then will depend on the productivity of the economy at the time, which in turn will depend heavily on the drag on the economy exerted by the next net that we will have accumulated by then.

The best guarantee, in other words, that there will be Social Security benefits available then is to reduce the deficit now. Yet by killing the balanced budget amendment, Conrad-Dorgan destroyed the very mechanism that would force that to happen. The one real effect, therefore, that Conrad-Dorgan will have on Social Security is to jeopardize the government's capacity to keep paying it.

Having done that, Conrad-Dorgan are now posing as the saviors of Social Security from Republican looters. A neat trick. A complete fraud.

Mr. DOMENICI. Mr. President, this distinguished columnist, who has a knack for exposing attempts at political deception and making difficult things simple, points out the deceit in the arguments that we heard on the floor last week.

I encourage all who participated in the balanced budget amendment debate to read this column. I am asking that it be made part of the RECORD so everyone will have an opportunity to do that. Because, if nothing else, Mr. Krauthammer's essay brushes aside the political rhetoric and emphasizes that, no matter how you add it up, where you put the numbers, or, as he says, which pocket you put it in, an obligation of the Federal Government remains just that—an obligation of the Federal Government. And we or our children and grandchildren have to pay it.

Mr. President, it just seems to this Senator that the balanced budget amendment should have been adopted. I repeat for those who are worried about the Social Security trust fund or, more precisely, where will the money be, where will it come from to pay Social Security recipients 20, 25, 30 years from now, I submit that the best thing we could have done was to get the unified budget of the United States in balance in 7 years. Because I believe that would have more to do with what Social Security of the future needs than anything else.

Simply put, as Mr. Krauthammer later in his article alludes to, the best thing for Social Security in the future is a vibrant, growing American economy with low inflation. If we can have that for periods of 4 or 5 years at a time, with mild downturns, then I believe we will be in a position as a nation to take care of our seniors.

Frankly, Mr. President, if we cannot do that, we will not be in a position to take care of them no matter what rhetoric is offered on the floor that seemed to say, in the 7-year balanced budget that was before us, even though we would have to cut or reduce Government about $1.2 trillion, essentially those who argued against it, at least from the Social Security standpoint, were saying that is not enough; you have to do more. And frankly, we have never come close to even that. I would have thought that would have been a fantastic effort on behalf of senior Social Security citizens and on behalf of a prospering American economy.

I hope everyone will get a chance to read this very basic approach that this excellent columnist talks to us about with reference to the Social Security trust fund.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. HUTCHISON). Without objection, it is so ordered.

RESPONDING TO THE PEOPLE

Mr. THOMAS. Madam President, I come to the floor during this morning business to talk about several things, to sort of reflect a little bit on the 2 months that we have been here, a little over 2 months.

First of all, of course, it is a great honor to be a part of this body and to represent the State of Wyoming in the U.S. Senate.

We have to observe that we have dealt with a limited number of items while we have been here. Many of us are filled with some kinds of mixed emotions, recognizing and respecting the deliberative nature of the Senate and, at the same time, having some frustration with the slowness of the deliberations and the lack of movement on some of the issues that we consider to be very important.

As an American, of course, I believe that we want our institutions to be thoughtful and to fully explore issues, but also in a timely way to decide and to move on. That is what deliberation is all about.

There is, I believe, an agenda in this country. Everyone can read the past election as they choose, but it seems pretty certain that a number of things were on the minds of American voters. One of them is that most people believe we have too much government, that it costs too much, that we need to have in our lives less government, less cost, and less regulation. Of course, you can talk about the details of how do you do that, but, nevertheless, it is an agenda.

These were issues that were defined in the last election and they are issues that need to be dealt with by this Congress and by this Senate. One of the measures of good government, I believe, is the responsiveness that its institutions have to the people as they vote.

We have, as a result of the election, I think, the best opportunity that has been before us for 40 years to take a look at some of the things we do. Over the last number of years, about all the opportunities available were to add to programs that we had, put more money in programs that we had. Now we have a chance and we have a Congress that is willing to think through programs again and see if, in fact, they are delivering as they were designed to deliver.

In order to make this a useful discussion, of course, there has to be a stipulation that those who are interested in looking to change are just as caring and just as concerned about people as those who are opposed to change. And I think that is a fair and honest stipulation.

The question is what we are doing in seeing if there is a better way to provide services for the needy. Is there a better way to determine who those services should go to? Is there a more efficient way of delivering those services? That I think is what the change is about.

We need to have this institution to be the kind of institution that will take a look at these things and then move forward and decide.

We really do not need a rapid response team that is opposed to change. And the controversy—many of the issues are not between Republicans and Democrats—the controversy lies between those who would like to see some things done differently and those who basically do not want change.

There is a legitimate difference of view. There is a legitimate argument between those who think more government, more spending is better for the country, and those like myself, who do not agree, who think that, indeed, we can do it with less government, turning more responsibility to people, turning more of an opportunity for families to spend their own money, stimulating the economy.

We are now, today and in the next couple of days, debating the Kassebaum amendment with respect to replacement of strikers, an issue that we went through in the House and in the Senate last year in great detail. So I rise in strong support of that amendment. I think it is the will of the Congress. We have been through that. We have been through some 60 years of experience. Frankly, it has worked pretty well and there has been very little deviation from that in terms of hiring replacements.

Someone on the floor the other day said, ''Is this the agenda of the new majority, to make it tougher for working people, to make it tougher for single mothers to have jobs?'' Of course not. That is an absurd idea.

I think the idea of the new majority is to find a balance between labor and management, to find a way in which there is an environment where business can grow and jobs can be created, where the Federal Government is not an advocate for either of the parties in these kinds of controversies. I think that is what the Kassebaum amendment is all about.

Madam President, I thank you for the time. It is difficult to know how we should proceed. But there is a great deal before the Senate. We have a great many things to decide. In fact, we

should be deciding them. That is what votes are about. Once they have been totally explored, we look forward to making a decision and not to obstruct a decision.

I look forward very much to the continuing efforts on the part of this body to respond to voters, responding to the people in this country in making decisions on major items, in the first opportunity in many years we have had to explore finding ways to do things in a better way.

I think the war on poverty is a good example. It has been going on for what—30 years? Twenty years? The fact of the matter is we are less well off now than we were then in terms of the things that the war on poverty was designed to resolve. It makes it pretty clear, if you want different results, you have to start doing things differently. you cannot expect different results by continuing to do the same thing.

So I look forward to the continued discussion. I look forward to dealing with the issues that the House has dealt with. However the majority here decides to deal with them is fine; I just suggest we come to grips with them, that we move forward, that we do not lose the momentum of an election, that we do not lose the interest and the interest of the American people in taking a look at questions like a balanced budget amendment, like line-item veto, like term limits, like accountability. All of those are issues that really deserve our best attention and final decision.

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. GRAHAM. 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. GRAHAM. Madam President, I ask unanimous consent that I may proceed as if in morning business for up to 5 minutes.

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

Mr. GRAHAM. I thank the Chair.

MAJOR LEAGUE BASEBALL IN TAMPA BAY

Mr. GRAHAM. Madam President, I rise today to commemorate the birth of one of baseball's two newest members, the Tampa Bay Devil Rays. The Tampa Bay community was awarded a franchise last Thursday and will commence play in 1998. This is a very important and welcome, celebrated event for our State and particularly for the 2 million citizens of the Tampa Bay area who have been waiting a long, long time for baseball to come in the summer.

For many years, the Tampa Bay area has been home to spring training baseball, and for many years there has been the hope and expectation that baseball would not terminate as the teams left to begin the regular season. That expectation will now be soon realized. This comes after many years of effort. The quest for a major league team began in 1977 with the formation of the Pinellas Sports Authority, an organization that has had as its goal to bring a major league franchise to the Tampa Bay area.

Since that time, there have been efforts to secure seven different franchises. In each case, there was the hope and the expectation that the franchise would be relocated to the Tampa Bay area, and then for a variety of reasons that hope was crushed.

The latest attempt occurred several years ago when an actual contract was signed for the relocation of the San Francisco Giants to Tampa Bay, and this contract was subsequently canceled by action of the other major league teams.

During the course of this activity, working with the various series of major league baseball commissioners, the city determined that it was in its interest and would advance its potential as a major league franchise by proceeding to construct a state of the art domed stadium, which has now been completed, which is utilized for other sports activities and which stands ready with modifications and final refinements to be the home to the new Tampa Bay Devil Rays professional team.

In achieving this success, there were many people who were active. I would like to particularly express my appreciation to the managing general partner of the new team, Mr. Vince Naimoli, who, over a period of setbacks and frustrations, remained constant in his commitment to bring major league baseball to Tampa Bay. There have been many officials with the Saint Petersburg city government who have been active in helping to realize this objective.

I should like to recognize Saint Petersburg City Administrator Rick Dodge, who, from the very beginning, has played a crucial role in helping to move toward the completion of the stadium and maintaining a high level of community support behind the effort to receive a major league franchise. He is illustrative of dozens of others—elected officials, city administration officials, and the citizens of Pinellas County—who have worked so hard to bring this to a successful realization.

Madam President, we are proud of the recognition of this awarded franchise to the important position which the State of Florida plays in major league professional athletics. With this award, our State will now have nine major league franchises in baseball, football, basketball, and hockey, second only to California in the number of professional major league teams playing in the State. This is appropriate to the size and rapid growth of our State and its demonstrated support for professional sports.

Madam President, I thank the major league baseball ownership for awarding this franchise to Tampa Bay. They have demonstrated wisdom in doing so because I am confident that this will quickly become one of the strongest franchises in major league baseball. There is a certain degree of optimism in accepting a major league franchise in the context of the current labor-management status, but I am confident well before 1998 we will be playing major league baseball again in America and look forward to the day when the Tampa Bay Devil Rays open their first season.

Madam President, thank you for affording me this opportunity to make these remarks on behalf of the citizens of our State and the event that we have long looked forward to celebrating.

EXTENSION OF MORNING BUSINESS

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, I ask unanimous consent that morning business be extended for 10 additional minutes, and that I be recognized for that period of time.

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

Mr. HOLLINGS. I thank the distinguished Chair.

REPORTING OF THE BALANCED BUDGET AMENDMENT

Mr. HOLLINGS. Madam President, I rise today to comment on the RECORD made earlier this morning by my distinguished colleague from New Mexico, Senator DOMENICI, the chairman of our Budget Committee. Let me say at the outset that I have the highest regard for Senator DOMENICI. He is very conscientious, very hard-working, and very honest in his beliefs and his work in the Senate. So in rising I do not intend to reflect on him, but rather to reflect on Charles Krauthammer's recent article concerning Social Security that the distinguished Senator from New Mexico included in the RECORD.

So there will not be any trouble referring to it, I ask unanimous consent that the article of Charles Krauthammer entitled ''Social Security 'Trust Fund' Whopper'' of last Friday, March 10 be printed in the RECORD.

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

[From the Washington Post, Mar. 10, 1995]

SOCIAL SECURITY ''TRUST FUND'' WHOPPER

(By Charles Krauthammer)

Last week, Sens. Kent Conrad and Byron Dorgan managed to (1) kill the balanced budget amendment, (2) deal Republicans their first big defeat since November and (3) make Democrats the heroes of Social Security. A hat trick. How did they do it? By demanding that any balanced budget amendment ''take Social Security off the table''—

i.e., not count the current Social Security surplus in calculating the deficit—and thus stop ''looting'' the Social Security trust fund.

In my 17 years in Washington, this is the single most fraudulent argument I have heard. I don't mean politically fraudulent, which is routine in Washington and a judgment call anyway. I mean logically, demonstrably, mathematically fraudulent, a condition rare even in Washington and not a judgment call at all. Consider:

In 1994 Smith runs up a credit card bill of $100,000. Worried about his retirement, however, he puts his $25,000 salary into a retirement account.

Come Dec. 31, Smith has two choices: (a) He can borrow $75,000 from the bank and ''loot'' his retirement account to pay off the rest—which Conrad-Dorgan say is unconscionable. Or (b) He can borrow the full $100,000 to pay off his credit card bill and keep the $25,000 retirement account sacrosanct—which Conrad—Dorgan say is just swell and maintains a sacred trust and staves off the wolves and would have let them vote for the balanced budget amendment if only those senior-bashing Republicans had just done it their way.

But a child can see that courses (a) and (b) are identical. Either way, Smith is net $75,000 in debt. The trust money in (b) is a fiction: It consists of 25,000 additionally borrowed dollars. His retirement is exactly as insecure one way or the other. Either way, if he wants to pay himself a pension when he retires, he is going to have to borrow the money.

According to Conrad-Dorgan, however, unless he declares his debt to be $100,000 rather than $75,000, he has looted his retirement account. But it matters not a whit what Smith declares his debt to be. It is not his declaration that is looting his retirement. It is his borrowing (and overspending).

Similarly for the federal government. In fiscal 1994, President Clinton crowed that he had reduced the federal deficit to $200 billion. In fact, what Conrad calls the ''operating budget'' was about $250 billion in deficit, but the treasury counted the year's roughly $50 billion Social Security surplus to make its books read $200 billion. According to Conrad-Dorgan logic, President Clinton ''looted'' the Social Security trust fund to the tune of $50 billion.

Did he? Of course not. If Clinton had declared the deficit to be $250 billion and not ''borrowed'' $50 billion Social Security surplus—which is nothing more than the federal government moving money from its left pocket to its right—would that have made an iota of difference to the status of our debt or of Social Security?

Whether or not you figure Social Security in calculating the federal deficit is merely an accounting device. Government cannot stash the Social Security surplus in a sock. As long as the federal deficit exceeds the Social Security surplus—that is, for the foreseeable forever—we are increasing our net debt and making it harder to pay out Social Security (and everything else government does) in the future.

Why? Because the Social Security trust fund—like Smith's retirement account—is a fiction. The Social Security system is pay-as-you-go. The benefits going to old folks today do not come out of a huge vault stuffed with dollar bills on some South Pacific island. Current retirees get paid from the payroll taxes of current workers.

With so many boomers working today, pay-as-you-go produces a cash surplus. That cash does not go into a Pacific island vault either. In a government that runs a deficit, it cannot be saved at all—any more than Smith can really ''save'' his $25,000 when he is running a $100,000 deficit. The surplus necessarily is used to help pay for current government operations.

And pay-as-you-go will be true around the year 2015, when we boomers begin to retire. The chances of our Social Security benefits being paid out then will depend on the productivity of the economy at the time, which in turn will depend heavily on the drag on the economy exerted by the net debt that we will have accumulated by then.

The best guarantee, in other words, that there will be Social Security benefits available then is to reduce the deficit now. Yet by killing the balanced budget amendment, Conrad-Dorgan destroyed the very mechanism that would force that to happen. The one real effect, therefore, that Conrad-Dorgan will have on Social Security is to jeopardize the government's capacity to keep paying it.

Having done that, Conrad-Dorgan are now posing as the saviors of Social Security from Republicans looters. A neat trick. A complete fraud.

Mr. HOLLINGS. Madam President, it really disturbed me when I saw our two distinguished Senators from North Dakota, Senator DORGAN and Senator CONRAD, described as being tricky, or outright fraudulent.

It's getting difficult to serve in the Senate. You have the Speaker of the House calling some Senators ''liars.'' You have some of our colleagues parading in front of the Capitol with a poster containing the pictures of some Senators and a headline at the top saying, ''Wanted for flip-flopping.''

But if we want to get past the grandstanding and get to the truth of the matter, what we were trying to do was to keep our word by protecting Social Security. The American people should know that the real flip-floppers are those who voted in 1990 to protect Social Security but were willing to sacrifice it under the language of Section 7 in House Joint Resolution 1.

Charles Krauthammer's Social Security article is, to use his own language, the single most fraudulent article that our friend, Mr. Krauthammer, has written because he equates an individual with a $100,000 debt with the Government having a $100,000 debt. He claims that an individual borrowing $25,000 from a retirement account and borrowing the remaining $75,000 from the bank is in the same position as the Government borrowing its $25,000 from the Social Security account and the remaining $75,000 from the markets. But here's the difference. In borrowing $25,000 from his retirement, the individual is truly at zero because he has borrowed his own money. In the Government's case, the budget is not balanced because the $25,000 has been borrowed from future retirees.

Madam President, the Social Security surpluses were planned in 1983 with a special FICA tax to bring in funds in excess of the immediate need. We were not just trying to balance the Social Security budget. There was an affirmative intent that more moneys than were necessary would be collected so that we could build up surpluses and provide for the baby boomers that will retire early in the next century. The idea of the Greenspan Commission was that a sufficient Social Security reserve or trust be built up so that there would not be a call on general revenues. Of course, what has been happening, Madam President, is that administrations, Congresses, and columnists have all engaged in the deceptive reporting by using the Social Security surpluses to diminish the size of the deficit. This charade does not eliminate the deficit, it merely moves the deficit from the Federal Government over to the Social Security fund.

Of course, this trick does not eliminate the deficit. Already, $464 billion has been moved—by the year 2000 the Government will owe Social Security $1 trillion. As a result, the baby boomers, who are presently being taxed to pay for the Social Security of persons who have reached 72 years of age, like this particular Senator, will have to be taxed again to receive their benefits.

In addition, Mr. Krauthammer's claims that the Social Security system is a pay-as-you-go program. But as the record will show, that is not the case. In fact, Senator PATRICK MOYNIHAN and I were the ones who offered an amendment to put Social Security on a pay-as-you-go basis, but that effort was defeated.

Moreover, in 1990 the distinguished former Senator from Pennsylvania, Senator John Heinz, and I, were successful in passing legislation forbidding the use of Social Security trust funds to mask the size of the deficit. It remains on the books as section 13301 of the Budget Enforcement Act. Thus, I might point out that what Mr. Krauthammer calls a fiction and a fraud is actually a law that was signed by President George Bush on November 5, 1990.

Mr. Krauthammer knows full well the Congress would never have voted the tax increases for Social Security in 1983 if these revenues were to be used to spend on foreign aid, welfare, or the deficit. He disregards the representation by the sponsors of the balanced budget amendment that Social Security trust funds will be protected. He disregards the formal resolution by Senator DOLE, the majority leader, requiring that the Budget Committee demonstrate how the budget can be balanced without using Social Security funds. He disregards the formal statutory law that requires this, and he fails to mention that the two Senators he chastises joined with three others in a formal letter of commitment to vote for the balanced budget amendment if the protection for Social Security were included.

To quote Mr. Krauthammer, ''A neat trick. A complete fraud.'' That is the trick and that is the fraud that has ensued here within the National Government.

Madam President, I ask unanimous consent to have printed in the RECORD at this point an article entitled, ''Stop Playing Games With Social Security''

that appeared in the Columbia, SC, ''The State'' as of yesterday, March 12, 1995.

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

STOP PLAYING GAMES WITH SOCIAL SECURITY

(By Senator Fritz Hollings)

''Nobody, Republican, Democrat, conservative, liberal, moderate, is even thinking about using Social Security to balance the budget.''—Sen. Trent Lott, R-Miss., ''Face the Nation,'' Feb. 2

In the recent weeks of floor debate and television interviews, many senators repeatedly pledged not to use Social Security funds to balance the budget.

They even passed an amendment by Senate Majority Leader Bob Dole to instruct the Budget Committee to develop a budget that didn't use Social Security funds but would conform with the constitutional balanced-budget amendment.

In the meantime, while Dole was struggling to pick up one vote to pass the amendment, five Democrats vowed they were ready, willing and able to vote for Social Security. In fact, the night before the vote, the five sent Dole a letter of commitment to vote for the amendment if Social Security were protected.

On March 2, the constitutional amendment failed by one vote. And over that weekend on ''Face the Nation'' Dole again reaffirmed his intent on Social Security when he said, ''We are going to protect Social Security.''

If he remains that committed, why did he refuse to put his word on the line in black and white on March 2 and pass a constitutional amendment by at least 70 votes? Because he knew that accepting the five Democratic votes would have cost him an equal number of votes of Republicans determined to spend Social Security surpluses on the deficit.

Dole didn't want to expose his Republican troops or expose the truth. While Republican rhetoric pledged to protect Social Security, Sen. Pete Domenici, chairman of the Budget Committee, and other Republicans were telling Dole that the budget could not be balanced without using Social Security surplus funds.

