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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Gracious God, You have called the men and women of this Senate to glorify You by being servant-leaders. The calling is shared by the officers of the Senate, the Senators' staffs, and all who enable the work done in this Chamber. Keep us focused on the liberating truth that we are here to serve You by serving our Nation. Our sole purpose is to accept Your absolute lordship over our lives and give ourselves totally to the work of this day. Give us the enthusiasm that comes from knowing the high calling of serving in government. Grant us the holy esteem of knowing that You seek to accomplish Your plans for America through the legislation of this Senate. Free us from secondary, self-serving goals. Help us to humble ourselves and ask how we may serve today. We know that happiness comes not from having things nor getting recognition, but from serving in the great cause of implementing Your righteousness, justice, and mercy for every person and in every circumstance in this Nation. We take delight in the ultimate paradox of life: The more we give ourselves away, the more we can receive of Your love. In our Lord's name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable GEORGE V. VOINOVICH, a Senator from the State of Ohio, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. VOINOVICH). The acting majority leader is recognized.

SCHEDULE

Mr. HATCH. Mr. President, today the Senate will resume consideration of the pending flag desecration resolution. Under the order, there are 2 hours of debate remaining on the Hollings amendment, to be followed by an additional hour for general debate.

At 2:15, following the party caucus luncheons, the Senate will proceed to two consecutive votes on the pending amendments to the flag desecration resolution. Cloture was filed on the resolution during yesterday's session; therefore, under the provisions of rule XXII, a cloture vote will occur on Wednesday. However, it is hoped that an agreement can be reached with regard to a vote on final passage of the resolution and that the cloture vote will not be necessary.

I thank all Members for their attention.

MEASURE PLACED ON THE CALENDAR—H.R. 2366

Mr. HATCH. Mr. President, I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 2366) to provide small businesses certain protections from litigation excesses and to limit the product liability of nonmanufacturer product sellers.

Mr. HATCH. Mr. President, I object to further proceedings on this bill at this time.

The PRESIDING OFFICER. Under the rules, the bill will be placed on the calendar.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

FLAG DESECRATION CONSTITUTIONAL AMENDMENT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S.J. Res. 14, which the clerk will report by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 14) proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

Pending:

McConnell amendment No. 2889, in the nature of a substitute.

Hollings amendment No. 2890, to propose an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

Mr. ASHCROFT. Mr. President, I rise today in support of the proposed amendment to the United States Constitution to permit Congress to prevent the desecration of our greatest national symbol: the American flag. I want to thank Chairman HATCH for his leadership on this important issue. Last year, Senator HATCH, on behalf of myself and many others, introduced S.J. Res. 14, a constitutional amendment to authorize Congress to protect the flag through appropriate legislation. Since 1998, the Judiciary Committee has held four hearings on this issue. I am pleased that this resolution now has 58 Senate sponsors. In addition, the House of Representatives has already passed an identical resolution, H.J. Res. 33, on June 24, 1999, by a vote of 305 to 124.

Throughout our history, the flag has held a special place in the hearts and minds of Americans. Even as the appearance of the flag has changed with the addition of new stars to reflect our

growing nation, its meaning to the American people has remained constant. The American flag symbolizes an ideal for Americans, and or all those who honor the great American experiment. It represents freedom, sacrifice, and unity. It is a symbol of patriotism, of loved ones lost, and of the American way of life. The flag stands in this Chamber, in our court rooms, and in front of our houses; it is draped over our honored dead; and it flies at half-mast to mourn our heroes. It is the subject of our national anthem, our national march and our Pledge of Allegiance. In short, the flag embodies America itself. I believe that our nation's symbol is a unique and important part of our heritage and culture, a symbol worthy of respect and protection.

This is not a new perspective. The American flag has enjoyed a long history of protection from desecration. Chief Justice Harlan, upholding a 1903 Nebraska statute proscribing use of the Flag in advertisements states,

> [To] every true American the Flag is a symbol of the nation's power—the emblem of freedom in its truest, best sense. It is not extravagant to say that to all lovers of the country it signifies government resting on the consent of the governed; liberty regulated by law; the protection of the weak against the strong; security against the exercise of arbitrary power; and absolute safety for free institutions against foreign aggression. *Halter* v. *Nebraska*, 205 U.S. 34, 41 (1907).