All of this word-battling—of saying one thing in public and trying to work around it in private—has led Americans to believe that there is a free lunch, that all we have to do to eliminate the deficit is to cut spending. The vote on Social Security exposes this myth.

Republican senators have no real intent on eliminating the deficit; they just want to move it from the federal government to Social Security.

Currently, Section 13.301 of the Budget Enforcement Act prohibits the use of Social Security funds for the deficit. But part of the balanced-budget amendment would repeal current law.

Even with all the promises tendered to correct Social Security with future legislation, any civics student knows you can't amend the Constitution with legislation. That's why the five Democrats—me included—insisted on including Social Security protection in the wording of the constitutional amendment.

Dole's stonewalling against our five votes on the constitutional amendment reveals another harsh truth: $1.8 trillion in spending cuts is necessary to balance the budget in seven years. But many senators reveal their intent to use Social Security surpluses when they state that only $1.2 trillion is necessary.

Let's face realities: There won't be enough cuts in entitlements. A jobs program for welfare reform will cost. Savings here are questionable.

You can and should save some on health reform, but slowing the growth of health costs from 10 percent to 5 percent still means increased costs. Social Security won't be cut, and any savings by increasing the age of retirement would be allocated to the trust fund, not the deficit.

Both the GOP's ''Contract with America'' and President Clinton have called for increases in defense spending. Results: No savings.

Therefore, savings must come from spending freezes and cuts in the domestic discretionary budget.

Coupling these cuts and freezes with a closing of tax loopholes still isn't enough to meet the target of a balanced budget in seven years. That's why Domenici has determined that Social Security funds will have to be used.

But using Social Security won't eliminate the deficit. It simply would increase the amount we owe Social Security. Already we owe $470 billion to the trust fund. If we keep raiding it, the government will owe Social Security more than $1 trillion by 2002.

Harsh realities. But there's a fifth and even harsher reality. All of the spending cuts in the world aren't politically attainable now. Domenici knows it's hard to get votes for enough cuts. To his credit, he tried in 1986 with a long list of cuts by President Reagan and the Grace Commission. But he got only 14 votes in the Senate.

Rep. Gerald Solomon, a New York Republican, also tried a list of $1 trillion in cuts just a year ago in the House. He got only 73 votes of 435.

In addition, the problem of balancing the budget with spending reductions is exacerbated by the ''Contract With America's'' call for a $500 billion tax cut.

The reality today is that a combination of cuts, freezes, loophole closings and tax increases must be cobbled together to put us on a glide path to balancing the budget. Now is the time to stop the finger-pointing, the blaming of the other guy. Now is the time to stop dancing around the fire of changes in the process.

It's a pure sham to think that a constitutional balanced-budget amendment will give Congress discipline.

If you put a gun to the head of Congress, it will get more creative. The proof is in the pudding that's being cooked all over town.

Some tout abolishing departments, like Commerce and Education. But their functions would continue somewhere. Others say send everything back to the states. But that way, the states would pick up deficits instead of the federal government.

Of course we know some want to use $636 billion in Social Security funds. And there's talk of picking up $150 billion by recomputing the Consumer Price Index and another $150 billion of re-estimating the growth of Medicare and Medicaid.

There are even those who want one-time savings, like selling the electric power grid or switching to the capital budget system.

In other words, there are people throughout town who are figuring out ways to make the federal budget appear balanced with hardly any cuts. With a balanced-budget amendment, they would be able to play this game for seven years.

Time out!

The gamesmanship, the charade, must stop. If this nonsense goes on for seven years, the United States will be down the tubes.

For all the talk about eliminating the deficit, the debt snowballs. Why? Because we add $1 billion a day to the debt by borrowing to pay interest.

In January and throughout February, I offered 110 spending cuts or eliminations from domestic discretionary spending. This was worth $37 billion in the first year and put deficit reduction on the glide path toward a balanced budget by 2002.

But even if these politically impossible cuts were agreed upon, the interest cost on the debt is growing at more than $40 billion a year.

The United States is in a downward budget spiral and we are meeting ourselves coming around the corner. Like the Queen in ''Alice in Wonderful'' told Alice: ''It takes all the running you can do, to keep in the same place. If you want to get somewhere else, you must run at least twice as fast as that!''

Let's get past all the shenanigans. Let's include Social Security protection in the balanced-budget amendment. Then we could pass the amendment and get down to the hard work of balancing the budget.

Mr. HOLLINGS. Madam President, this article brings right into true focus exactly what is going on.

If, as Mr. Krauthammer says in this particular article, it was just ''a fiction'', then why not just include this exception in the language of the constitutional amendment?

The distinguished leaders of the legislation willingly accepted an exception for borrowed funds. The distinguished leaders of the balanced budget amendment willingly accepted the provision dealing judicial enforcement in order to pick up the one vote of the Senator from Georgia.

Why, Madam President, did they not accept five votes when all they had to do was put in black and white what they were publicly saying? There are five Senators who are ready, willing, and able to vote for a constitutional amendment for a balanced budget if they include a provision protecting Social Security funds.

The real flip-floppers are those who have abandoned their position taken in 1990 that Social Security funds should not be used in deficit calculations. It is very difficult to get that message out, but we will keep hammering. The distinguished majority leader says that he will continue to bring this up. I look forward to that debate and can likewise promise that this Senator will continue to push for language that excludes Social Security from deficit calculations.

I yield the floor.

EULOGY TO GLEN P. WOODARD

Mr. HEFLIN. Mr. President, Glen P. Woodard, the former vice president and director of community affairs for Winn-Dixie Food Stores, died on January 25, 1995, after an extended illness. As Winn-Dixie's community affairs director, Glen was widely known by food industry leaders and politicians for his handling of legislative and regulatory activities at both the State and national levels.

He moved to Florida at a young age, attending high school there and college at the University of Florida. He served in the U.S. Air Force 306 Bomb Group during World War II. Prior to joining

Winn-Dixie in 1957, he was executive secretary of the Florida Petroleum Industries for 11 years. In 1981, he was named Groceryman of the Year by the Retail Grocers Association of Florida.

At his funeral on January 28, Robert O. Aders, former president of the Food Marketing Institute, gave a warm and moving eulogy to his good friend, Glen Woodard. It captures Glen's sharp wit, down-home personality, and wonderful good-natured philosophy. I ask unanimous consent that a copy of this excellent tribute be printed in the RECORD.

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

EULOGY TO GLEN WOODARD

(By Robert O. Aders)

Glen, it is an honor to be invited to eulogize you. It is not the first time that I or others have praised you in public but it is the first time you won't have the last word. I speak on behalf of myself and Tabitha and your other close friends in the industry that you have served so well for so many years—on behalf of your many associates in FMI and other groups in Washington and the State capitols with whom you have worked to improve food system and the supermarket industry—to improve the quality of government—and to improve the relationships between industry and government—in order to better serve the public. We have enjoyed considerable success in all these things and you have truly left your mark. You have made a difference. And today we celebrate your life.

We all lead our lives on many levels—our home, our church, our country, daily work, recreation. So did Glen Woodard. I would like to say a few words on behalf of those who knew him mostly in his Washington life, that part of his Winn-Dixie career where some of us in this room were his extended family. Glen was born in Washington, D.C.—says so in the Jacksonville newspaper so it must be true. But Glen always denied that. He didn't want to be a Washington insider. Instead Glen told a Supermarket News reporter who asked where he was born:

''Born in North Georgia in 1917, RFD 1, Clermont. Go out from Gainesville, turn left at Quillens store, going toward the Wahoo Church, and then past there up toward Dahlonega. We lived there till the Grand Jury met—then moved to Florida.''

My friendship with Glen goes back a long way. We both joined the supermarket industry 38 years ago. In 1957 Glen joined Winn-Dixie and I joined Kroger—he as a lobbyist, I as a lawyer.

These were the good old days of smaller government but it was growing and soon Kroger decided to form a government relations department. I was chosen to do it. We were going to lobby and all I knew about that was what you had to go through when you check into a hotel. Then I got lucky. The American Retail Federation was holding a regional conference in Springfield, Illinois, and the already-famous Glen Woodard was the featured speaker on ''lobbying.'' Glen spoke on the nitty-gritty of working with government—the day-to-day task of dealing with small problems so they don't get big—the same way we all deal with our family and business problems. He spoke on the day-to-day things that government does, wittingly or unwittingly, that impose a great burden on business. While business is focusing on the big issues we tend to ignore the minor day-to-day interferences that cost us money and slow us down. The title of his speech was repeated at just the right time throughout his presentation, in that patented stentorian voice. It was ''While you are watching out for the eagles you are being pecked to death by the ducks.'' And that was my introduction to the famous Glen Woodard vocabulary and the beginning of a long professional relationship as well as a personal friendship.

To Glen, a Congressman or a Senator was always addressed as ''my spiritual advisor.'' Glen Woodard's world was not populated by lawyers, accountants and ordinary citizens but by ''skin 'em and cheat 'ems,'' ''shiny britches,'' and ''snuff dippers.'' These people don't merely get excited they have ''rollin' of the eyes'' and ''jerkin' of the navel.'' Colorful he was. But Glen needed that lighthearted perspective to survive, for Glen was in the middle of what is now called ''that mess in Washington'' from Presidents Eisenhower to Clinton. Working his contacts, talking to representatives and senators, walking his beat—those endless marble corridors of power—doing as he put it ''the work of the Lord.'' And, indeed, his work affected the law of the land.

And, indeed, that work was made a lot more fun for all of us by Glen's marvelous sense of humor and his wonderful delivery. I remember a meeting a few years ago with a top official in the Treasury Department. We had been stymied for years trying to change a ridiculous IRS regulation because of the stubbornness of one particular bureaucrat. One day Glen broke the logjam as follows: ''Jerry, I had occasion to pay you a high compliment when I was with the Chairman of the Ways and Means Committee last week. I said you were just great with numbers. In fact, you're the biggest 2-timin'. 4-flushin', SOB I've ever known.'' He got the point and the rule was changed.

With all his blunt talk and tough wit, he was a kind and generous man. In fact, my wife described him when she first met him as courtly and gallant. That was at a luncheon at the Grand Old Opry years ago. My mother was also present and Glen was with his beloved Miss Ann. My mother was so charmed that for the rest of her life she always asked me ''How is that wonderful gentleman from Winn-Dixie that you introduced me to in Nashville.'' Of course, Tab got to know the total Glen over the ensuing years at the many private dinners the three of us enjoyed when Glen was in Washington and had a free evening.

Those of us who worked at the Food Marketing Institute during Glen Woodard's career knew the many facets of this fine man. Always with us when we needed him, he was a brother to me and he was Uncle Glen to the young people on the staff.

Those young people he mentored over the years—young people now mature—carry the principles and values that he lived and taught. Here are some of them:

Integrity—stick to your principles.

Strength and toughness—take a position and stand on it.

Work ethic—It may not be fun at first. If you work hard enough you'll enjoy it.

Responsibility—Take it. Most people duck it.

Generosity—Take the blame; share the credit.

Reliability—Say what you'll do and then do it.

Fairness—It isn't winning if you cheat.

And finally, Grace under pressure.

On behalf of those young people, Glen, I say you brought a great deal of nobility to our day-to-day lives and you made us feel worthwhile.

A few years ago we tricked Glen into coming to a testimonial dinner on his behalf. He thought it was for someone else. The dinner menu was designed especially to Glen's taste. He always said he was sick of overcooked beef, rubber chicken and livers wrapped in burnt bacon. So we had a Glen Woodard menu prepared at one of the fanciest private clubs in Washington—The F Street Club. Their kitchen staff will never forget it. We had country ham, redeye gravy and biscuits with collard greens. We had cat fish, hush puppies and cole slaw. All the condiments were served in their original containers—ketchup in the bottle, mustard in the jar, and alongside each table in a silver ice bucket we had Glen's cheap rose' wine in a screw-top bottle.

The FMI staff had prepared a special plaque for this man who already had a wall covered with plaques, but this was different and it expressed how the staff felt about him. It went this way: ''FMI to Glen P. Woodard, the Best There Is.''

For nearly 30 years you have served your company and our industry in the area of public affairs with unparalleled skill and devotion. Currently chairman of the FMI Government Relations Committee, recent Chairman of the FMI Fall Conference, untiring laborer in the vineyards of government on behalf of the American food system, you have accomplished mightily for our industry.

We salute your dedication, your knowledge, your wit and your style. And we treasure your friendship. You are, indeed, The Best There Is. And we love you. Washington, D.C., October 22, 1985.

And that still goes Glen, old buddy.

IS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES!

Mr. HELMS. Mr. President, the impression will not go away: The enormous Federal debt greatly resembles the well-known energizer bunny we see, and see, and see on television. The Federal debt keeps going and going and going—always at the expense, of course, of the American taxpayer.

A lot of politicians talk a good game—when they are back home—about bringing Federal deficits and the Federal debt under control. But so many of these same politicians regularly voted in support of bloated spending bills during the 103d Congress—which may have been one factor in the new configuration of U.S. Senators for the 104th Congress.

There is a rather distressing fact as the 104th Congress moves along: As of Friday, March 10, 1995, the Federal debt stood—down to the penny—at exactly $4,847,327,170.23 or $18,400.54 per person.

Mr. President, my hope is that the 104th Congress can bring under control the outrageous spending that created this outrageous debt. If the party now controlling both Houses of Congress, as a result of the November elections last year, does not do a better job of getting a handle on this enormous debt, the American people are not likely to overlook it in 1996.

DR. RICHARD C. HALVERSON

Mr. HATCH. Mr. President, last Friday marked the official last day of duty for our Senate Chaplain, the Reverend Richard C. Halverson. I want to take just a moment to pay tribute to his service to the Senate as an institution and a word of thanks for his ministry to Senators as individuals.

Dr. Halverson came to us in 1981 after an already distinguished pastorate at Bethesda's Fourth Presbyterian Church. There, as here, he tried to build a strong community—a community that supported each other and strengthened each other's faith.

Dr. Halverson was not a spiritual leader as much as he was a spiritual coalition builder. He knew that the needs of Senators were so unique that any chaplain had to do more than pray for us once a day. He knew that cultivating faith and goodwill required more than the skills of a single professional clergyman. That Reverend Halverson led us to appreciate and seek out the spiritual strengths in each other was perhaps his greatest achievement as chaplain.

To those who view the Senate on C–SPAN or even from the inside vantage point of the press galleries, the office of Senate Chaplain may appear to be superfluous. But, Dr. Halverson's gentle outreach to all Senators—of both parties and of all religious denominations—made the chaplaincy a living example of exactly the kind of men and women we all strive to be: kind, forgiving, honorable, and joyful. I believe that most Americans support the idea that these qualities ought to exist somewhere in the hustle and bustle of what goes on under this great Capitol dome.

I, for one, will miss hearing his cheerful ''God bless you'' when passing him in the corridors. There is not a one of us here who would not admit to feeling better upon hearing that; sometimes it changed the perspective of the entire day.

His ministry here has been well-served and now his retirement is well-deserved. I wish to join all Senators in wishing Dr. Halverson a rewarding and happy retirement.

TIME FOR COMMON COURTESY: WELCOME TAIWAN'S PRESIDENT TO OUR SHORES

Mr. HELMS. Mr. President, I am happy to participate in calling the Senate's attention to a travesty in the modern conduct of U.S. foreign relations. The question all Americans should confront is, how and when did the United States reach the point in United States-Taiwanese relations that United States foreign policy could possibly forbid a visit to the United States by the highest-ranking, democratically elected citizen of Taiwan?

Though I seldom disagree with Ronald Reagan—I did strongly disagree on a few occasions and one of those was when President Reagan's advisors made a bad decision—one which so jeopardized our relations with Taiwan by cuddling up to the brutal dictators in Beijing.

Since that time, the United States has been forced to hide behind a diplomatic screen to demonstrate our commitment and loyalty to the Taiwanese people.

Mr. President, at the time President Reagan's advisers cast their lot with the Red Chinese Government, Congress was promised that the United States would nonetheless continue to ''preserve and promote extensive, close and friendly * * * relations'' with the people on Taiwan. But one administration after another failed to live up to that promise.

How in the world could any one consider it close and friendly to require the President of Taiwan to sit in his plane on a runway in Honolulu while it was refueled? I find it hard to imagine that United States relations with Red China would have come to a standstill because a weekend visit to the United States by Taiwan's President Lee was allowed.

The President's China policy is in poor shape at this point—even members of Mr. Clinton's team recognize that. So, how can anyone really pretend that allowing President Lee to travel to his alma mater—or to vacation in North Carolina—would send our already precarious relations with Red China plummeting over the edge?

Last time I checked the mainland Chinese were obviously and understandably enjoying their relations with the United States a great deal. We would be enjoying them, too, if only American taxpayers could be benefiting to the tune of $30 billion every year as a result of United States trading with Red China.

Time and again, the U.S. Congress has urged the administration to grant President Lee a visa. We have even amended United States immigration law so that it now specifically mentions the President of Taiwan. Congress has passed resolution after resolution encouraging the President to allow President Lee into the United States for a visit. All to no avail.

Now's the time, Mr. President, We encourage you to allow President Lee to visit the United States when he so chooses. Bear in mind that some of us in Congress will never cease our support for one of America's greatest allies, the oldest democracy in the Asian region—the Republic of China on Taiwan.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Will the Senator from Massachusetts withhold so that we can go back to the pending business?

Mr. KENNEDY. I thank the Chair.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 889, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 889) making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Bumpers amendment No. 330, to restrict the obligation or expenditure of funds on the NASA/Russian Cooperative MIR program.

Kassebaum amendment No. 331 (to committee amendment beginning on page 1, line 3), to limit funding of an Executive order that would prohibit Federal contractors from hiring permanent replacements for striking workers.

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

Mr. KENNEDY. Madam President, during the course of our discussion last week about the action of the President of the United States in issuing the Executive order on the permanent replacement of striking workers, there were a number of issues that were raised. One was the question of whether the President had the authority and the power to issue the Executive order; a second was whether there was a sound public policy rationale to do so. I would like to take a few moments of the Senate's time this afternoon to address those issues specifically, and then to make some additional general comments.

Madam President, I understand that earlier in the course of the Senate session there may have been a statement by the majority leader as to how we were going to proceed on the Kassebaum amendment. We initially had the cloture vote called for at 5:30 this afternoon but now that vote will occur on Wednesday at a time to be worked out by the leaders. I believe that I am correct. That is my understanding as how we are going to proceed. I was inquiring of staff whether that had actually been announced in the Senate for the benefit of the membership. Could I make that inquiry?

The PRESIDING OFFICER. Consent was obtained to postpone the vote on the Kassebaum amendment to Wednesday, March 15 at 10:30 a.m..

Mr. KENNEDY. I thank the Chair.

Madam President, when we debated the issue of permanent striker replacement last year and again on the floor last week, our opponents argued that the use of permanent replacements is too infrequent to justify a legislative response. But the tens of thousands of workers around the country who have lost their jobs for exercising their legal right to strike bear witness to the need for action. Study after study has shown that the permanent replacement of strikers has exploded, and that the use—or threat of use—of permanent replacement is now a routine practice in collective bargaining negotiations. I

took a few moments when we were meeting last Friday with charts to demonstrate the rather dramatic increase in the utilization of permanent strike replacements in recent years.

In a survey of employer bargaining objectives conducted by the Bureau of National Affairs earlier this year, an incredible 82 percent of the employers surveyed said that if their employees went on strike, they would attempt to replace them, or would consider doing so. And of those employers, more than one in four said the replacements would be permanent.

The historical evidence also leaves no doubt that this has become a serious problem, and that it is getting worse. Let me just review for a moment the results of a study by Teresa Anderson-Little of the economics department at Notre Dame University.

By searching through electronic data bases, published legal articles, and National Labor Relations Board case reports, Ms. Anderson-Little was able to identify 632 strikes involving the use of permanent replacements which occurred between 1935 and 1991—the largest data base of any of the studies that have been conducted to date. Her research confirms that the use of permanent replacements was extremely rare in the first 40 years following passage of the National Labor Relations Act, and that the increase has been dramatic in recent years.

From 1935 through 1973, there were on average only six strikes per year in which employers hired permanent replacements. But beginning in 1974 and continuing through 1980, the average number of strikes per year involving permanent replacements nearly triples. And from 1981—the year President Reagan permanently replaced the striking PATCO workers—through 1991, the average rose to 24 strikes per year—4 times the average prior to the mid-1970's.

Our opponents like to claim that the ability of employers to permanently replace workers helps to promote more cooperative labor-management relations, and prevent disruptions to the economy caused by strikes. But Ms. Anderson-Little's study also confirmed that the use of permanent replacements significantly prolongs strikes and prevents disputes from being settled.

While the average duration of all strikes in the United States has historically ranged from 2½ to 4 weeks, strikes involving permanent replacements have consistently lasted an average of 7 times long as strikes where permanent replacements were not hired.

Since the Bureau of Labor Statistics stopped keeping comprehensive data on strike duration in the 1980's, Ms. Anderson-Little's findings involved strikes only through the end of the 1970's. However, studies involving more limited samplings of strikes during the 1980's and 1990's affirm the impact of striker replacements on strike duration.

Using a GAO-compiled data base of strikes that occurred in 1985 and 1989, Professors Cynthia Gramm and Jonathan Schnell of the University of Alabama found that the mean duration of a permanent replacement strike was three times as long as the mean duration of strikes where permanent replacements were not used.

A survey of strikes involving members of the Steelworkers Union from 1990 to the present found that where temporary replacements were used, the average duration of an economic strike was 121.9 days, but when the employer hired permanent replacements, average strike duration lengthened to 284.1 days.

Why is that strikes involving permanent replacements last so long? The answer is that once permanent replacements are hired, the union and the employer are immediately placed at opposite extremes on the issue of reinstatement of strikers, which becomes the sole topic of bargaining. Since it is an irreconcilable issue, the strike continues until either the union or the employer concedes.

The union finds it impossible to give in, since accepting the employer's position means by definition that the employees have been replaced and can't have their old jobs back. The employer, for its part, has little incentive to capitulate once it has hired and made commitments to new, permanent workers.

Studies like the Gramm-Schnell study have consistently found that employers now hire permanent replacements in 20 percent of all strikes, and threaten to hire replacements in another 15 percent of strikes.

The notion that we can sit back and let this practice continue because workers are permanently replaced in only 1 out of 5 strikes is both heartless and absurd. Every single worker who is permanently replaced is one too many.

Lest no one doubt that there are real, flesh-and-blood workers behind these statistics. When we debated this issue last year, we were presented with a list of individual names of more than 19,000 strikers who were permanently replaced in strikes that occurred in the eighties and early nineties. Those are names from just a limited sample of strikes that occurred during that period. And since last year, the numbers have kept growing.

In my own State of Massachusetts, at least 450 workers have been permanently replaced just since 1988, including workers at ADT Security Systems, Brockway Smith, Kraft S.S. Pierce, and Olson Manufacturing.

To these workers and their families, this is not some minor issue that is undeserving of congressional attention—this is about their jobs, their livelihood, their families' future.

Lori Pavao, a former nurses' aid at a nursing home in Fall River who was permanently replaced when she and other nurses' aides and members of the dietary and housekeeping staff went on strike on 1989, recently described her feelings about what happened to her:

> I worked there for 8½ years. A lot of patients were like family to me. I felt lost for awhile. I didn't want to start all over somewhere else.
>
> You always hear about people going out on strike and people going back. I just never dreamed that it would be over that way. I thought I was going to retire from the place.

Although opponents of the President's Executive order make much of that fact that permanently replaced strikers do have the right to be placed on a preferential hire list to be considered for future openings if the permanent replacements leave, the fact is that very few workers actually do over return to work with their previous employer.

And many never recover, financially or emotionally, from the devastating experience of being thrown out of their jobs for exercising what is supposed to be a legally protected right.

Banning the permanent replacement of striking workers has overwhelming support not just from labor, but also form religious groups, civil rights groups and women's groups. They understand that this issue is not about some abstract power struggle between big business and big labor. This is about real people who are being deprived of the only leverage they have to counteract the enormous power that employers have to dictate terms and conditions on the job.

This is about workers like the women at Diamond Walnut, who gave decades of their lives to that company, who agreed to 30 percent paycuts in their meager wages to help their company survive when it was in trouble, and who then were thrown out on the street when the company was back making record profits because of their sacrifice.

This is about the workers at Burns Packaging in Kentucky—45 percent black and 40 percent female—who were making $4.70 an hour when they decided to form a Union. What they asked for was a 5 percent increase, to just $4.95 an hour, and a grievance and arbitration procedure for resolving complaints about unfair treatment. But when they struck after 6 months of fruitless negotiations at the bargaining table, they were immediately permanently replaced.

(Mr. GRAMS assumed the chair.)

Mr. KENNEDY. The President's Executive order will not change the law regarding permanent replacements. But by banning the practice of permanent replacements on Federal contracts, it will help to prevent the terrible injustice to working people that is caused by the current system.

In the end, what is at stake here is the standard of living for working men and women. The country has experienced a 20-year decline in real wages.

Hourly compensation has fallen compared to other major industrial nations.

Since the early 1980's, we stand virtually and ominously alone in the industrial world as a Nation where the disparity in income between the rich and the poor grew wider. That is not a healthy trend for any country, and certainly not for ours, which is based on the principle of fair opportunity for all.

The facts are disturbing. The ratio in earnings between the top 10 percent of wage earners and the bottom 10 percent is wider in the United States than in any other industrial country. The bottom third of American workers earn less in terms of purchasing power than their counterparts in other countries.

American workers are actually working harder than workers in other industrial nations. The U.S. workers now labor 200 hours more a year than workers in Europe. While vacation and leisure time have increased over the past 20 years for Europeans, they have declined for most Americans.

Yet, according to the Congressional Budget Office, between 1977 and 1989, the after-tax income of the top 1 percent of families rose by more than 100 percent, while that of the bottom 20 percent fell nearly 10 percent.

Here we are seeing an extraordinary phenomenon, which is really unique in terms of the whole American experience in this centry. For decades, all of us moved along together, as we increased productivity and output, and as we adopted new technology and new skills, as we saw corporate profits increase, the standard of living for working families also increased, so that each generation was better off than the past generation. That is generally what most Americans experienced, it is no longer true for the current generation.

We are seeing that working families are working longer and harder, and with less to show for it in terms of their real incomes. The only factor that has really enabled families to maintain a stable income over the last 15 years is the enormous infusion of second family earners—workers' wives, for the most part—into the labor market. It is only by having their spouses come into the work force and augmenting and supplementing the family's income that working families have been able to offset the effects of declining real wages.

Now what we are seeing, even with all these women who are wives and mothers in the work force, is that families have effectively stagnated and real purchasing power, is in decline.

That is what is happening. And there is no further adjustment that working families can really make to deal with that problem. Most families already have everyone in the family is able to work out there working. So they can't put another family member to work to make up for the fact that in real terms, their wages are declining.

Too many of those other members of the family who are trying to go out and find work to help supplement the family's income jobs are finding that the only jobs available are minimum wage jobs, and that is another issue which we must address. The real purchasing power and the minimum wage continue to decline. So the ability of those other members of the family to contribute to the income of the family is reduced. This whole issue presents to the Senate and the House of Representatives the question of whether we are going to truly honor and reward work in our society.

Are we going to say to people that are prepared to work 40 hours a week, 52 weeks a year, that you will earn a living wage and have a future? Or are we going to say that you can be treated like wornout and antiquated machinery and put on the junk heap while we hire other younger people that will work for a good deal less in terms of their benefits, because younger people are healthier and they do not have the health-care costs and needs that older workers do.

The phenomenon we are seeing, Mr. President, is that while the after-tax income of the top 1 percent of the families rose more than 100 percent, that of the bottom 20 percent fell nearly 10 percent. Who are those 20 percent who are seeing their real earnings decline? They are the workers who are out there every single day, playing by the rules, doing their bit and participating. And they are the workers who, if they have the nerve to try to gain another 5, 10, 15 cents an hour in wages, are being permanently replaced by their employers. They are the ones who are taking it on the neck.

The President of the United States says that if those companies are going to go ahead and dismiss those workers and hire permanent replacements for them, we are not going to give them an additional leg up by entering into contracts with them that allow them to make profits with taxpayers dollars; we are just not going to do that.

And now we have an amendment on the defense appropriations bill which seeks to block the President from implementing that policy, an amendment which is effectively a legislative initiative on an appropriations bill, which is not appropriate, and which is tying up the Senate and preventing us from doing our basic work in terms of dealing with defense appropriations. Our Republican colleagues have insisted on offering and pressing this amendment. So we are here responding to their arguments.

Mr. President, another phenomenon that is happening out there in the real world for workers is that health care for the American workers is becoming increasingly expensive.

Union workers who went without pay increases in order to obtain good health care have seen their health benefits cut back. They have been asked to pay greater percentages of health costs. Since 1980, the share of workers under 65 with employer-paid health care has dropped from 63 to 56 percent. The percent of workers covered by employer-provided pension plans is also rapidly decreasing.

What we are seeing is that the coverage of workers by employers for their health care costs is on a downward slide. And those pensions that were out there to give workers some degree of additional security so they would be able to live their golden years in peace and dignity are also being cut back. But by God, if you complain about those cutbacks that are taking place every single day across America, off you go—you're permanently replaced, put on the junk heap. And that is what is happening.

We have a President who is saying, to the extent that he has the authority and the power, he is going to say ''no'' to the use of permanent strike replacements on Federal contracts. That makes a good deal of sense.

This President's action on permanent replacements offers us a chance to take a stand against all of these disturbing trends: ending the practice of permanently replacing workers on Federal contracts will not solve all of the problems of working Americans, but it can help turn the tide, and by affirming this country's commitment to collective bargaining, we are reaffirming our commitment to a fair balance between labor and management.

We will be standing up for the original historic intent of the labor laws, which have done so much for the country in the past half century. The President's Executive order closes the loophole that undermines good relations between business and labor, and I urge the Senate to support it and reject the amendment.

Mr. President, many of our Republican colleagues have said that they are troubled by the President's action in signing the Executive order. They complain that it takes away the rights of Congress.

But this is not what they are really concerned about. Not one of them, not even the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Texas [Mr. GRAMM], nor the Senator from Vermont [Mr. JEFFORDS], not a single Republican Senator stood up to complain 3 years ago when President Bush signed an Executive order on project labor agreements that changed the national labor law and prohibited Federal contractors from doing something the National Labor Relations Act allowed them to do.

On October 23, 1992, President Bush signed Executive Order No. 12818, which prohibited contractors on federally funded construction projects from entering into otherwise lawful prehire labor agreements. The Executive order prohibited contractors from requiring their subcontractors be bound by their labor agreement, even though section 8(e) of the National Labor Relations Act explicitly permits such agreement. President Bush, unlike President Clinton, overrode an explicit congressional

statement about national labor policy passed by both Houses of Congress and signed into law by the President.

Did any Republican complain? No, not a one. Why not? Could it be they have no real concern about the President overriding congressional labor policy as long as the President's actions are anti-union and are designed to thwart collective bargaining and diminish the power of working Americans? Isn't their only real problem with President Clinton's Executive order a partisan political problem—that they will support an activist Republican President but lash out at a Democrat? Certainly, there is no consistency of principle amongst our Republican friends who are attacking the President now.

Every Republican who voted for S. 55 is opposing the Executive order now. They are putting partisanship above principle.

President Clinton's Executive order does not conflict with an explicit congressional statement of labor policy. There is nothing in the National Labor Relations Act that specifically authorizes the use of permanent replacements for strikers. Yet there is a provision in section 8 of the National Labor Relations Act that makes project labor agreements legal. So why are the Republicans who were not concerned when President Bush issued his Executive order on project labor agreements now so concerned about President Clinton's order on permanent striker replacements?

The Republicans are deeply troubled by this order. We heard a great deal about that. We are deeply troubled by the action of President Clinton. We are deeply troubled by the implication of this Executive order. We are deeply troubled by what this is going to mean in terms of labor relations. We are deeply troubled that somehow we are interfering in the balance between workers and management. We are all deeply troubled.

Well, none of them was deeply troubled at the time when a Republican President issued an Executive order which was in conflict with the National Labor Relations Act. No, none of them were deeply troubled at that time. A Senator who truly finds President Clinton's action troubling would have been far more troubled by President Bush's much more direct challenge to congressional authority.

No, the problem is not the President's authority. Congress gave the President clear authority to control the practices of Federal contractors in the Federal Property Administrative Services Act, 40 U.S.C 471. As the Justice Department's legal analysis points out, that authority is broad-ranging.

As that legal analysis states:

> We have no doubt, for example, that section 486(a) grants the President authority to issue a directive that prohibits executive agencies from entering into a contract with contractors who use a particular machine that the President has deemed less reliable than others that are available. Contractors that use the less reliable machines are less likely to deliver quality goods or produce their goods in a timely manner.
>
> We see no distinction between this hypothetical order in which the President prohibits procuring from contractors that use machines that he deems unreliable and one that the President actually issued which would bar procurement from contractors that use labor relations techniques that the President deemed to be generally unreliable, especially when the Secretary of Labor or the contracting agency's head each confirm the validity of generalization in each specific case.

Mr. President, this issue is related as well to the debate that we have had in the past, and I am sure will have again in the course of this Congress, about the Davis-Bacon law which was initiated by Republicans and has been the law of the land for more than 60 years. Attempts will be made to repeal it.

The Republicans say, ''Look, instead of requiring federal contractors to pay prevailing wages, we can actually save the Federal Government some money by letting those wages slide down, slide down, slide down, so that the contracting can be done at less cost to the taxpayer.''

Well, that argument has a sort of superficial logic to it, but as former Secretary of Labor John Dunlop has commented—and Professor Dunlop is not a Democrat but a Republican, and one of the foremost labor economists in the country—as former Secretary Dunlop has argued, it is a very shortsighted way of viewing what is really going to be in the public's interest, in the taxpayers' interest, over the long run.

You cannot assume, Professor Dunlop points out, that overall project costs are going to be lower just because the dollars you are paying in wages to the workers are lower. What you have to look at is the overall issue of productivity and quality and the ability to deliver a good product on time. That ought to be obvious to all of us. And John Dunlop's basic posture and position is that it is delusional to believe that just by finding people that are going to work for a lesser cost than the prevailing wage, that somehow you are going to be able to save millions or hundreds of millions of dollars, some even estimate it as high as billions of dollars, in terms of taxpayers' funds. What is going to happen is you are going to get inferior products not delivered on time and of poor quality. And someone is going to have to make that up, and it is going to be the taxpayer who is going to pay a good deal more.

We are talking about the same concept, Mr. President, here in terms of the President's Executive order on the use of permanent replacements by Federal contractors. All we are saying is that, with regard to the President's Executive order, he does not want to use the contracting authority of the Federal Government to enter into contracts with contractors that are going to have permanent striker replacements.

Why? Because those permanent replacements are unlikely to have the skills, the background, the experience, the techniques, the knowledge and the know-how to deliver good products on time which they would be charged to do. And rather than taking that chance, in terms of protecting the taxpayers' interest in it, he is not going to participate in that.

I think that is sound common sense and is a sound action in terms of protecting the financial interests of the United States. And it is a sound social policy in terms of trying to give some respect to those individuals who are working hard, playing by the rules, who believe that under the National Labor Relations Act it is still the law that you cannot fire someone who strikes and that therefore it makes no sense to say that a striker can be permanently replaced.

It makes absolutely no common sense to say that you cannot fire strikers but you can permanently replace them. And the workers of this country are fortunate to have a President who understands that the use of permanent replacments is at odds with what the basic principles of the National Labor Relations Act and with the system of collective bargaining that has served this country well over many decades.

So, Mr. President, I hope we will not hear any more manufactured outrage about the President's Executive order. The President has followed precedents established by President Bush. He is fully within the authority granted him by Congress to control the Federal procurement process. The real issue for his critics is his support for working Americans and labor organizations, and not the process he has used to accomplish it.

Now, Mr. President, over the course of the debate in these past days, we have heard various arguments that preventing employers from permanently replacing strikers would encourage strikes and upset the balance in labor-management relations by somehow ensuring that unions would always win a strike situation, the President's Executive order. I thought it would be worthwhile just to take a few moments to review these arguments and also to respond to them so that the Senate record would reflect my view of the answers to these questions.

One of the first questions is, would a ban on permanent replacements inevitably lead to more strikes? No, Mr. President, I do not believe that it would. Even without the threat of permanent replacement, a strike has always been a serious matter for workers and their families. Workers do not lightly choose to forgo their wages, walk the picket lines for days, weeks, or months; deplete or exhaust their life savings and become dependent upon

the charity of others. Workers are especially reluctant to take on these sacrifices because it is never certain that a strike will accomplish their goal.

Apart from the economic disincentives, a strike imposes a great emotional strain on families, friendships, and on the fabric of local community life. A strike is a last resort that no one undertakes lightly. It is wrong to suggest that workers will walk out on their jobs simply because they cannot be permanently replaced.

Workers do not enter into strikes out of any desire or expectation that they will cause permanent hardship to the employer. Workers expect to return after the strike. They have every interest in the long-term prosperity of their employer.

If anything, the use of permanent replacements is what produces longer, more bitter strikes, by transforming the dispute from a dispute about wages and benefits into a battle over the future of every striker's job. These are the hardest disputes to settle, and last the longest time.

Many strikes today occur precisely because the employer has the possibility of permanently replacing the work force. The employer has little incentive to engage in meaningful bargaining with the union when the alternative is either that the union surrenders to the employer's demands, or there is a strike that enables the employer to replace the work force, break the union, and escape the necessity of bargaining altogether.

Maybe strikes would be avoided if the employers did not have the temptation of permanently replacing their work force. That, Mr. President, really says it. If the employer understands that he has the option to replace all the workers, he has very little interest in trying to resolve the dispute. But if the employer has an interest in trying to resolve the dispute then it is logical to assume that the disruption would be held to a minimal amount of time.

You cannot read or hear the real-life stories of individuals that have been permanently replaced without being struck by the fact that invariably those workers talk about how they wanted to continue working for their employer—how they had every hope and intention of remaining with that employer as long as they were able to work. That is a common expression, a common view, a common opinion that runs through the stories of the vast majority of those workers.

Next, would prohibiting the permanent replacement of strikers guarantee that unions will win every strike? This is a concern raised by those who argue that somehow we are changing the rules in such a way as to upset the whole balance between the workers and the employers and guarantee that one side rather than the other would always win.

The fact is that employers win many strikes in which no permanent replacements are hired or threatened to be hired. A prohibition on permanent replacements would certainly not ensure that the union always prevailed in an economic strike.

Employers have many ways to maintain production and revenues during a strike. They can hire temporary replacements. They can use nonstriking employees, managers, and supervisors to do the work; they can hire subcontractors to do the work; and they can rely on stockpiled inventory. All of those techniques have been used in the past with considerable success by employers. Through these and other means, employers avoid the hiring of permanent replacements in the majority of strikes today. Prohibition on the use of permanent replacements leaves in place many significant limitations of what workers may do during a strike. Unions would remain unable to engage in secondary boycotts and would continue to be subject to stringent picket line restrictions.

Will a ban on permanent replacements unfairly deprive employers of a legitimate self-help option? No, because the hiring of permanent replacements should not be viewed as a legitimate form of employer self-help.

The National Labor Relations Act calls for controlled conflict between labor and management. There are principles of fairness that limit each side's right to engaging in self-help activity. Thus, unions are not permitted to engage in secondary boycotts or picket line violence during a strike, even though each of these activities makes it easier for unions to win a strike. Similarly, the hiring of permanent replacements must be viewed as so fundamentally unjust it undermines the basic concept of controlled labor-management conflict.

The fact of the matter is that it is not the law of the jungle out there. There are effective restraints in the law already on the tactics which can be used by parties to a labor dispute, and those restraints are respected. But the use of permanent replacements alters and changes this in a very significant way.

Cardinal O'Connor, the Archbishop of the Diocese of New York, testified eloquently on this moral dimension of the permanent replacement issue. He said:

> It is useless to speak glowingly in either legal or moral terms about the right to bargain and to strike as a last resort, or even the right to unionize, if either party—management or labor —bargains in bad faith, or in the case of management, with the foreknowledge of being able to permanently replace workers who strike on the primary basis of the strike itself. In my judgment, this can make a charade of collective bargaining and a mockery of the right to strike.