It is for these reasons that Americans overwhelmingly support preserving and protecting the American flag. During a hearing I chaired in March 1998, entitled ''The Tradition and Importance of Protecting the United States Flag,'' the witnesses noted that an unprecedented 80 percent of the American people supported a constitutional amendment to protect the flag. Recent polls show that support unchanged. In addition, the people's elected representatives reflected that vast public support by enacting flag protection statutes at both the State and Federal levels. In fact, 49 State legislatures have passed resolutions asking Congress to send a constitutional amendment to the States for ratification.

Regrettably, the Supreme Court has chosen instead to impose the academic and elitist values of Washington, DC, on the people, instead of permitting and upholding the values that people attempted to demand of their government. In 1989, the Supreme Court ignored almost a century of history and thwarted the people's will in the case of Texas v. Johnson by holding that the American flag is just another piece of cloth for which no minimum of respect may be demanded.

In response, the Congress swiftly attempted to protect the flag by means of a statue, the Flag Protection Act of 1989, only to have that statute also struck down by the Supreme Court in United States v. Eichman. In 1989, 1990 and 1995 the Senate voted on proposed constitutional amendments to allow protection of the flag—and each time the proposal gained a majority of votes, but not the necessary two-thirds super-majority needed to send the amendment to the States for ratification. And so we are here today to try again.

Critics of this measure urge that it will somehow weaken the rights protected by the first amendment. I would draw their attention to the long standing interpretation of the first amendment prior to Texas v. Johnson. At the time of the Supreme Court's decision, the tradition of protecting the flag was too firmly established to suggest that such laws are inconsistent with our constitutional traditions. Many of the state laws were based on the Uniform Flag Act of 1917. No one at that time, or for 70 years afterwards, felt that these laws ran afoul of the first amendment. Indeed, the Supreme Court itself upheld a Nebraska statute preventing commercial use of the flag in 1907 in Halter v. Nebraska. As Chief Justice Rhenquist noted in his dissent in Texas v. Johnson, ''I cannot agree that the First Amendment invalidates the Act of Congress, and the laws of 48 of the 50 States which make criminal the public burning of the flag.''

Mr. President, I also reject the notion that amending the Constitution to overrule the Supreme court's decisions in the specific context of desecration of the flag will somehow undermine the first amendment as it is applied in other contexts. This amendment does not create a slippery slope which will lead to the erosion of Americans' right to free speech. The flag is wholly unique. It has no rightful comparison. An amendment protecting the flag from desecration will provide no aid or comfort in any future campaigns to restrict speech.

Moreover, an amendment banning the desecration of the flag does not limit the content of any true speech. As Justice Stevens noted in his dissent in Texas v. Johnson, ''[t]he concept of 'desecration' does not turn on the substance of the message the actor intends to convey, but rather on whether those who view the act will take serious offense.'' Likewise, the act of desecrating the flag does not have any content in and of itself. The act takes meaning and expresses conduct only in the context of the true speech which accompanies the act. And that speech remains unregulated. As the Chief Justice noted, ''flag burning is the equivalent of an inarticulate grunt or roar that, it seems fair to say, is most likely to be indulged in not to express any particular idea, but to antagonize others.''

But what if we fail to act? What is the legacy we are leaving our children? At a time when our nation's virtues are too rarely extolled by our national leaders, and national pride is dismissed by many as arrogance, America needs, more than ever, something to celebrate. At a time when too many Americans have lost respect because of disrespectful actions of elected leaders, we need a national symbol that is beyond reproach. At a time when Hollywood, which once inspired Americans with Capra-esque tales of heroism, integrity, and national pride, now bestows its highest honors on works that glorify the dysfunctional, the miserable, the materialistic, and the amoral. America needs its flag untainted, representing more than some flawed agenda, but this extraordinary nation. The flag, and the freedom for which it stands, has a unique ability to unite us as Americans.