It could not be said any clearer than Cardinal O'Connor said it in that comment. So compelling, so sensible, so simple in its logic and rationale.

What is the practice of our foreign competitors with respect to the lawfulness of hiring permanent replacements? Often we hear the argument that if we prohibit employers from permanently replacing strikers we are going to be disadvantaged in our ability to compete effectively in trade around the world.

It is interesting to me to hear this argument invoked so frequently, when the fact is that every other industrial country provides much more generous benefits to its workers than we do. Our opponents say we cannot have comprehensive health insurance for all Americans because it is going to make it difficult for us to compete internationally, but all of the other industrial countries of the world have it. They said we could not have family and medical leave because we would not be able to compete effectively. But workers in other countries have family and medical leave. In fact, virtually all of them have paid family and medical family leave, except for the United States.

Our opponents says we cannot have an effective day care program because we will not be able to compete, when every other industrial country of the world has a comprehensive child care system as a matter of national policy. Whatever political parties are in power in the democratic industrial nations, none of the political leaders, none of the political parties is for emasculating programs that reach out to the most vulnerable in society. Contrast that to what is happening now in the Contract With America where the Republicans are cutting out school lunch programs, cutting back on day care programs, cutting back on the WIC Program, cutting back on student aid programs and teacher support programs, cutting back on housing programs for the homeless.

I do not know how many saw that enormously moving story by one of the networks over the weekend called ''The Feminization of Homelessness,'' about the growing number of women and children in our society affected by homelessness and the explosion of in those numbers that is taking place all across this country.

Maybe we do not have the existing programs right, and certainly we do not in all circumstances. But we ought to try to find ways of improving, strengthening, and making them more effective—making them work rather than effectively abandoning them.

No, we cannot say the benefits we provide to working families are disadvantaging us internationally in our ability to compete. The fact of the matter is, the United States lags behind the rest of the world, including our major competitors, when it comes to the basic democratic rights of workers. Our No. 1 trading partner, Canada, does not even authorize permanent replacements for strikers, even though Canada adopted the NLRA as a model for its labor laws. Canadian law has regularly rejected the Mackay rule as inconsistent with free collective bargaining. United States firms operating in Canada are as profitable without the Mackay rule—which is the rule that

permits the permanent replacement of strikers—as American firms operating under the Mackay rule in the United States.

Other major economic competitors—Japan, France, Germany—categorically prohibit the dismissal of striking workers. Employers in these nations recognize the importance of investing in human resources and have no desire to rid themselves of the skilled and loyal work forces that they have assembled. The employers here who use permanent replacements are harming themselves and their country.

Most of the industrial democracies with which we compete—just about every one of them—has a very extensive, continuing training program to upgrade the skills of all of their workers. That is true in France, Germany, and all of the Western European countries.

Ask them how they do it? Are they not concerned that if they train, invest and use some of their profits to train and upgrade their work force that those workers may leave and go to another place? They say, ''Well, the other companies are doing the same thing.'' And that is why we have seen in the United States, with the exception of some of the top companies, really less than 10 percent of companies who have real training programs. And most of that training does not go to the workers on the front line, but to the supervisors and the managers. We do not have a consistent ongoing upgrading and training system for American workers.

Other major economic competitors, as I mentioned, categorically prohibit the dismissal of striking workers. Even in the nations of Eastern Europe, which we applaud for their emerging democratic unionism, workers who strike do not lose their jobs.

What happened to the machinists at Eastern Air Lines did not happen to the shipyard workers at Gdansk and what happened to the coal miners at Massie Coal Co. did not happen to the coal miners in Eastern Europe. If we are prepared to extol the virtues of the trade union abroad, we should be willing to restore a level playing field for collective bargaining at home.

Mr. President, I see some of our other colleagues on the floor who want to speak. At this time, I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to express my appreciation to the Senator from Massachusetts for being understanding of the necessary absence of the Senator from Utah. He very much wanted to be a part of the debate and the vote and his absence is one of the reasons that the cloture vote has been postponed until Wednesday. I also appreciate the understanding of the Democratic leader.

There has been a desire from all of you to move ahead. The defense supplemental legislation is an important measure, but it seems to me that we are having a good debate.

Mr. President, I would like to explain what this debate is about. This debate is not about the Contract With America. It is not about all of the other issues that have been raised, including school lunches and child care. Those are important issues to be debated at another time. The issue before us at this particular moment is an Executive order that President Clinton has issued that says large contractors doing business with the Federal Government should be prohibited from hiring permanent replacement workers.

There are people with strong views on both sides of the striker replacement issue. I feel that we have debated this issue thoroughly during the past Congress and again in this Congress, and we will be debating it further, I am sure, in years ahead.

What troubles me is that the President, through this Executive order, is able to change major labor law. The Senator from Massachusetts mentioned in his opening comments today that Presidents in the past—President Bush and President Reagan—issued Executive orders and nothing was said. Let me just, once again, go through those three Executive orders and why I believe they are very different from the Executive order that we are debating today, and the amendment which would say that no moneys could be used to implement that Executive order.

President Reagan issued an Executive order that replaced striking air traffic controllers with permanent replacement workers because the air traffic controllers had been striking illegally. There was never any question about hiring permanent replacement workers at that time. During the years following that Executive order there were several measures debated on the Senate floor about rehiring those striking air traffic controllers which did not pass.

President Bush issued one Executive order which required the posting in the workplace of all of the rights of employees. This was, by law, something that should have been done and was not in any way changing the law of the land.

The second Executive order issued by President Bush concerned prehire contracts, and that I think is a bit unclear. One of the major differences between that Executive order and this one is the fact that the prehire contract had never been debated in this Chamber. On the other hand the use of permanent striker replacement workers has been an issue debated in both the House and Senate at great length.

While one may question whether President Bush by Executive order could put into place the rule that prehire contracts could not be entered into, it had never been debated by Congress. If we were to have changed it, then Congress, logically, should have been the place to make a change. But the prehire contracts Executive order was never challenged by either the Congress or the Supreme Court.

So I think the difference is very clear. This Executive order is being challenged in Congress and is going to be challenged in the courts. It is by its very nature a troubling effort by the executive branch to, by executive fiat, change what has been the law of the land, and a major part of labor law, for some 60 years. This Executive order is troubling because, on the one hand, labor's right to strike has been upheld, but on the other hand management's right to hire permanent replacement workers, just as much a part of existing labor law, is being attacked.

I would like to quote a paragraph from the lead Washington Post editorial this morning. It says:

> The law is contradictory. The National Labor Relations Act says strikers can't be fired; the Supreme Court has nonetheless ruled that they can be permanently replaced. The contradiction may be healthy. By leaving labor and management both at risk, the law gives each an incentive to agree. For most of modern labor history, management in fact has made little use of the replacement power and labor hasn't much protested it.

Perhaps this is where we are today, trying to ponder this contradiction. We can ask ourselves if, in revisiting the National Labor Relations Act we need to address it in some different ways to meet the changing labor markets. The current balance has worked well. On the other hand, I am sympathetic to those who say management should not immediately hire permanent replacement workers because, if that is the case, the employees have lost some leverage which they would have with the right to strike.

On the other hand, if the employees take advantage of a company such as Diamond Walnut, which has been debated here before, and strike right at the beginning of the season in which all of the crop must be harvested, is it not a calculated strike to force management to its knees? Is there not some means to balance these competing interests without causing a problem?

I am absolutely certain, Mr. President, that the President has made a serious mistake by issuing the Executive order and changing so fundamentally labor law that has on the whole worked well. Initiating an Executive order that will countermand legislative language is a slippery slope that can then work to any President's advantage. I think it calls into question the separation of powers between the executive and legislative branches.

While it is the right of the President to issue an Executive order, when it overturns the law of the land, I think we have to approach it carefully. The Senator from Massachusetts said that there are those who argue it would lead to more strikes. I am not sure that it necessarily would. But I think what it would do would certainly lead to far

greater uncertainty in the marketplace. I think it would lead to far greater uncertainty in relations between management and labor. I think prohibiting permanent replacements would pose enormous difficulties on both sides and certainly increase the potential for longer strikes, because what would be the incentive for those on strike to go back to work?

It seems to me that we simply must uphold a balanced approach, and neither side should be able to unbalance the relationship. Yes, we have to be just as cautious of management in taking that opportunity as we would with labor. But the mechanism is already in place for collective bargaining to work—which is the heart of the matter—and for both sides to be able to bargain in good faith. I believe this is what we in the legislative branch owe both labor and management when they go to the bargaining table. It is up to them, both labor and management, to accomplish that.

I really believe that regardless of the merits of this issue and where people stand on either side, we should think carefully about the issue before us and the implication that by Executive order a major principle of labor law can be turned on its head. This, it seems to me, is what each and every one of my colleagues should consider as we approach a cloture vote on Wednesday.

I think that the merits of permanently replacing striking workers could be debated at another time. We debated it last year. We will be debating it again. But it is the Executive order that we have to deal with at this particular time.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I appreciate the explanation of the Senator from Kansas about the issuing of the Executive order and the authority for issuing the Executive order of President Bush on the prehire issue. But I do take issue with it.

The Senator states that the difference between that Executive order and the Executive order on striker replacements issued by President Clinton is that the issue of striker replacements has been debated by the Congress but the issue of prehire agreements has not. The fact is that Congress did specifically consider and debate the issue of whether prehire agreements should be lawful at the time that section 8(f) and section 8(e) were added to the National Labor Relations Act in 1959. This issue was debated at some length in the Senate as well as in the House of Representatives, and Congress affirmatively determined that prehire agreements and project labor agreements should be legal in the construction industry. President Bush acted contrary to that decision by Congress when he issued the Executive order in 1992 prohibiting any contracting with employers who entered into prehire agreements and project labor agreements.

So the Members of Congress understood in 1959 what they were approving, what the public policy implications were, and they accepted the particular provisions permitting prehire agreements and project labor agreements—sections 8(e) and 8(f), which I put into the RECORD last year. And then, in spite of that, without any debate and any kind of discussion, we have an Executive order by President Bush to effectively undermine that. And this was after the Supreme Court had unanimously affirmed, in a 9-to-0 decision in the Boston Harbor case, that such agreements were perfectly lawful and authorized by Congress in the public sector as well as in the private sector.

That is very different from what we are talking about in terms of striker replacement. We have in the National Labor Relations Act recognition that you cannot be fired for striking, and yet we have dictum—a footnote, effectively—in the Mackay case, which was never really made use of, picked up really in the period of the 1980's after the PATCO strike and used to inaugurate the widespread replacement of striking workers with permanent replacements.

We are talking about the history of the development of this whole program. That is really what has happened. Then we had a debate on this. There is no question we had the debate on it. It passed with the support of Republicans and Democrats alike over in the House of Representatives. It was a majority of the Members of the U.S. Senate who voted to eliminate the permanent replacements. But we had a filibuster and we were prohibited from acting.

I understand that is the way the rules go. So the Senator is quite correct in saying we had a debate but we did not get final action on it. That is true. But the overwhelming majority of the House of Representatives, and in a bipartisan way, wanted to repeal permanent striker replacements. The majority of Republicans and Democrats wanted to repeal striker replacements.

The Executive order is not banning the use of permanent striker replacements. All it is saying is we as the Federal Government are not going to do additional business with you to make you more profitable if you are going to go ahead and hire permanent striker replacements, as far as Federal contracting goes.

The reasons for that are, as I mentioned earlier, when you circumvent the quality, the training, the skills of workers who, for example, might be the GE workers up in Lynn, MA, who make the F–15 engines, the F–16 engines, the F–18 engines, the attack fighter engines—really among the best-skilled workers in the world, and who constantly are improving and strengthening their skills—those are men and women who have worked there 10, 15, 20, 25, 30, 35 years in that plant. They are top of the line. To say, look, if they have a dispute up there and you are going to replace one of those workers working on those engines with some permanent striker replacement who does not have that kind of experience that the Federal Government expects—in terms of our defense expenditures and contracting I think the President is well advised to assure that every dollar that is going to be expended is going to be expended wisely, that the item will be of good quality.

The President's Executive order does not change or alter the right to hire permanent striker replacements. Those companies can still go out and still have the authority and the power to have them. All we are saying is we are not going to give them an additional benefit, like we gave to the Diamond Walnut Co., which was getting increased productivity and profitability and refused to bargain with its workers who were making barely above the minimum wage. That is what we are talking about.

Who are we talking about making a dollar? We are talking about $6-an-hour or $7-an-hour Americans, who were prepared to work for $6 or $7 an hour. I wish we could get as worked up about the people we are really affecting as we are about this Executive order. These are people working for $6 or $7 an hour and we are somehow trying to diminish them to favor companies who want to pay them $5 an hour or throw them out, and give those companies the Federal contracts, like the agricultural contract which Diamond Walnut got which helped them to sell the products overseas. They made millions, tens of millions of dollars on that contract.

You have both sound public policy reasons for this, in terms of making sure we are going to have good quality and a good product for our Federal investment, and I think you have a sound social policy with regard to preventing exploitation of the workers.

The people we are talking about are barely above the minimum wage. We have been on this now Thursday, Friday, and today. We have not been talking about consultants making $25, $30, $35 an hour who are really ripping off the system. All the examples we have been using are people making $6, $7, $7.50 an hour. They are striking for another nickel, another dime, and bango—they are replaced. Those are the people we are talking about.

Why are we spending the time here trying to shortchange this kind of worker in our society? Why are we spending all day Thursday, all day Friday, today, and the time of the Senate, to do so? I think we have better things to do with our time.

I might take just a few moments of the Senate's time to include a more detailed history of the President's authority for issuing this Executive order.

Mr. President, the Justice Department's Office of Legal Counsel has served both Republican Presidents and

Democratic Presidents as the chief guardian of the constitutional separation of powers. It is recognized by Members on both sides of the aisle as the authoritative voice on the scope of a President's powers.

On Friday, the Office of Legal Counsel made public a memorandum expressing its opinion that President Clinton was acting well within his executive authority when he issued this Executive order. I have entered the Office of Legal Counsel's memorandum into the RECORD. And I understand that the Justice Department has provided copies of the memorandum to each Senator's office.

This memorandum is important not simply because it offers the thoroughly researched and persuasive opinion of the leading institutional expert on the scope of the President's powers that this Executive order is an appropriate exercise of Presidential authority. It is important because several Members of this body have stated—without citing a single case or statute, without making a single legal argument, and without explaining their views—that they think this Executive order is unconstitutional.

The Constitution deserves more than that. The President deserves more than that. And the working families whose lives will be improved by this Executive order deserve more than that.

I have reviewed the Office of Legal Counsel's memorandum supporting this Executive order. I find it persuasive. For those who have not yet had the opportunity to review this important document, permit me to briefly lay out the analysis set forth in the memorandum that must lead any reasoned observer to conclude that this Executive order is both constitutional and appropriate to the President's authority.

The leading case on the comparative powers of the executive branch and the legislative branch is Youngstown Sheet & Tube Co. versus Sawyer, also known as the steel seizure case.

This case is something that everyone in this body who is a lawyer remembers studying from law school. It still stands as an enormously important, defining case in terms of executive authority.

In late 1951, the Nation's steel production was threatened by a labor dispute. President Truman sought to resolve the dispute by seizing most of the Nation's steel mills. He justified his action by claiming that steel was an indispensable component of the materials necessary to prosecute the Korean war. In his view, any steel strike threatened the national defense.

The Supreme Court's decision in the steel seizure case began with the premise that—

> The President's power, if any, to issue an order must stem either from an act of Congress or from the Constitution itself.

Justice Jackson's concurrence explained further that there are three zones of Presidential authority:

First, the President's authority is strongest when he acts with an express or implied authorization from Congress.

Second, the President's authority is less clear when he acts in the absence of a congressional grant or denial of authority.

Finally, the President's authority is at its lowest ebb when he takes measures incompatible with the express or implied will of Congress.

In the steel seizure case, the Supreme Court concluded that the President did not have the inherent authority under the Constitution to seize steel mills to resolve labor disputes, even in his role as Commander in Chief. Further, Congress, when it enacted the Taft-Hartley Act, expressly rejected seizure of corporate facilities as a remedy for labor disputes. Accordingly, without constitutional authorization and acting directly contrary to Congress' will, President Truman's authority was at its lowest ebb. The seizure of the steel mills, the Supreme Court concluded, was unconstitutional.

Unlike President Truman, President Clinton did not have to rely on inherent constitutional authority to issue this Executive order which prohibits Federal contractors from permanently replacing lawful strikers. As the Office of Legal Counsel's memorandum makes clear, President Clinton has the authority to issue this Executive order because Congress gave him the authority.

That is point 2 under the steel strike case.

What was the second paragraph in Justice Jackson's opinion? Did the Congress give authority which was utilized by the President to issue an Executive order? Clearly, that is so in this case.

The Federal Property and Administrative Services Act was enacted ''to provide for the Government an economical and efficient system for procurement and supply.'' This act specifically and expressly grants the President the authority to manage the Federal procurement system to guarantee efficiency and economy. Permit me to quote directly from section 486(a) of the procurement law:

> The President may prescribe such policies and directives, not inconsistent with the provisions of this act, as he shall deem necessary to effectuate the provisions of said act.

In sum, it is not simply the President's right—it is his responsibility—to do whatever is necessary to promote economical and efficient procurement.

Every court to consider the question has concluded that section 486(a)—the section I have just read—grants the President a broad scope of authority. The U.S. Court of Appeals for the District of Columbia, interpreting section 486(a), emphasized that:

> ''Economy'' and ''efficiency'' are not narrow terms: They encompass those factors like price, quality, suitability, and availability of goods or services that are involved in all acquisition decisions.

President Clinton understood these boundaries when he issued this Executive order. The preamble to the Executive order makes abundantly clear that the state of a Federal contractor's labor-management relations directly affects the cost, quality, and timely availability of the goods and services paid for by the taxpayers. Specifically, the Executive order finds that ''Strikes involving permanent replacement workers are longer in duration than other strikes.''

That is in the Executive order, and last Friday I took a short period of time on the Senate floor to review what has been happening with regard to strikes since 1935, what happened in the MacKay case, and how the annual number of strikes has increased, and increased dramatically in terms of both the numbers and also the length of those strikes.

The Executive order continues:

> In addition, the use of permanent replacements can change a limited dispute into a broader, more contentious struggle, thereby exacerbating the problems that initially led to the strike.
>
> By permanently replacing its workers, an employer loses the accumulated knowledge, experience, skill, and expertise of its incumbent employees. These circumstances then adversely affect the businesses and entities, such as the Federal Government, which rely on that employer to provide high quality and reliable goods or services.

That is the end of the quote of the Executive order.

The Office of Legal Counsel is plainly correct when it stated in its memorandum:

> We believe that these findings state the necessary reasonable relation between the procedures instituted by the order and achievement of the goal of economy and efficiency.

Mr. President, compare the detailed findings in this Executive order with Executive Order No. 12800, issued by President Bush to require Federal contractors to post a notice that workers are not required to join unions. The only finding in that Executive order is a conclusory statement that President Bush's order would ''promote harmonious relations in the workplace for purposes of ensuring the economical and efficient administration and completion of Government contracts.''

That is all there is, Mr. President. And I cannot recall any Republican Senator taking to the floor after the Executive order was issued to complain that President Bush had usurped Congress' authority, had attempted an end run around Congress.

Some of the corporate lobbyists and lawyers that have complained about President Clinton's Executive order might attempt to argue that Congress has spoken on the question of permanent replacements. In the words of the steel seizure case, they are attempting to show that President Clinton's Executive order is an act directly contrary to Congress' express or implied will.

The fact is that the House of Representatives overwhelmingly passed legislation that would have prohibited all employers—not just Federal contractors—from using permanent replacement workers. This body never got the chance to vote on the striker replacement legislation. A majority of Senators were ready to enact a bill that prohibited all employers from using permanent replacements. But a handful of Senators from the other side of the aisle filibustered that legislation. They never permitted it to come to a vote. Mr. President, that happened not once, but twice. If Congress has expressed any view on this subject, it has expressed overwhelming support for the President's ban on the use of permanent replacements.

Mr. President, this Executive order is a lawful and necessary exercise of the authority delegated to the President by Congress to effectuate the purposes of our Government's procurement laws. It is consistent with past Presidential practice and legal precedent. This Executive order is an appropriate exercise of the President's Executive authority.

Mr. President, we have over these last few days spelled out in careful detail the legal justification and rationale for the issuing of the Executive order. We have analyzed the impact of the Executive order and reviewed what has been happening in terms of labor-management relations over the period of the last 10 or 15 years. We have drawn conclusions based upon those strikes and what is happening in the real world in terms of labor-management relations, about how the public's interest would be served by this action.

I believe it is sound and wise public policy. I hope that the Senate will uphold it.

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

The PRESIDING OFFICER (Mr. KEMPTHORNE). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. 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. CONRAD. Mr. President, I ask to be able to proceed as in morning business.

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

The Senator from North Dakota [Mr. CONRAD] is recognized.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 542 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. CONRAD. I thank the Chair.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The bill clerk proceeded to call the roll.

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

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

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

The Senate continued with the consideration of the bill.

Mr. DASCHLE. Mr. President, I want to commend the distinguished Senator from Massachusetts for his eloquent and passionate leadership on this issue. Let me also commend many of my other colleagues: the Senator from Iowa, the Senator from Minnesota, the Senator from Illinois, and a number of others who have participated over the last several days in this debate.

No one should misunderstand what this debate is all about. Obviously, if Senators have heard any of the speeches made by the colleagues whom I have just mentioned, there can be no misunderstanding. Quite simply, it is about fairness. That is the issue.

It is fairness for American working families, in a very important set of circumstances: the workplace. It is fairness in reaffirming their right to strike, fairness in restoring a fundamental balance between workers and management, and fairness in halting the practice of requiring striking workers to pay taxes for salaries of workers who replace them.

That is really what this issue is all about. The President understands that. He understands he is on solid ground in issuing the Executive order as he did a couple of weeks ago. The order is quite simple. It says to do business for more than $100,000 with the Federal Government, you cannot hire replacement workers in the case of a strike. That is all it says. A person simply cannot do what the law of the last 60 years has said could not be done.

This President is doing exactly what President Bush did in 1992. President Bush required unionized contractors to notify employees of their right to refuse to pay union dues. He was not challenged by Republicans when he issued that particular Executive order. President Clinton is doing also what President Carter did in 1978, when he issued an Executive order that directly affected the lives and livelihood of thousands of working families by limiting what Federal contractors could agree to in collective bargaining.

In fact, this President is doing exactly what President Roosevelt, President Truman, Presidents Nixon, Johnson, Carter, and Bush have all done in the past. In this case, he has shown Presidential leadership in protecting the rights and the spirit of the law for all working families.

The President is well within his rights, in my view, for at least three good reasons. First, as I indicated, there is ample precedent in virtually every past administration for the past 60 years. Second, he is supported by the American people. More than 60 percent of the American people, according to recent polls, have shown that they oppose the use of permanent replacement workers in the event of a lawful strike.

The American people understand the question of fairness. They appreciate the need for worker-management balance. The American people support actions and laws to guarantee that balance, which is really what the Executive order was designed to do.

And third, this action taken by the President is consistent with the National Labor Relations Act itself, signed into law, as I said, by President Roosevelt about 60 years ago. In fact, this year, we will celebrate the 60th anniversary of the National Labor Relations Act, an act that fundamentally appreciates the balance in the workplace, that understands the need for the right to strike, that underscores the importance of providing opportunities for workers and management to work out their differences.

That was the law that recognized the need for American workers to form organizations to bring the balance back into the workplace. It has been a balance that, frankly, has worked well for 45 years, a balance that has brought about better wages, a balance that has brought about better working conditions, better retirement security, better productivity.

But it is a balance that was destroyed by the actions taken by President Reagan during the PATCO strike of 1981, when the President of the United States hired permanent replacement workers. His action sent a green light to every business in the country. Virtually all of the work of 45 years under the National Labor Relations Act was lost with that action, and for 15 years now, Democrats in Congress, and others, have attempted to pass the Workplace Fairness Act to restore the balance that we had for those 45 years, an act which very simply puts into law what we believe was there all along: a prohibition of the hiring of permanent replacement workers during a strike; a restoration of the balance that we had in labor-management relations up until 1981.

It is important to note that a majority of Congress has supported the Workplace Fairness Act. There have been more than 50 votes for it on those occasions when the legislation was brought before this body, and were it not for a minority that kept it from being passed, it would, in fact, be law.

So whether it is law or whether it is an Executive order, this clarification is long overdue and extremely important to all working families. The right to organize, the right to bargain collectively is essential to American workers. As history has shown, the right to strike is the right to be taken seriously. The right to strike is the only leverage workers have when bargaining with management.

As economically painful as it may be for workers and their families, resorting to a strike is sometimes the only way to resolve a labor dispute. But when employers are free to replace striking workers, that leverage disappears and the imbalance destroys any hope of meaningful conflict resolution.

We have seen it in the precipitous drop in the number of strikes over the past 20 years. There are nearly half the strikes in the early 1990's that there were in the 1970's, and the number of union members has also declined.

The attack on this Executive order is part of a well-orchestrated effort to dramatically reduce the Federal role in workers' security. This effort ranges from calls for the elimination of the Federal minimum wage law, to proposals to repeal the Davis-Bacon Act, to efforts to minimize the regulation of workplace safety. These efforts are orchestrated to continue the rollback of the progress we have made for decades under the auspices of the National Labor Relations Act and other important labor legislation. As the rollback continues, while unions are threatened, the American worker and working families have seen their incomes and the level of job benefits plummet. In constant dollars, wages have now declined by more than 10 percent in 10 years. Wages have actually gone down by more than a dollar an hour since the 1970's. Moreover, far fewer workers have health insurance benefits or retirement benefits than they did back then.

Without the right to strike, workers continually lose the right to negotiate. Without the right to negotiate, they lose the right to benefits, benefits on which they and their families depend.

By taking this action, the President is simply saying, ''If you're going to bid for Federal tax dollars on a Federal contract, all we ask is that you live up to the intent of the National Labor Relations Act. If there is a strike, we want you, the company, to resolve it in a responsible way. We want you to renounce the practice of hiring permanent replacements.''

Working families are counting on us to support the President. This is a very important vote for them and for the future of labor law in this country. A vote against cloture is a vote for working Americans at their time of greatest need. It should also be a clear sign of our desire to reverse the long downward slope of economic security for all working families. There is much which must be done, including the passage of meaningful health reform during this Congress. Hopefully, we can do that and many other things to restore the kind of security and confidence that working families must have if they are to look to the future with any more optimism than they can right now.

But this is the place to begin, on this vote, on this important issue, to send the kind of clear message: that we understand the importance of balance, that we understand the importance of fostering meaningful negotiations between workers and their employers, that we understand the right to strike, that we understand the importance of a law that has now been on the books for 60 years, and that we restore the kind of equality in the workplace that workers now say is even more important than it was back in 1935.

So, Mr. President, I hope that we can defeat this cloture motion and send the kind of message that I know Republicans and Democrats want to be able to send to working families. And that is: we appreciate your plight, we appreciate your need for security, we appreciate your need for more confidence in the future than you have right now.

I hope that all Senators will understand that message and support us in our effort to defeat cloture on Wednesday morning.

With that, I yield the floor, and 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. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAIG). Without objection, it is so ordered.

The Senator from Arkansas is recognized.

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 545 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

RETURNING TO STATES RESPONSIBILITY FOR COMPLEX ISSUES

Mr. GRAHAM. Mr. President, I first would like to commend our friend and colleague, the Senator from Arkansas, for another outstanding statement on a cause that he has led for many years, and I hope, I say to the Senator from Arkansas, that we are close to the time when your long walk will reach its destination. I agree with the comments that you have made today as to the fairness and the rationale of moving forward as the Supreme Court has now allowed us to do to sanction States to impose this sales tax on mail order businesses.

But, Mr. President, I suggest that there is another reason why this is an imperative at this point in time. We are soon to consider a series of proposals that will have the effect of devolving back to the States, returning to the States significant responsibility for some of the most complex domestic programs that we have in our Nation, programs, in some cases, in which the States have had current involvement, such as the Medicaid Program, some programs in which the Federal Government has in the past played a priority role, such as welfare, and others that are mixed.

If we are prepared to say that the States are able to provide the administrative machinery to carry out these complex domestic programs, I find it hard to say that the States should not be entrusted with the authority to make a judgment as to whether it is in the interest of their citizens to tax products that come in by mail order in a parity means with products that are purchased within the State itself, and that is essentially what the issue is with the legislation proposed by the Senator from Arkansas. We are not imposing the tax, we are authorizing the 50 individual States to make a judgment as to whether they believe it is in the interest of their citizens for those States to impose the tax.

I am also concerned, Mr. President, about what we are about to do to States, and I come out of a background as a very strong believer in the State Government sensitivity to their people, to their capability to operate programs effectively and efficiently and to their innovative capabilities. But the States also are not alchemists, they do not have the ability to take stones and rub them and convert them into golden coins.

We are going to be sending substantial responsibilities back to the States with substantially less dollars than we had felt it was necessary to operate those if they were still under Federal obligation. As an example, in my State of Florida, the calculations are that if we send back Medicaid, the program that provides financing for indigent Americans, to the States, that over the next 5 years, the State of Florida will receive approximately $3.5 billion less than the individual recipients of those funds would have received had we stayed with the current Federal program—$3.5 billion less.

The State of Florida this year, from both Federal and State sources, will spend approximately $5 billion on Medicaid. So we are talking about very substantial percentage reductions in funds available.

Why is it going to cost the State of Florida so much? In part it is because the formula that has been suggested is one that essentially says we take the status quo, we freeze it for 5 years and allow essentially a cost-of-living adjustment. In my State, we are a growth State which is adding a substantial population every year. For the last 15 years, we have grown at a rate in excess of 300,000 persons a year. Many of those 300,000 are in the high-target populations for Medicaid. In my State, about half of Medicaid expenditures goes for the elderly, primarily for long-term care.

So if we are going to say for the next 5 years we are going to freeze the program at a cost-of-living factor and not take into account growth in population, not take into account growth in those populations that are heaviest users of these programs, we are going

to be imposing very serious financial obligations on the States.

I think that as we enter into this debate on turning responsibility back to the States, we have an obligation to also ask the question, what are we going to do to assure that the States have the fiscal capacity to accept those responsibilities that we are imposing?

I believe the Senator from Arkansas has certainly pointed to what ought to be at the head of the line as we begin to ask that question of fiscal responsibility. Here is the program for which there is no rationale as to why the Federal Government should deny the States the authority to impose this tax. There is every reason in terms of tax fairness that they should, in fact, treat mail order sales in parity with sales from the local Main Street store, and the States are going to need the revenue this will provide.

In my State of Florida, the estimate is that in 1974 had the sales tax been applied on mail order sales to the same extent it was on Main Street sales it would have produced $168.9 million. That will not close all the gap that our States are going to be faced with as they are asked to take on these new responsibilities, but it will be a worthy beginning.

So, Mr. President, I believe for all of the reasons that the Senator from Arkansas has cited with such force and eloquence, as well as the time in history in which we find ourselves, in which we are about to ask the States to do more, that we should also have a concern about how our brethren in the Federal system are going to have the capacity to accept those responsibilities.

We say that it is not our purpose to have a dramatic fraying of the safety net. The safety net in my State for hundreds of thousands of older Americans who are in need of long-term care and who have spent all of their life savings as their health condition deteriorated, I do not think we as a nation want to turn those people out of the kind of institutions that they need in order for their well-being.

We are asking the States now to pick up a much larger share of the cost of providing for those Americans. This is a beginning of a demonstration of the Federal Government's commitment to see that there are adequate resources available at the State level to meet the additional responsibilities that we are proposing to impose.

So, in closing, I want to thank my friend from Arkansas for his leadership in this effort. I hope his leadership will be rewarded by successful passage of this legislation and passage in 1995. Thank you, Mr. President.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, let me, first of all, thank my very distinguished colleague from Florida, a former Governor, as was I, who fully understands the problem the States are going to have with unfunded mandates, but also for his very perceptive comments about the legislation.

Now, Mr. President, let me make just a couple of observations. I see the Senator from Michigan awaits recognition, so I will not be long. But the Senator from Florida has just told you about some of the budget constraints on them because of the Medicaid Program, but there are a whole host of others.

This bill has the potential for $169 million a year for the State of Florida. That is not beanbag either. And I promise you the Governor of Florida favors this legislation. I promise you the Governor of virtually every State in this Nation favors this legislation. As I said, every mayor, every county executive favors it. But the point that must not be lost sight of is we are not imposing anything. We are simply saying to the States, if you choose to do this, it is your prerogative. If you do not, that is also your prerogative. But we are also saying that if you do not have a sales tax in your State, you cannot charge it.

There are five States in this country that have no sales tax. This bill would not apply to them. They would not be able to charge this because they do not have a tax that they tax their own citizens with, and therefore they could not tax citizens of other States.

How many times have you heard in this body that the reason for the big revolution on November 8 was people are tired of being told what to do. They want somebody to listen to them. They want to have some discretion over their own lives and what they want to do.

Now, here is a classic case of doing precisely that. We are saying to the States we are going to enable you to help yourself if you choose. But that is your discretion, not ours. So how can anybody quarrel with that? If you vote for this and you do not personally approve of it, go tell your Governor I voted for it to give you the discretion. But if you do not want to do it, that is OK with me.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Michigan.

Mr. ABRAHAM. Thank you, Mr. President.

TAX CUTS IN MICHIGAN

Mr. ABRAHAM. Mr. President, I rise today to congratulate John Engler, Governor of my State of Michigan, for signing into law last week his 12th, 13th, 14th, and 15th tax cuts since taking office.

Governor Engler has increased the personal exemption in our State to at least $2,400, saving Michigan taxpayers $69 million on their income taxes in fiscal year 1995. The exemption also will be indexed for inflation starting in 1998.

He has created a new refundable income tax credit for college tuition that will help individuals and families struggling to get an education.

He has reduced the single business tax by removing unemployment and workers' compensation funds and Social Security payments from the tax base.

He has begun phasing out Michigan's intangibles tax, raising the filing threshold and providing for its total repeal, effective January 1, 1998.

Mr. President, 70 percent of these tax cuts will benefit individuals, with 30 percent benefiting the State's job creators. Taken together with the other 11 tax cuts he already has implemented, these cuts will save Michigan taxpayers $1.2 billion this year alone.

We here in Congress would do well to look at Governor Engler's performance in setting out our program of fiscal reform from the Nation. When he took over as Governor in 1991, John Engler inherited a $1.8 billion deficit. That means that in 1991 Michigan was running a deficit that equaled 10 percent of its total State spending—almost as large a deficit in proportion to total spending as the one run here in Washington.

Governor Engler had a tough choice to make. He could maintain Michigan's current spending levels and increase taxes, or cut spending and hold the line on taxes. But he decided to choose neither course of action, instead boldly cutting both spending and taxes.

And the results have been remarkable. Through aggressive use of his line-item veto he brought about an 11-percent cut in real, after-inflation spending. In addition, he made Michigan our Nation's top State in creating manufacturing jobs, more than 40,000 in the last year alone, second in the Nation in personal income growth, and a leader in lowering unemployment rates. All this while increasing State funding to educate Michigan's children.

Mr. President, Michigan can serve as an example to the Nation of how aggressive budget and tax cutting can go together to spur economic growth and better the lives of our citizens.

We too can get our spending under control, without cutting essential programs; we need only the courage to put in place and utilized the tools Governor Engler and the Michigan State Legislature used to bring their State back from the brink of economic disaster.

Michigan's constitution required a balanced budget; it also provides the Governor with a line-item veto. Both of these tools were essential to Governor Engler's efforts to bring spending under control.

We have the power to do for America what Governor Engler and his partners in the State legislature have done for Michigan, if we are willing to enact a line-item veto and add a balanced budget amendment to our Constitution. These tools will help us order our priorities and discipline our spending.

Most important, we must recognize that by taxing the American people

less we can help our economy and our budget more. This week the House Ways and Means Committee will report a tax reduction bill that creates a $500-per-child tax credit for families and cuts the capital gains tax in half. In all likelihood, the House will approve these important tax reductions.

Some of our colleagues here in the Senate have suggested that we abandon tax cuts—and focus exclusively on reducing the budget deficit. Having lost the vote on the balanced budget amendment, I can understand their desire to put spending cuts first in order to produce a balanced budget plan.

But as Governor Engler has demonstrated, cutting spending and taxes is the best way to reduce the deficit and encourage economic growth. We must have confidence that the American people, if allowed to keep their own money and spend it as they choose, will fuel the engine that runs our economy, producing more jobs, greater prosperity, and a balanced budget.

Mr. President, I yield the floor. I also suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMPSON). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

(During the session of the Senate, the following morning business was transacted.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents which were referred as indicated:

EC–497. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, the annual report of the Board for fiscal year 1994; to the Committee on Governmental Affairs.

EC–498. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report relative to the escheated estate fund; to the Committee on Governmental Affairs.

EC–499. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report relative to the District's Emergency Assistance Services; to the Committee on Governmental Affairs.

EC–500. A communication from the Chief Financial Officer of the Export-Import, transmitting, pursuant to law, the annual management report for 1994; to the Committee on Governmental Affairs.

EC–501. A communication from the Officer of the Nuclear Waste Negotiator, transmitting, pursuant to law, a report relative to the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC–502. A communication from the Chairman of the Board of the National Credit Union Administration, transmitting, pursuant to law, a report relative to schedules of compensation; to the Committee on Governmental Affairs.

EC–503. A communication from the Chairman of the Commission on Intergovernmental Relations, transmitting, pursuant to law, a report relative to unfunded mandates; to the Committee on Governmental Affairs.

EC–504. A communication from the Acting Inspector General of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report entitled ''Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions;'' to the Committee on Governmental Affairs.

EC–505. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC–506. A communication from the Chair of the Administrative Conference of the United States, transmitting, pursuant to law, a report relative to the Inspector General Act Amendments; to the Committee on Governmental Affairs.

EC–507. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the semiannual report of the Inspector General and the Director's Report on Audit Resolution and Management for the period April 1, 1994 through September 30, 1994; to the Committee on Governmental Affairs.

EC–508. A communication from the Director of the Office of Management and Budget, transmitting, a draft of proposed legislation to revise and streamline the acquisition laws of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

EC–509. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report relative to the assignment or detail of General Accounting Office employees; to the Committee on Governmental Affairs.

EC–511. A communication from the Comptroller General of the United States, transmitting, pursuant to law, an overview report of the high risk areas of the General Accounting Office; to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CONRAD:

S. 542. A bill to amend the Solid Waste Disposal Act to allow States to regulate the disposal of municipal solid waste generated outside of the State, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HATFIELD:

S. 543. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BRYAN (for himself and Mr. REID):

S. 544. A bill to establish a Presidential commission on nuclear waste, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BUMPERS (for himself and Mr. GRAHAM):

S. 545. A bill to authorize collection of certain State and local taxes with respect to the sale, delivery, and use of tangible personal property; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD:

S. 542. A bill to amend the Solid Waste Disposal Act to allow States to regulate the disposal of municipal solid waste generated outside of the State, and for other purposes; to the Committee on Environment and Public Works.

INTERSTATE SHIPMENTS OF MUNICIPAL SOLID WASTE

Mr. CONRAD. Mr. President, today I am introducing legislation that would give States and local governments the power to regulate and, if they choose, reject interstate shipments of municipal solid waste.

This is a problem Congress has grappled with now for years and it only grows more and more serious. An estimated 18 million tons of municipal solid waste travels across State lines each year. Landfills are filling up around the country and communities are searching for new places to send their trash.

Where are they searching? Mr. President, they are searching in rural areas like my home State of North Dakota and, no doubt, they are looking in the State of the distinguished occupant of the chair, the State of Idaho.

Mr. President, rural States like ours, where pollution has not spoiled the land, where small communities may be willing to take large amounts of money from a waste company in exchange for landfill space, are the places they are looking. Whether they want this imported waste or not, States are almost powerless to stop the flow of garbage across their borders.

Mr. President, I can remember very well being involved in a debate on this matter a number of years ago, and the trash merchants had their lobbyists lining the Halls. I have never seen so many people off the Chamber of the Senate. The trash merchants want to ship this stuff someplace, and they are looking for States that are willing to take it.

Mr. President, States ought to have an ability to say ''no.'' Waste is already coming to my State of North Dakota. We take industrial waste from General Motors plants from all around the country. We take municipal solid waste incinerator ash from Minnesota. A waste company continues its efforts to open a superdump in my State that would take garbage from Minneapolis-St. Paul. This one landfill, Mr. President, would receive almost twice as much garbage as is produced in my entire State. This situation is not unique. It is happening all over the country.

States should be able to do something about it. They should be able to

regulate how much solid waste comes into the State so they can implement effective waste disposal policy. The Federal Government requires the States to manage and oversee solid waste disposal programs. States are required to issue permits, monitor existing sites, and enforce landfill regulation. Why, then, should States not also be able to regulate how much waste comes in from out of State? It only makes sense that they have this power.

Mr. President, imported waste not only takes up precious landfill space, but it also puts a strain on services of the importing State without properly compensating that State. Waste trucks from out of State wear down the roads of the importing State, but the exporting community pays nothing. Similarly, States must spend money to run their solid waste program, but they get no additional payments for accepting out-of-State wastes. In other words, exporting communities are passing their waste problems, and the costs associated with them, on to importing States. This is not fair, and it should be changed.

The bill I am introducing today takes strong steps to address the problems of interstate waste. First, it gives States the authority to regulate interstate waste. If a State wants to reject new solid waste shipments, my bill would allow that.

Second, it requires that affected local governments formally approve of any waste import. This gives the communities the ability to veto proposed shipments of out-of-State wastes. Why should not those communities that are affected by waste shipments have the ability to say no?

Third, it provides the opportunity for the area surrounding the host community to be involved in the decision to accept out-of-State wastes. A decision on siting a solid waste landfill, especially one that will take large amounts of imported waste, must be a collective one, and a small community alone should not be able to make a decision that will affect a much larger surrounding area.

Finally, my bill requires that waste companies publicly release all of the relevant information about their proposed landfill before a community makes a decision on it. This information should include estimated environmental impacts and mitigation, economic impacts, planned expansion, financial disclosure, and records of past violations by the owner and operator of the disposal site. Waste companies hold up the promise of jobs and economic incentives, but they do not want to reveal the potential risks involved in their plan. In many cases, they may not even reveal their overall plans until it is too late to stop them. One practice I have seen involves having a local developer purchase the site and get a permit to dispose of modest amounts of solid waste. A big waste company then buys out the local party and aggressively expands the site's permit. The local community does not have a chance. This is not fair and cannot be allowed to continue. Communities must be able to make informed choices.

Mr. President, how often have we seen it, where one of these trash merchants comes into a State and they spend lots of money up front, talking about the opportunities, talking about the jobs, talking about the good things, but failing to reveal the real plan, failing to tell how big the operation is really going to be? They fail to tell of past violations. We have seen companies go into States that are bad operators, that have a bad record, that have a bad reputation, but they do not reveal that. They do not talk about that before the community has a chance to vote.

Mr. President, many of us believe that a local community ought to have a choice and it ought to be an informed choice. They ought to know the record, they ought to know the plan before they make a final decision.

We have been working on the interstate waste problem in the Senate for many years now. During the years we have been debating this issue, the problem has not gone away. It has simply gotten bigger. The trash is still moving, and States and communities are almost powerless to stop it. It is time to enact interstate waste legislation into law.

Congress came very close to passing an interstate waste bill in 1994. I hope we can build on the work that has been done and take quick action in 1995.

I look forward to working with Chairman CHAFEE, Senator BAUCUS, Senator COATS, and others to move this matter forward.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 542

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

SECTION 1. AUTHORITY TO REGULATE OUT-OF-STATE WASTE.

(a) AMENDMENT.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"SEC. 4011. AUTHORIZATION FOR STATES TO REGULATE MUNICIPAL SOLID WASTE GENERATED IN ANOTHER STATE.

"(a) DEFINITIONS.—In this section:

"(1) AFFECTED LOCAL GOVERNMENT.—The term 'affected local government' means the elected officials of a political subdivision of a State in which a facility for the treatment, incineration, or disposal of municipal solid waste is located (as designated by the State pursuant to subsection (d)).

"(2) AFFECTED LOCAL SOLID WASTE PLANNING UNIT.—The term 'affected local solid waste planning unit' means a planning unit, established pursuant to State law, that has—

"(A) jurisdiction over the geographic area in which a facility for the treatment, incineration, or disposal of municipal waste is located; and

"(B) authority relating to solid waste management planning.

"(3) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste'—

"(A) means refuse, and any nonhazardous residue generated from the combustion of the refuse, generated by—

"(i) the general public;

"(ii) a residential, commercial, or industrial source (or any combination of the sources); or

"(iii) a municipal solid waste incinerator facility; and

"(B) includes refuse that consists of paper, wood, yard waste, plastic, leather, rubber, or other combustible or noncombustible material such as metal or glass (or any combination of the materials); but

"(C) does not include—

"(i) hazardous waste identified under section 3001;

"(ii) waste resulting from an action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604, 9606);

"(iii) material collected for the purpose of recycling or reclamation;

"(iv) waste generated in the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(v) industrial waste (including debris from construction or demolition) that is not identical to municipal solid waste in composition and physical and chemical characteristics; or

"(vi) medical waste that is segregated from municipal solid waste.

"(b) AUTHORITY TO REGULATE.—

"(1) IN GENERAL.—Each State is authorized to enact and enforce a State law that regulates the treatment, incineration, and disposal of municipal solid waste generated in another State.

"(2) AUTHORITIES.—A State law described in paragraph (1) may include provisions for—

"(A) the imposition of a ban or limit on the importation of municipal solid waste generated outside of the State; and

"(B) the collection of differential fees or other charges for the treatment, incineration, or disposal of municipal solid waste generated in another State.

"(c) LOCAL GOVERNMENT APPROVAL.—

"(1) IN GENERAL.—Except as provided in paragraph (2) or as otherwise provided under State law, the owner or operator of a landfill, incinerator, or other waste disposal facility in a State may not accept for treatment, incineration, or disposal any municipal solid waste generated outside of the State unless the owner or operator has obtained a written authorization to accept the waste from—

"(A) the affected local government; and

"(B) any affected local solid waste planning unit established under State law.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply with respect to an owner or operator of a landfill, incinerator, or other waste disposal facility that—

"(i) otherwise complies with all applicable laws of the State in which the facility is located relating to the treatment, incineration, or disposal of municipal solid waste; and

"(ii) prior to the date of enactment of this section, accepted for treatment, incineration, or disposal municipal solid waste generated outside of the State.

"(B) EXISTING AUTHORIZATIONS.—An owner or operator of a facility described in paragraph (1) that, prior to the date of enactment of this section, obtained a written authorization from—

"(i) the appropriate official of a political subdivision of the State (as determined by the State); and

''(ii) any affected local solid waste planning unit established pursuant to the law of the State,

to carry out the treatment, incineration, or disposal of municipal solid waste generated outside of the State shall, during the period of authorization, be considered to be in compliance with the requirements of paragraph (1).

''(C) FACILITIES UNDER CONSTRUCTION.—If, prior to the date of enactment of this section, an appropriate political subdivision of a State (as determined by the State) and any affected local solid waste planning unit established under the law of the State issued a written authorization for a facility that is under construction, or is to be constructed, to accept for treatment, incineration, or disposal municipal solid waste generated outside the State, the owner or operator of the facility, when construction is completed, shall be considered to be in compliance with paragraph (1) during the period of authorization.

''(3) EXPANSION OF FACILITIES.—An owner or operator that expands a landfill, incinerator, or other waste disposal facility shall be required to obtain the authorizations required under paragraph (1) prior to accepting for treatment, incineration, or disposal municipal solid waste that is generated outside the State.

''(4) PRIOR DISCLOSURE.—Prior to formal action with respect to an authorization to receive municipal solid waste or incinerator ash generated outside the State, the affected local government and the affected local solid waste planning unit shall—

''(A) require from the owner or operator of the facility seeking the authorization and make readily available to the Governor, adjoining Indian tribes, and other interested persons for inspection and copying—

''(i) a brief description of the planned facility, including a description of the facility size, ultimate waste capacity, and anticipated monthly and yearly waste quantity to be handled;

''(ii) a map of the facility site that discloses—

''(I) the location of the facility in relation to the local road system and topographical and hydrological features; and

''(II) any buffer zones and facility units that are to be acquired by the owner or operator of the facility;

''(iii) a description of the then current environmental characteristics of the site, including information regarding—

''(I) ground water resources; and

''(II) alterations that may be necessitated by or occur as a result of the facility;

''(iv) a description of—

''(I) appropriate environmental controls to be used at the site, including run-on or runoff management, air pollution control devices, source separation procedures, methane monitoring and control, landfill covers, liners, leachate collection systems, and monitoring and testing programs; and

''(II) any waste residuals generated by the facility, including leachate or ash, and the planned management of the residuals;

''(v) a description of the site access controls to be employed and roadway improvements to be made by the owner or operator and an estimate of the timing and extent of increased local truck traffic;

''(vi) a list of all required Federal, State, and local permits required to operate the landfill and receive waste generated outside of the State;

''(vii) estimates of the personnel requirements of the facility, including information regarding the probable skill and education levels required for jobs at the facility that distinguishes between employment statistics for pre-operational levels and those for post-operational levels;

''(viii)(I) information with respect to any violations of regulations by the owner or operator, or subsidiaries;

''(II) the disposition of enforcement proceedings taken with respect to the violations; and

''(III) corrective action and rehabilitation measures taken as a result of the proceedings;

''(ix) information required by State law to be provided with respect to gifts, contributions, and contracts by the owner or operator to any elected or appointed public official, agency, institution, business, or charity located within the affected local area to be served by the facility;

''(x) information required by State law to be provided by the owner or operator with respect to compliance by the owner or operator with the State solid waste management plan in effect pursuant to section 4007;

''(xi) information with respect to the source and amount of capital required to construct and operate the facility in accordance with the information provided under clauses (i) through (vii); and

''(xii) information with respect to the source and amount of insurance, collateral, or bond secured by the applicant to meet all Federal and State requirements;

''(B) provide opportunity for public comment, including at least 1 public hearing; and

''(C) not less than 30 days prior to formal action—

''(i) publish notice of the action in a newspaper of general circulation; and

''(ii) notify the Governor, adjoining local governments, and adjoining Indian tribes.

''(d) DESIGNATION OF AFFECTED LOCAL GOVERNMENT.—Not later than 90 days after the date of enactment of this section, the Governor of each State shall, for the purpose of this section, designate the type of political subdivision of the State that shall serve as the affected local government with respect to authorizing a facility to accept for treatment, incineration, or disposal of municipal solid waste generated outside of the State. If the Governor of a State fails to make a designation by the date specified in this subsection, the affected local government shall be the public body with primary jurisdiction over the land or use of the land on which the facility is located.''.

(b) TABLE OF CONTENTS.—The table of contents for subtitle D of the Solid Waste Disposal Act is amended by adding after the item relating to section 4010 the following new item:

''Sec. 4011. Authorization for States to regulate municipal solid waste generated in another State.''.

By Mr. HATFIELD:

S. 543. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

EUGENE WATER & ELECTRIC BOARD FERC LICENSE EXTENSION

Mr. HATFIELD. Mr. President, today I am introducing legislation to allow the Federal Energy Regulatory Commission to grant the Eugene Water & Electric District, in Lane County, OR, an extension of its hydro project construction completion deadline.

The subject of this license is a 21 megawatt hydroelectric project at the Blue River Dam, an existing Corps of Engineers flood control project. The Federal Energy Regulatory Commission granted the license for the project in November 1989. The deadline for completion is October 31, 1995. Construction has begun and EWEB has invested $4.5 million to date.

The Eugene Water & Electric Board, also known as EWEB, has asked for an extension to the construction completion deadline because its ability to complete construction has been, and will continue for some time to be, impeded by the ongoing fish mitigation efforts of the Corps of Engineers. These efforts are focused on minimizing temperature variations in the McKenzie River caused by both the Blue River and Cougar Dams. The corps' work will entail drawing down reservoirs to very low levels.

I support this temperature control work being done by the corps. However, until the corps completes these fish mitigation improvements on Blue River Dam, the hydroelectric project currently licensed and being pursued by EWEB will be untenable. The corps is expected to first construct temperature control improvements at nearby Cougar Dam. This project is not expected to be completed until 2001. At that time, the corps will begin work on similar improvements at Blue River Dam, which it expects to finish by 2005.

The legislation I am introduction today is designed to accommodate both the beneficial fish mitigation efforts being pursued by the corps and the ongoing hydroelectric project being pursued by EWEB. My legislation directs FERC, at the request of EWEB, to extend the time for completion of construction to the later of October 31, 2002, or a date 1 year after the corps completes construction of temperature control structures on the Blue River Dam. The legislation also requires EWEB to file a construction completion progress report with FERC each year until construction is completed.

I look forward to working with members of the Senate Energy and Natural Resources Committee to ensure that this proposal receives prompt and thorough attention.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 543

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

SECTION 1. EXTENSION OF DEADLINE FOR BLUE RIVER PROJECT.

(a) EXTENSION.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 3109, the Commission shall, at the request of the licensee for the project, extend the time for completion of the construction of the project to the later of—

(1) October 31, 2002; or

(2) the date that is 1 year after the date on which the Army Corps of Engineers completes construction of water temperature control structures at the Blue River Dam.

(b) REPORTS.—The licensee for the project described in subsection (a) shall file with the Federal Energy Regulatory Commission, on October 31 of each year until construction of the project is completed, a report on progress toward completion of the project and of water temperature control structures at the Blue River Dam.

EUGENE WATER & ELECTRIC BOARD,
Eugene, OR, February 20, 1995.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATFIELD: The Eugene Water & Electric Board requests your help in seeking Congressional action which will allow us to extend, by eleven years, the construction completion deadline required by FERC on our Blue River hydroelectric project. The Blue River Dam is one of two facilities on the McKenzie River for which you have introduced legislation to facilitate and clarify financing for temperature control work by the Corps of Engineers. Due to the Corps' construction schedule and recent changes in BPA financing we are unable to meet the construction deadline of October, 1995 as required in our FERC license. For us to complete this project we will need additional time to coordinate our construction schedule with that of the Corps.

This is not a standard extension request and it is unlike other legislation to extend construction deadlines for hydroelectric projects. Timing problems, financial and environmental considerations necessitate a longer extension than those which have been granted to other licensees. Also, unlike other licensees, EWEB has already started construction on the project and seeks only an extension of the completion deadline.

THE PROPOSED PROJECT

For over a decade EWEB has been pursuing development of a hydroelectric project at the existing Corps of Engineer's flood control dam at Blue River. The project would generate 21 Mw, enough to provide power for 2000 homes annually. Our license for the project was granted in November, 1989. The deadline for completion is October 31, 1995. Construction began with the fabrication of the turbine and other associated equipment. Our investment to date is $4.5 million and the license has a duration of 50 years. The attached Briefing Document of January 26th describes the project in detail.

FEDERAL ACTIONS BEYOND OUR CONTROL

The existing Corps flood control dams at Cougar and Blue River Reservoir will be modified to alter temperature variations (caused by the dams) which severely threaten salmon fry. This will be accomplished by installing multi-level release port towers. Construction is scheduled first a Cougar Reservoir as this is the larger project and it has a greater impact on fish mortality. After completion of the Cougar project in 2001 the Corps will begin work on Blue River with a scheduled completion date of 2005. Each year, over this four year construction period, the Corps will have to draw down the reservoir to very low levels. Generation from EWEB's power plant would be substantially reduced as would the revenue and operational benefits during the early years of the project's operation. Also, EWEB's design for the hydroelectric facility may have to be modified based on the Corps design and operating plan.

Our Blue River project was also accepted as a billing credit project by BPA. Billing credits is a financial benefit awarded by BPA in response to the Northwest Regional Power Act to help utilities overcome the negative short-term economics associated with developing new resources during the early life of the project. Due to market changes and BPA's growing financial problems negotiations on our billing credit's contract was cancelled.

The timing and sequence of the Corps projects along with the loss of billing credits will make the project untenable.

ENVIRONMENTAL BENEFITS

A settlement agreement, approved by FERC and incorporated into the license, was reached between EWEB, the Oregon Department of Fish and Wildlife, the National Marine Fisheries Service and the U.S. Fish & Wildlife Service. The original fish mitigation plans for Blue River called for a fish screen and bypass facility. The agencies determined that only a fish barrier was needed at Blue River and the McKenzie River could be better served by investing screen and bypass costs into improving salmon habitat. As a result, EWEB will contribute $2,200,000 to a trust fund for fish enhancement rather than building a screen and bypass facility. (Settlement Agreement attached).

In addition, the project itself will benefit fish simply through its construction. Currently, water released from the reservoir passes through an outlet tunnel many feet below the reservoir's surface. This results in rapid water depressurization causing a fish mortality rate of 60%. We would pressurize the tunnel by installing outlet gates downstream. The transition from pressurized to depressurized water will be slowed enough to reduce fish mortality by more than half resulting in an overall survival rate exceeding 70%.

CONSULTATION WITH FERC

Before approaching your office with this extension request we spoke with Fred Springer, Director, Office of Hydropower Licensing and Mark Robinson, Director, Division of Project Compliance and Administration at FERC. They were clear that although the Commission has the authority to extend completion dates, an extension of an 11 year duration is unusual. Extensions are usually granted when the applicant can show diligence or continuous progress toward project completion. We would be unable to make that showing, especially while the Corps work is underway. Additionally, 11 years is a lengthy extension compared to other extension requests which have been granted by either legislative or administrative means. In terms of financial factors, extensions may be granted when the licensee needs more time to secure a power sales contract or another means of financing. FERC acknowledges the revenue losses we would incur by completing a project we could only operate part time is a serious concern. However, this too is an uncommon situation which falls outside the generally accepted rationale for granting construction extensions. According to FERC staff, these circumstances are so unusual, that the Commission would be hard pressed to give us a favorable ruling. FERC would need a legislative directive to grant us the extension we request.

Consistent with the Regional Act, EWEB has aggressively pursued conservation and renewable resources. As you consider helping us with the Blue River project we ask you to note that we have three others, all renewable resource projects, with existing agreements or contracts with BPA. EWEB recently learned that all three projects are at risk of being abandoned by BPA due to continuing budget constraints. We have made substantial investments in two of them. Regional funding from BPA for conservation will also likely end requiring EWEB to sustain local conservation investments alone. Additionally, we are facing yet to be determined rate impacts from BPA's reinvention. The combination of all these actions at BPA and the Corps shifts significant obligations to EWEB and its ratepayers. The increased financial obligation for conservation and renewable resource development makes it economically imprudent to proceed with the Blue River Project under the current schedule even though it may be one of the few resource options remaining at this time.

We thank you for your serious consideration of our request.

RANDY L. BERGGREN.

By Mr. BUMPERS (for himself and Mr. GRAHAM):

S. 545. A bill to authorize collection of certain State and local taxes with respect to the sale, delivery, and use of tangible personal property; to the Committee on Finance.

CONSUMER AND MAIN STREET PROTECTION ACT

Mr. BUMPERS. Mr. President, I come today to introduce a bill dealing with the mail-order catalog business. This issue has become almost an obsession with me over the past 2 years, and one of the reasons for that obsession is that, before I became Governor of Arkansas, I was a hardware, furniture, and appliance dealer, practicing law in a small town, raising cattle, doing anything to put bread on the table. And the biggest competitor I had was the Sears, Roebuck catalog. Sears, Roebuck was tough competition for me because they were big, had a much bigger variety of goods, and were reasonably cheap by comparative standards.

But while Sears, Roebuck was tough competition, it was also fair competition. They bore the same burdens of doing business that I did. One of those burdens was collecting sales taxes. Because Sears, Roebuck had stores in every State in the Nation, they had to collect sales taxes on everything they sold through their catalog operation, just like I had to collect sales taxes on everything I sold in my hardware store. The reason Sears, Roebuck had to collect those taxes was that, under the law, if you have a physical presence in any State, you must collect sales tax on goods shipped into that State, even if the goods are sold through a catalog.

Over the past few years, however, an entirely new situation has been developing in the competition between Main Street retailers and catalog operations. And that situation is not one of fair competition. What has been developing is that the catalog operations often limit their physical operations to one State, or a few States, and refuse to collect the taxes that are due on goods shipped into other States. This is increasingly significant because catalog sales are $100 billion a year. Fingerhut, one of the biggest mail-order houses in America, has annual sales in excess of $1 billion a year. They sent out 476 million catalogs in 1993 alone. Mr. President, bear in mind that Fingerhut is only one of several very large mail order operations. Lands' End, L.L.

Bean, some of the big ones, have similar sales figures. In all, there are around 7,500 mail-order houses in this country, and they are growing like mad.

I daresay that on an average day, I get somewhere between 4 and 10 catalogs in my mail chute every night. If you live in my home State of Arkansas and order something from L.L. Bean or Lands' End, the company collects no sales tax. That does not mean there is no sales tax in my State, because there is. But do you know who has the responsibility for remitting the tax to the State revenue department, Mr. President? The consumer. If you buy a $10,000 fur coat from a mail-order house, you are personally responsible for remitting the $500 tax on that purchase to the State revenue department. And it is not just mail-order houses that play this game. Sometimes, if you buy it in New York City, they will say, ''You have a southern accent; are you not from New York?'' ''No, I am not; I am from Arkansas.'' ''Would you like for us to mail this to your home and save you $500?'' Of course, the consumer is going to say, ''Yes, I would like that.'' The company will then mail it to your home and not charge you one red cent of sales tax. But what the unsuspecting consumer does not know is that he or she does owe tax on that purchase, and that he or she is personally responsible for paying it to the State.

My State imposes its sales tax on all goods, regardless of whether they are purchased in State or out of State. The 44 other States which have sales taxes also apply those taxes to both in-State and out-of-State purchases. Technically, the tax on out-of-State goods is called a use tax, while the tax on in-State goods is called a sales tax. But for all intents and purposes, the use tax is identical to the sales tax. But because out-of-State companies usually refuse to collect the applicable use tax, the consumer does not even know there is a tax when purchasing merchandise via mail order.

The Presiding Officer is from the great State of Idaho. Idaho has a sales tax, and Idaho applies that sales tax to goods shipped into the State, just like it does to goods sold by Idaho department stores. So if Idaho's sales tax is 4 or 5 percent, the person who buys a $10,000 fur coat via mail order would be liable for $400 or $500 in sales taxes.

Some people say, ''There is already a tax on mail-order sales. It is the use tax. What are you trying to do?''

What I am trying to do is make sure that mail-order companies do not blind-side their customers. Consumers buy from mail-order companies thinking their sales are tax free, and then they learn otherwise after the fact. Last year in Florida, 19,000 people got notices in the mail that goods they bought from direct marketers were not tax free, as the company had lead them to believe. The furniture they bought in North Carolina or the merchandise they bought from Lands' End or L.L. Bean, they owed a tax on it. Admittedly, not every mail-order customer gets caught. Sometimes the State finds out about the purchase, and sometimes they do not. But when they do, the consumer has to pay.

This is not a new tax. Of course, it is not. Think about it for a second. Why would any State have a tax structure that required Main Street merchants to collect sales tax and allowed out-of-State companies to ship the same merchandise into the State and collect nothing? No State would ever do that, and no State does it.

Oh, how everybody's heart bleeds around here for the poor, small town, Main Street businessman. But when it comes to catalog operations, we give them a huge advantage, 5 to 8 percent or more, and nobody wants to stand up for the Main Street businessman.

Recently the argument was made by one of the Senators from Maine that Maine does not have the problem I am describing because they have something that says on the State income tax return in Maine, ''List all your catalog purchases from last year.''

Now, who knows what all they bought from catalogs last year? There are a lot of people who order something every other day from a mail-order house, and of course they do not take the time to keep a record of every purchase. People just do not keep up with it.

Do you know what Maine collected last year on that? You guessed it. Not much. Only around $1 million of the total $13 million they should have collected on out-of-State mail order purchases. But Maine is fat and happy because L.L. Bean is located there and L.L. Bean does around $1 billion a year in sales and they pay sales tax on every dime of merchandise sold to customers living in the State of Maine. It is those other 49 States that do not get anything.

The direct marketing industry says, ''Oh, this is such a burden, Senator. You have got a city tax, you have got a county tax, you have got a State tax. Do you expect me to keep up with all of that?''

No, I do not. And this legislation would allow mail-order companies the option of collecting a single blended rate for each State where they do business. Then the mail-order companies would simply send a quarterly payment to the State revenue department and let them distribute it to the local jurisdictions that have a sales tax.

Do you want to hear a true anecdote? One of the finest Republican Senators to come to the U.S. Senate since I have been here is Senator BOB BENNETT from the great State of Utah. Senator BENNETT founded a mail-order company years ago. In a Small Business Committee hearing last year on this legislation, he said, ''The people in the company with me sat around the table with me and we debated this issue. Shall we or shall we not collect sales tax on our sales made to other States?'' He said the decision was almost unanimous, ''Yes, let's be good citizens and let's collect a sales tax.''

Anybody who wants to make the argument about what a terrible burden this is on these mail-order houses, talk to BOB BENNETT. He says, ''We punch a computer button at the end of the month, and that is it. It is no problem whatever to collect this sales tax. We do it and we do millions in business a year.'' So much for the burden. Another argument they make is, ''But, Senator, we do not require fire protection, law enforcement, all those things that your sales taxes go for.''

That is true. But I will tell you what burden you do impose on other States. You contribute almost 4 million tons of waste to the landfills of this country annually. Talk to any mayor: ''Mayor, what is the biggest problem you have?'' ''Trying to find enough landfill to take care of our garbage.'' And here is a contributor of around 4 million tons a year that mayors have to find some method of disposing of. And the mail-order houses do not contribute one penny, except companies like BOB BENNETT's.

''Well, we don't want to have to do this every month.'' Fine. My bill says you only have to remit every 3 months.

Now, if that ''ain't'' a deal. I wish I had had that kind of opportunity when I was in business. If I did not pay my sales tax by the 20th of each succeeding month, I did not get a 2-percent discount.

Mr. President, I have gone even further than that. In order to take care of some of these smaller mail-order houses, we have exempted in this bill, in the interest of being for small, fledgling businesses—and, I must say, $3 million a year is not exactly my idea of small—we say, ''If you do less than $3 million a year of business, you do not have to mess with this bill.'' Of the 7,500 catalog companies in the United States, not very many of them do more than $3 million of business a year. Only 825 of the 7,500 mail-order houses in this country that would be covered by this bill.

Mr. President, there is another element of unfairness besides the competitive advantage that these mail-order houses get. Some of them do advertising that is very offensive to me and I think it would be to any Senator.

Here are a couple of charts. I do not know the name of this company. But here is what their ad says. ''Nobody beats our deal.'' ''No sales tax added outside of North Carolina.''

Now, technically, that is correct. They do not add any sales tax. The poor consumer who buys that yacht, or whatever, is subject to a tax, but he is misled by this ad into believing that he will never have to pay any sales tax.

Here it is, ''No sales tax added.'' Now, it is true they do not add it, but if a State you live in happens to catch you buying that, they can assess a sales tax against you.

I have some letters that I will put in the RECORD in a moment, Mr. President, from people from all over the country who have gotten the sad news that they thought they were buying $10,000 worth of furniture tax free. And the clerk that sold them assured them, ''We will ship this from North Carolina to Florida, and you will not have to pay sales tax on it.''

But think about this. Wallcovering, Inc.—I blocked out the address of this company—here is their advertising: ''Discount wallcovering, the phone way.'' Now, all these mail order houses have their 1–800 number listed on every page of their catalog. ''The phone way, save 33 to 66 percent.''

And what do you think? No sales tax outside of Pennsylvania. That is not the worst of it. A lot of them have advertised ''No sales tax.'' They do not say, ''No sales tax added,'' as they do here. They just say ''No sales tax.'' A person getting ready to order wall covering, I promise, would assume that there is no sales tax.

But that is not the worst of this firm. Listen to this: ''Stop in your neighborhood, write down the pattern number, and then call us.'' Use that poor stiff down on Main Street. Go into his store and shop. Get the model number, get the cover number, whatever, and then call our 800 number and save the sales tax.

I have never introduced a piece of legislation in this body, Mr. President, that I thought was more meritorious than this. When I offered this amendment on the unfunded mandates bill these mail order houses started sending telegrams to every single person they had ever sold 10 cents worth to and said ''Write your Senator. Tell them you don't want any more taxes. Tell them Senator BUMPERS' proposal will cost them an arm and a leg.'' And a lot of people bought into that business about it being a new tax, and scared to death they will get a 30-second spot running against them the next time they run, being a taxer and a spender.

Ask the little shopkeeper in your hometown on Main Street what he thinks about it. Ask your Governor or your mayor how he or she feels about it.

We had a music dealer in North Little Rock testify. This music dealer said, ''People come into our shop all the time, get model numbers off our musical instruments so they can order from a mail order house. They get it from a mail order house, it does not work, and then they bring it in here for repair, and they think we ought to repair it free because we sell that same product.''

Now, Mr. President, if the Presiding Officer will pardon this odious comparison, it is just like mining law reform. It may not happen this year, may not even happen next year, but this is going to happen.

Do Senators know who collects taxes in every single State? The Boy Scouts. When ordering Scout uniforms out of their catalog, order it from Florida, they collect the tax and send it to the State of Florida. If the Boy Scouts can do it, surely the Lands' End and L.L. Bean and all the others can do it.

I am not going to bore Members with a bunch of catalogs. I keep a couple hundred in the office just for amusement. I am not going to bore Members with them, but that argument about how complex it is, it would take a Philadelphia lawyer to decipher the instructions on some of these mail order houses. Some of them do business in 25 States. If you live in this State, this State and this State, add 5 percent for sales tax; if you live in this State, add 4 percent sales tax, plus sales tax on the shipping charges; if you live in this State, allow 3 days for delivery; if you live in this State allow 2 days for delivery. And they talk about this being complicated.

Mr. President, the reason I say this is an idea whose time has come, and it will pass ultimately, is because this business is growing a lot faster than the retail business in your hometown.

So I always want to say to these people who say this is too burdensome, it is a new tax. All of those arguments we will hear when we debate this, they are the most specious arguments I have ever heard. I want to say to those people, what if everybody in the country decides to start ordering from mail order houses? Who will educate our children? Who will provide for fire protection and law enforcement and the landfills? If they continue to grow as fast as they are growing right now, compared to Main Street merchants, that is where we are headed.

The Senator from Maine—do not misunderstand me—I am not quarreling with the Senator from Maine. They have L.L. Bean in their State doing almost $1 million a year. I understand we all protect our own local interests, but you want to say to a lot of those people, ''You are getting your sales tax from the biggest mail order house in the country, but nobody else is.''

Is it fair for people to get this sudden notice when they thought they bought merchandise with no sales tax? Is it fair for them to suddenly get a notice from the State Revenue Department because their next door neighbor squealed on them for buying that oriental rug out of New York? It is patently unfair to the purchaser to suddenly find out that he owes a big tax bill that he was told by the mail order house that he would not have to pay.

So far as the burden is concerned, I want Senators to listen to this. These are not my words. These are Fingerhut's words, last quarter of 1993, Fingerhut in their annual report to their stockholders:

> To the extent that any States are successful in requiring use tax collection the cost of the company's business, doing business, could be increased although it does not believe any increase would be material.

Lands' End, probably the first quarterly report of 1994,

> Although collecting use taxes would likely influence the buying decisions of some customers, the company believes there would be no material adverse affects on financial results.

They are two of the biggest ones in the United States saying, ''We do not think the imposition of the collection of these sales taxes will affect our profits.''

Finally, why are we doing this now? Because until 1992, we could not. In 1967 the Supreme Court said in the famous case of Bellas Hess, a big mail order catalog house, the Supreme Court said the States may not impose a tax on mail order catalog houses because it would constitute an undue burden on commerce, interstate commerce, as prohibited by the Constitution, and would also be a violation of the due process clause of the 14th amendment. That was in 1967. Nobody can do anything because the Supreme Court said they could not.

In 1992 in the case of Quill versus North Dakota, the Supreme Court reversed half of that and said, ''We no longer believe that the imposition of a tax by the States on mail order houses is a violation of due process.'' Since the determination as to what burdens interstate commerce can be determined by Congress, it is now up to Congress to pass a law, if they choose, that allows the States to impose this tax on this roughly 825 mail order houses.

So in 1992, the Supreme Court said, ''Congress, it's up to you. If you want to help the States and the States want to impose this sales tax collection burden on the mail order houses, like they do on that poor Main Street merchant, Congress is going to have to pass a law enabling them to do it.''

So it has only been since that 1992 Supreme Court decision that we have had the authority to allow the States to do this.

Mr. President, if we cannot pass this, I hope I do not hear anymore whining, groaning, moaning, and gnashing of teeth about unfunded mandates on the States when you refuse to help the States collect a legitimate tax to deal with unfunded mandates and a whole host of other problems.

And if this bill does not pass, I hope I do not hear any moaning about the poor small business people in this country, how we ought to do something for the small business people. Everybody is always willing to do something for small business people as long as it does not affect big business people.

Mr. President, I ask unanimous consent that a letter from Ray Jones, owner of Long Beach Yacht Sales, Long Beach, CA; a letter from Mamie R. Willis, Portland, TN, the sad recipient of a pretty good sized order only to find out that she owed the sales tax; White Furniture Co. in my own home State from Debbie White, who talks about how competitively unfair it is for her to have to charge sales tax on furniture sold all over town and people ordering furniture from mail order

houses and paying no sales tax; and finally a letter from an ordinary citizen, John Dix, who bought a house full of furniture in North Carolina, almost $10,000 worth, and suddenly was slapped with a tax bill of $700 that he and his wife never dreamed even existed. If you want to stop all of that, fine.

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

LONG BEACH YACHT SALES,
Long Beach, CA, January 18, 1994.

Attention: Mr. Stan Fendley, Tax Council
Hon. SENATOR BUMPERS,
Chairman, Committee on Small Business,
Russell Senate Office Building, Washington, DC.

Thank you, in advance, for your sponsorship of legislation regarding the collection of interstate sales tax. This week we lost a $240,000 deal as a result of a sales tax issue. They buyer bought a boat in Oregon to avoid our local and state sales tax. The vessel will be kept out of state for the required period of time and will be subsequently brought into California after the waiting period has elapsed. Based on our local tax rate of 8.25% the resulting tax would have been $19,800.

Not only did we (and the State) lose this deal, but we also lost the time and expenses involved in upselling the customer to a more expensive boat (from $140,000 to $240,000), sea trialing the boat and providing extensive consultation regarding the product. The customer thanked us but basically said for $19,800 he would have to make an economic choice to buy elsewhere. We did not have the margin to discount the product further to even attempt to compete.

In todays economic environment it is tough enough to succeed but without some form of a fair interstate sales tax collection program we, as a responsible and law abiding dealership, can not compete fairly against some of our out of state competitors that are not required to collect sales tax or tax at a significantly lower rate.

Again, thank you for sponsoring this important piece of legislation. Hopefully this will create a fair arena in which we can compete. As always, please feel free to contact me with any questions or comments that you may have.

Sincerely,

RAY JONES,
Owner.

Portland, TN, September 8, 1994.

Senator DALE BUMPERS,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR BUMPERS: When I moved from Nashville to a small town a number of years ago, I discovered the convenience of mail-order buying. I buy several hundred dollars worth of merchandise per year. I am 75 years old and can no longer drive to the city to shop. I know there are probably thousands in my situation.

Several months ago I heard on our local news that people purchasing goods from mail order catalogs must pay State sales and use tax on these items. That was news to me. I, and I know many others, have always thought that merchandise purchased outside our state was not subject to sales tax unless such a vendor had a store within our state.

Since I have always tried to be a law-abiding citizen, I added up from my records all purchases made in recent years, figured the sales tax, and mailed a check to the State Department of Revenue. But what about those many people who still do not know they are liable for these taxes? This situation makes it unfair to those who are paying.

I once ordered many Christmas gifts from catalogs. Now I am inclined to send money to my out-of-town relatives, avoiding the hassle of tax-record keeping.

I believe it is the duty of mail order companies to collect sales taxes due, just as other stores and grocers do. Modern-day computers certainly make it easy for them.

I understand you are working on legislation to correct this situation. I hope you will succeed.

Sincerely yours,

MAMIE R. WILLIS.

WHITE FURNITURE CO.,
January 19, 1994.

Senator DALE BUMPERS,
Dirksen Building, Washington, DC.

DEAR SENATOR BUMPERS: I want to make you aware of an unfair tax situation that has been occurring for years in the furniture business. For quite some time we tried to ignore this, but when you see or hear the results every day of the week you have to finally stop and take notice.

My family has a small retail furniture business in Arkansas. We have paid taxes in the same small town for years. Now we have customers who are being educated by advertisers to shop their local retail stores for model numbers and prices—then call North Carolina and order and avoid paying our state sales taxes.

I have personally lost individual sales in my area for fifteen to twenty thousand dollars. We have found that the larger sales are the ones that people do out of state because of the high percentage of tax.

I'm not crying about the prices; I would just like to have a level playing field. We service our clients with free delivery; we furnish the showrooms where they can touch and feel the merchandise; we finance the merchandise locally, and we employ Arkansas people to sell and deliver the furniture.

Last year NBC did a travel segment and, on over 200 stations across our country, showed people how to take their vacations in North Carolina, shop while they are there and save enough in sales tax to pay for their vacation. Then CBS did a week long special on ''Good Morning America,'' devoting one day to furniture, one to cars, and another to clothes, etc.

I don't know about the other 49 states, but I do know that our state could use the revenue from those lost sales taxes for our schools, roads, and local government.

I will be proud to support you in any effort you can make to help our state collect these unpaid taxes.

Thank you.

DEBBIE WHITE.

Hilton Head, SC, September 12, 1994.

Hon. DALE BUMPERS,
Chairman, Committee on Small Business,
U.S. Senate, Washington, DC.

DEAR SENATOR BUMPERS: While on a trip to North Carolina a few years ago, my wife and I visited a furniture store to look for items for our winter home in Hilton Head, South Carolina. As you are no doubt aware, North Carolina is the furniture center of America. People come from all over America to buy furniture in North Carolina, drawn by word of mouth and various means of advertising.

As we shopped at one store in High Point, my wife and I found a number of furniture pieces that we were interested in buying. While considering the purchase, we were told by the sales staff that if this furniture were delivered to our home in South Carolina, no sales tax would be collected. This represented a savings of several hundred dollars, and became one factor in our decision to make the purchase. Subsequently, we concluded the purchase agreement, and the furniture was delivered to our home in South Carolina a short time later.

Approximately four years after making that purchase, we were surprised to receive a letter from the South Carolina Department of Revenue informing us that the furniture we had purchased in North Carolina was subject to South Carolina's use tax. (South Carolina had learned about the purchase when North Carolina audited the furniture company and shared the audit information with South Carolina.) In addition to the 5 percent tax, we owed interest and penalties because we had failed to pay the tax promptly. On our furniture of some $10,000, the total we owed for tax, interest and penalties was approximately $700.

As you can imagine, we were shocked and upset at this news. We had no idea that we owed tax on this purchase. Like most consumers, we were accustomed to having sales taxes collected at the time of purchase, and it seemed odd to expect the customer to know when, where and how much tax to pay. And because the furniture salesman had told us that no tax would be ''collected,'' we assumed that no tax existed.

I am not complaining about the tax itself. I certainly do not enjoy paying taxes, but had we known about this tax at the time of purchase, it wouldn't have been so bad. In that case, we could have considered the tax as part of the cost of the transaction and then made an informed decision about whether to make the purchase or not. Indeed, it's quite possible that we would still have bought the furniture. But we were blindsided. We were led to believe that there was no tax, then told four years later that there was a tax. That simply is not fair.

The worst part of this situation is that we were expected to pay interest and penalties. As I told the South Carolina Department of Revenue, I felt that this was particularly unreasonable since we didn't even know we owed the tax—and they didn't know we owed the taxes for four years. In the end, I won half the battle: they agreed to waive the penalties, but we still had to pay the interest.

I understand that the State of South Carolina cannot control what North Carolina merchants tell their customers. But the United States Congress can and should do so. I urge you to pass legislation immediately correcting this situation so that other consumers do not have the same bad experience we had.

In my opinion, you should require merchants who ship goods to other states to inform those customers that taxes may apply. The disclosure should be in writing, and the customer's signature should be required. Any merchant who fails to give the disclosure should have to pay 50 percent of any penalties or interest that occur. I believe this would discourage companies from failing to share important information with the consumer.

Thank you for the opportunity to share my thoughts with you on this issue. I hope that you will move quickly to ensure that other consumers aren't misled the way my wife and I were.

Sincerely,

JOHN DIX.

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been

scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Wednesday, March 22, 1995, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review the findings of a report prepared for the Committee on the cleanup of the Hanford Nuclear Reservation.

Those wishing to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call David Garman at (202) 224–7933 or Judy Brown at (202) 224–7556.

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS MANAGEMENT

Mr. CRAIG, Mr. President, I would like to announce for the information of the public that a hearing has been scheduled before the Subcommittee on Forests and Public Lands Management to receive testimony on S. 506, the Mining Law Reform Act of 1995.

The hearing will take place Thursday, March 30, 1995, at 9:30 am in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written testimony statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Michael Flannigan at (202) 224–6170.

SUBCOMMITTEE ON FOREST AND PUBLIC LANDS MANAGEMENT

Mr. CRAIG, Mr. President, I would like to announce for the information of the public that a hearing has been scheduled before the Subcommittee on Forests and Public Lands Management to receive testimony for a general oversight on the Forest Service land management planning process.

The hearing will take place Wednesday, April 5, 1995, at 9:30 am in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written testimony statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Mark Rey at (202) 224–2878.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. ABRAHAM. I ask unanimous consent that the Finance Committee be permitted to meet on Monday, March 13, 1995, beginning at 9:30 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing on the Consumer Product Index.

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

ADDITIONAL STATEMENTS

THE SENATOR

• Mr. SIMON. Mr. President, one of the members of the Presbyterian clergy with whom I have had the chance to work on historical projects and other things is the Reverend Robert Tabscott.

He sent me some observations he made 21 years ago about our former colleague, Senator Bill Fulbright. Bill Fulbright was a remarkable public servant.

I had the chance to work with him on exchange programs and other matters in the area of foreign policy.

To get a little more perspective on the impact of Senator Fulbright on people, it is good to read what Robert Tabscott wrote almost 21 years ago.

I ask that the tribute be printed in the RECORD.

The tribute follows:

[November 1974]

THE SENATOR

(By Robert Tabscott)

Reaching back in my memories I was first appreciative of William Fulbright in the early fall of 1961 when he eulogized the fallen Dag Hammerskijold. Six years later in Mississippi I read his book, ''The Arrogance of Power.'' It was a watershed for me: a provocative word in a hard and sterile time. The book challenged the American dream of opulence and power and called for a rediscovery of the values of Jefferson and the American revolution. But more, it was a fervent appeal for a new tolerance among us for people of differing philosophies and cultures. The book shook my patriotic myths and aroused a circumspection for which I shall always be grateful.

So when it became possible to interview the Senator on one of my recent visits to Washington, I was beside myself. Meeting him in the privacy of his large comfortable office, it was hard to imagine him as an international figure. He was surrounded by half-packed cartons of books (a prelude to his departure from the Senate), a cumbersome stack of magazines and papers, several botties of mineral water and at least a week's supply of health foods and vitamins. Entering the office, I stood motionless. ''Sit down,'' he said in a sonorous voice. I was extremely nervous and he waited for me to gain my composure. ''You will have to excuse me,'' I said, ''but this is quite an occasion for me.'' Graciously, he coaxed me on. ''Well I am glad I could give you this time.'' I described my work and the Rockefeller grant and asked if I could take notes. He smiled and said, ''I don't know if I will say anything important, but you may.'' And so I did.

J. William Fulbright was born in Missouri sixty-nine years ago. But he grew up in Arkansas, enjoying the benefits of a well-known and prosperous family. He won honors at the University in Fayetteville and was awarded a coveted Rhodes scholarship. His three years at Oxford were indelible. He read Tennyson, Lord Byron, Dryden, inspected Norman Churches, sought out Canterberry and Stradford and buried himself in English history and political thought. In 1928 he settled for a time in Vienna. From there he ventured with a friend to Salonika, Athens, and the Balkans. But his mind probed even further into Chinese history, Russian literature, and Creek philosophy.

At 34 he became the president of the University of Arkansas. Two years later during a political controversy he was asked to resign by the governor. He refused and was promptly fired. It was 1942. That spring, young Fulbright decided to run for Congress. Contrary to almost everyone's expectations, he was elected. By 1945 he had become the junior senator from Arkansas and had launched a career that would span thirty years and bring him international prominence.

We probably know William Fulbright best as chairman of the Senate's Foreign Relations Committee and for his untiring efforts to achieve détente with Russia and a better understanding of world Communism. For that he has been labeled a liberal and Communist sympathizer.

His greatest and most difficult years were between 1950 and 1973. At times he stood alone as he did against the maniacal red crusade of Joseph McCarthy, or as a persistent critic of two Administrations' Vietnam policies. On other occasions he has been painfully silent as he was during the Little Rock crisis and throughout most of the Civil Rights movement. The Senator is far from the hero his supporters have wanted him to be. But what is significant is that he has remained a man of conscience and integrity who has not sought to cover his inconsistencies but has acknowledged the painful struggle of public service and the burden of political compromise.

Two events illustrate that tension. On August 6, 1964, President Johnson requested Fulbright to introduce the famous Tonkin Resolution which gave the chief executive authority, ''* * * to take all necessary measures to repel any armed attack against forces of the United States and to prevent further aggression.'' That action put us into a land war in Asia. Only two Senators, Morse of Oregon and Gruening of Alaska, voted against the resolution. But by February, 1965, Fulbright had become disillusioned. He was alarmed, ''* * * by the tyranny of Puritan virtues, of the dogmatic ideology of false patriotism and a resurgence of manifest destiny in American life.'' The Senator would later confess that the Tonkin Resolution was one of the most regrettable mistakes of his public life.

In 1957, 19 senators and 77 representatives from the eleven states of the old Confederacy, drafted a manifesto attacking the Supreme Court's historic decision on segregation. ''The court,'' they said, ''had substituted naked power for established law.'' The signers pledged themselves ''* * * to resist integration through all lawful means and by any lawful means.'' J. William Fulbright signed the Manifesto.

But there were reasons, he contended. It was an election year and there was great pressure in the south. He could leave his southern colleagues and go his own way or stay with them and be assured of remaining in the Senate. Better to compromise and to fight again. He was convinced that he could not survive if he stood alone. He chose to remain silent. Many were shocked and disappointed because of his actions.

But when you consider the events of the last decade there were few men and women in public life who stood apart to face the crisis of Little Rock, Vietnam, Selma, Kent State or Attica. At a time when the South needed the wisdom of its statesmen, not one major figure dared to challenge the old myths. It was left to a heroic company of black men and women and an unlikely army of students, teachers, ministers, editors, lawyers, judges, and businessmen to stir the nation's conscience and to open a way for politicians to follow.

William Fulbright is a scholar, a man of reason and reflection. Some consider him a child of the Enlightenment. Intellectually he is much like Adlai Stevenson or Woodrow Wilson. He speaks of Jefferson and DeTocqueville, but I would venture he is more Hamiltonian in his philosophy. If he were to put this in theological terms, he would probably say that God's special gift to man is his capacity for reason.

A biographer has described him as ''* * * a complex human being, at times, witty, erudite, earthy, sardonic, melancholy, shrewd, innocent to the point of nievete, and candid—but never indifferent.'' Someone else said, ''Fifty years from now when they talk of Senators, they will remember Fulbright.''

Great men and women are not perfected; they endure. They survive the best and worst that is in them to become. In the end, they stand apart because they are real, but in so doing, they are always just beyond our grasp. Most politicians like their constituents, lack the intellectual penetration to form independent judgments and therefore accept the prevailing opinions of their society. But there are always a few who, assessing the circumstances, speak their minds and call us to growth and maturity.

At the end of his book, ''The Arrogance of Power,'' William Fulbright, wrote: ''For my own part I prefer the America of Lincoln and Adlai Stevenson. I prefer to have my country the friend rather than the enemy of demands for social justice; I prefer to have the Communists treated as human beings, with all the human capacity for good and bad, for wisdom and folly, rather than embodiments of an evil abstraction; and I prefer to see my country in the role of a sympathetic friend to humanity than its stern and painful school-master.''

When you consider the recent revelations of our government's involvement in the overthrow of the government in Chili, Fulbright's words are apocalyptic. He stands apart.

When I left the Senator's office, the long shadows of an October afternoon had filled most of the street. Already the leaves had begun to fall and a tinge of cold passed through the air. A season was passing. I walked on through the park toward the Capitol, warmed and grateful for what I seen and heard. I realized that I had been with a remarkable man whose wisdom, if remembered, could make a difference in our world.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effect of congressional action on the budget through March 10, 1995. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 218), show that current level spending is below the budget resolution by $2.3 billion in budget authority and $0.4 billion in outlays. Current level is $0.8 billion over the revenue floor in 1995 and below by $8.2 billion over the 5 years 1995–99. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $238.7 billion, $2.3 billion below the maximum deficit amount for 1995 of $241.0 billion.

Since my last report, dated February 27, 1995, there has been no action that affects the current level of budget authority, outlays, or revenues.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, March 13, 1995.

Hon. PETE DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1995 shows the effects of Congressional action on the 1995 budget and is current through March 10, 1995. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1995 Concurrent Resolution on the Budget (H. Con. Res. 218). This report is submitted under section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements of Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since our last report, dated February 27, 1995, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,

JUNE E. O'NEILL,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1995, 104TH CONGRESS, 1ST SESSION AS OF CLOSE OF BUSINESS MAR. 10, 1995

[In billions of dollars]

	Budget resolution (H. Con. Res. 218)[1]	Current level[2]	Current level over/ under resolution
ON-BUDGET			
Budget authority	1,238.7	1,236.5	−2.3
Outlays	1,217.6	1,217.2	−0.4
Revenues:			
1995	977.7	978.5	0.8
1995–99[3]	5,415.2	5,407.0	−8.2
Maximum deficit amount	241.0	238.7	−2.3
Debt subject to limit	4,965.1	4,755.7	−209.4
OFF-BUDGET			
Social Security Outlays:			
1995	287.6	287.5	−0.1
1995–99	1,562.6	1,562.6	*0
Social Security Revenues:			
1995	360.5	360.3	−0.2
1995–99	1,998.4	1,998.2	−0.2

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit—Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full—year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions

[3] Includes effects, beginning in fiscal year 1996, of the International Antitrust Enforcement Act of 1994 (P.L. 103–438).

*Less than $50 million.

Note: Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1995 AS OF CLOSE OF BUSINESS, MAR. 10, 1995

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in Previous Sessions			
Revenues	(*)	(*)	978,466
Permanents and other spending legislation	750,307	706,236	(*)
Appropriation legislation	738,096	757,783	(*)
Offsetting receipts	(250,027)	(250,027)	(*)
Total previously enacted	1,238,376	1,213,992	978,466
Entitlements and Mandatories			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	(1,887)	3,189	(*)
Total current level[1]	1,236,489	1,217,181	978,466
Total budget resolution	1,238,744	1,217,605	977,700
Amount remaining:			
Under budget resolution	2,255	424	(*)
Over budget resolution	(*)	(*)	766

[1] In accordance with the Budget Enforcement Act, the total does not include $1,394 million in budget authority and $6,466 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $877 million in budget authority and $935 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirement.

*Less than $500,000.

Notes: Numbers in parentheses are negative. Detail may not add due to rounding.●

BETTYLU SALTZMAN RECEIVES THE DEBORAH AWARD

● Mr. SIMON. Mr. President, for a number of years, my Chicago office was run by someone for whom I have come to have great respect, Bettylu Saltzman.

Recently, she was honored by the American Jewish Congress, along with Elaine Wishner, for her leadership.

That happened 6 or 8 weeks ago. Just recently, I had the opportunity to read her acceptance remarks.

Her eloquent remarks urge people to be sensitive and understanding, to reach out to all human beings, while being proud and sensitive of our individual traditions.

While the remarks are addressed to a Jewish audience, those of us who are Christians can learn from reading her remarks also.

I should add, Bettylu Saltzman, in these remarks, follows a great tradition. Her father, Philip Klutznick, served as one of our Ambassadors to the United Nations and served as Secretary of Commerce under Jimmy Carter. But more important than the offices he held was the way he held them. He called for reaching out when it was unpopular, as Bettylu mentions in her remarks.

I am proud to have a citizen like Bettylu Saltzman in the State of Illinois.

At this point, I ask that her remarks be printed in the RECORD.

The remarks follow:

It's a great honor to be here tonight. And while I remember Golda Meir's famous admonition—''Don't be humble; you're not that great''—it's hard to avoid, when sharing an honor with Elaine Wishner and joining the ranks of the other outstanding women who have been recognized in the past seven years.

I don't know if I belong among them, but I'm proud to stand with them, as they are truly people who have made a difference—giving of themselves to make the world a better place for all of us.

Through their examples, they have advanced the cause of justice which is an essential part of Jewish values and Jewish tradition.

Since its inception, the American Jewish Congress has personified that tradition. And for the past ten years, the Commission for Women's Equality has provided valuable and enlightened leadership.

I'm delighted to lend my name to that important effort.

But this evening also is gratifying because it marks a kind of milestone in my own evolution.

Though I come from a family with a deep commitment to Judaism and Israel, it is only in recent years that I have really come to terms with what that means to me.

I am the only girl among five children and I believe that is the reason I was largely deprived of the religious and cultural education that might have given me an earlier and richer appreciation for Jewish history and tradition.

Like many contemporary Jews, I struggled with the relevance of religion in my life, when religion seemed remote and ritualistic. And, as a much younger woman, I tried to find my place in Jewish life, in a community in which such participation was strictly dictated by a few, so-called ''mainstream'' organizations, in which men dominated and alternative points of view were not particularly well received.

My own metamorphosis began with the realization of the underlying lessons and values that form the foundation of Judaism—values that are as relevant and important today as they were thousands of years ago.

We Jews believe that it is our responsibility to repair the world—Tikkun Olam, and a commitment to justice is a recurrent theme in our history. The entire prophetic tradition commands us to show compassion and seek justice. We do this not just for our fellow Jews, but for all human beings.

Listen carefully to this quote from Leviticus inscribed on the Liberty Bell—''Proclaim liberty throughout all the land unto all the inhabitants thereof''.

That is why I'm proud to serve with Susan Manilow on the board of Mount Sinai Hospital, where Ruth Rothstein labored so long and hard to see to it that Chicagoans of all races, religions and creeds are provided with excellent health care. It is why I served on the board of the Crossroads Fund and continue to serve on the board of the Jewish Council on Urban Affairs.

Recently I was introduced to someone who recognized me as a trustee of Mount Sinai Hospital—a position of which I am justifiably proud. So, I was quite disturbed when this person admonished me that I should spend more time worrying about Jews, instead of poor people in the inner city.

Ethics, morality and the commandment to help others, are central to our tradition and our way of life. Through such activities, I have found my place in the Jewish community and in the process I have come to understand my Jewishness in a much deeper sense.

I share this thought because of the current debate on Jewish continuity, and my belief that if we are to encourage the perpetuation of Jewish awareness, we must discourage the kind of thinking that would dismiss a Mount Sinai Hospital or Jewish Council on Urban Affairs as an invalid way of expressing one's commitment to Jewish values.

The same is true of attitudes toward how one can best express support for Israel, and whether there is room for different approaches and views.

Over a decade ago, my father Philip Klutznick, courageously spoke of the need to bridge the chasm between Arab and Jew. He said we cannot afford, nor should we want, Israel to live in a perpetual state of war, and suggested that Israel's survival demanded an end to the conflict.

Though he devoted much of his life to the Jewish community and support of Israel, he was censured by some members of the community, who accused him of treachery and betrayal.

Today, once again, there was an horrendous terrorist attack at a bus stop north of Tel Aviv. Many lives were lost and many more Israeli citizens were maimed. But does it behoove us to give in to the enemies of peace, who perpetrate these atrocities in the Middle East or any place else in the world? I hope not.

I do not believe that due to the heroic actions of Israeli and Arab leaders, my father's dream of peace is several steps closer today.

I am vice president of the New Israel Fund, an organization dedicated to promoting social justice and democracy within Israel. I support the work of the Fund because it is consistent with my belief that maintaining a civil and just society takes vigilance and hard work, beginning at the grassroots, and because continued political, economic and moral support for Israel from America and the world community depends upon its survival as a healthy and robust democracy.

This endeavor is the way I have chosen to act on my commitment to Israel, though in the past, the New Israel Fund was not an organization that was always warmly welcomed into the Jewish community.

But my hope, as we carry on this debate about Jewish continuity, is that we think more expansively, understanding that there are many ways to demonstrate our devotion, each as valid as the next.

If one chooses to invest time and resources in an organization like the New Israel Fund, that is a triumph for the community, because it means one more person committed to justice, equality and the principles of Judaism.

In times when we are concerned about Jews in America drifting away, we simply cannot afford to disqualify and discourage those who are reaching out to find their place in the community.

And I hope I don't offend, when I include in that category the young couples, Jew and non-Jew, who ask a rabbi to join them in marriage. By seeking rabbinic involvement they are making an important choice. By refusing them, we simply insure the likelihood that one more couple will be lost, and one more family isolated from our traditions.

My point is that we cannot address the issue of Jewish continuity without broadening our horizons and opening our arms. Rigidity will not lead to greater Jewish identification—inclusiveness will.

As the years go by, I grow more and more appreciative of the meaning and value of Judaism, the sense of rootedness and belonging, and the opportunity to participate in Jewish life in ways in which I feel most comfortable.

That's a wonderful gift, which I want my children and future generations to share.

But for that to happen they must embrace our traditions and as a community we must enhance the attractiveness of a variety of paths leading to meaningful Jewish experiences; not devalue or marginalize choices that diverge from the middle of the road.

Tonight, you have honored me for the manner in which I have chosen to connect with those traditions, and in doing so, you have sent an important message that there are many meaningful ways to fulfill our obligations as Jews.

For that, as much as for this wonderful award, I thank you very much.●

ORDERS FOR TUESDAY, MARCH 14, 1995

Mr. ABRAHAM. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11:30 a.m. on Tuesday, March 14, 1995, that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, there then be a period for the transaction of routine morning business not to extend beyond the hour of 12:30 p.m., with Senators permitted to speak for up for 5 minutes each, with the following exceptions: Senator MURKOWSKI for 30 minutes, Senator EXON for 15 minutes, and Senator FEINGOLD for 15 minutes.

I further ask consent that at the hour of 12:30 p.m., the Senate stand in recess until 2:15 p.m. on Tuesday in order for the weekly party caucuses to meet.

I further ask unanimous consent that, following the recess, the Senate resume consideration of the supplemental appropriations bill, and at that point Senator BYRD be recognized to speak.

I further ask unanimous consent that immediately following the conclusion of Senator BYRD's statement, the Senate turn to the consideration of the conference report to accompany S. 1, the unfunded mandates bill, and there be 3 hours for debate, to be equally divided in the usual form.

I further ask unanimous consent that at the conclusion or yielding back of time on the conference report, the Senate proceed to vote on the conference report, without any intervening action or debate. If a rollcall vote is ordered on the conference report, I ask that the vote occur immediately following the scheduled cloture vote on Wednesday, notwithstanding rule XXII.

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

PROGRAM

Mr. ABRAHAM. For the information of all Senators, the Senate will debate the Kassebaum amendment and the unfunded mandates conference report during tomorrow's session of the Senate; however, no votes will occur. The first vote will be at 10:30 a.m. on Wednesday on the cloture motion on the Kassebaum amendment dealing with striker replacement.

For the information of all Senators, the official picture of the U.S. Senate in session will be taken by the National Geographic Society on Tuesday, April 4, 1995, at 2:15 p.m. All Senators are now on notice to be on the floor at 2:15 p.m. on April 4 for the picture.

RECESS UNTIL 11:30 A.M. TOMORROW

Mr. ABRAHAM. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 5:14 p.m., recessed until Tuesday, March 14, 1995, at 11:30 a.m.