In sum, there is no principal or fear that should stand as an obstacle to our protection of the flag. The American people are seeking a renewed sense of purpose and patriotism. They want to protect the uniquely American symbol of sacrifice, honor and freedom. The genius of our democracy is not that the values of Washington would be imposed on the people, but that the values of the people would be imposed on Washington. I urge my colleagues to join me in letting the values of the American people affect the work we do here. It is my earnest hope that by amending the Constitution to prohibit its desecration, this body will protect the heritage, sacrifice, ideals, freedom, and honor that the flag uniquely represents.

Mr. HAGEL. Mr. President, I rise today to speak I support of the joint resolution, introduced by my distinguished colleague from Utah, Senator ORRIN HATCH, proposing an amendment to the Constitution authorizing Congress to prohibit physical desecration of the American flag.

From the birth of our nation, the flag has represented all that is good and decent about our country. On countless occasions, on battlefields across the world, the Stars and Stripes led young Americans into battle. For those who paid the ultimate price for our nation, the flag blanketed their journey and graced their final resting place.

Mr. President, the Flag is not just a piece of cloth. It is a symbol so sacred to our nation that we teach our children not to let it touch the ground. It flies over our schools, our churches and synagogues, our courts, our seats of government, and homes across America. It unites all Americans regardless of race, creed or color. The flag is not just a symbol of America, it is America.

Those who oppose this constitutional amendment say it impinges on freedom of speech and violates our Constitution. As a veteran who was wounded twice in Vietnam protecting the principles of freedoms that Americans hold sacred, I am a strong supporter of the first amendment. However, I believe this is a hollow argument. There are many limits placed on ''free speech,'' including limiting yelling ''fire'' in a crowded theater. Other freedoms of speech and expression are limited by our slander and libel laws.

In 1989 and 1990 the Supreme Court struck down flag protection laws by

narrow votes. The Court has an obligation to protect and preserve our fundamental rights as citizens. But the American people understand the difference between freedom of speech and ''anything goes.''

When citizens disagree with our national policy, there are a number of options available to them other than destroying the American Flag to make their point. Let them protest, let them write to their newspaper, let them organize, let them march, let them shout to the rooftops—but we should not let them burn the flag. Too many have died defending the flag for us to allow it be used in any way that does not honor their sacrifice.

Mr. President, in a day where too often we lament what has gone wrong with America, it's time to make a stand for decency, for honor and for pride in our nation. I urge my colleagues to support the flag amendment. Mr. President, I yield the floor.

Mr. GORTON. Mr. President, with some hesitancy I will vote in favor of the flag protection constitutional amendment. My hesitancy stems not from any doubt that our Nation should provide specially protected status to our flag—I firmly believe the flag should be protected from desecration. I am hesitant because we are voting to amend our Nation's Constitution and every Senator should exercise extreme caution when considering such changes.

I have given careful consideration on the important amendment currently before the Senate. A decade ago, when the Supreme Court issued its 5-to-4 decision invalidating flag desecration statutes, I read each of the three opinions filed by Justices of the Court. I was convinced then, and remain convinced now, that the Court erred in its decision and that such statutes, if properly written, are constitutional. For this reason, I shall vote in favor of both the constitutional amendment to protect our flag and the proposed amendment to substitute a flag protection statute for the constitutional amendment.

Mr. JEFFORDS. Mr. President, I rise today to discuss my thoughts on a constitutional amendment to ban flag burning and other acts of desecration.

As a veteran of 30 years in the United States Navy and United States Naval Reserve, I know the pride members of the Armed Forces have in seeing the United States flag wherever they may be in the world. I share the great respect most Vermonters and Americans have for this symbol.

I personally abhor the notion that anyone would choose to desecrate or burn the flag as a form of self-expression. Members of the Armed Services place their lives at risk to defend the rights guaranteed by the United States Constitution, including the First Amendment freedom of speech. It is disrespectful of these past and present sacrifices to desecrate this symbol.

It seems highly ironic to me that an individual would desecrate the symbol of the country that provides freedoms such as the first amendment freedom of speech. However, in my opinion the first amendment means nothing if it is not strong enough to protect the rights of those who express unpopular ideas or choose a distasteful means of this expression.

I have given this issue a great deal of thought. I must continue to oppose this amendment since I do not think that a valid constitutional amendment, one that does not infringe on the first amendment, can be crafted. The first amendment right of freedom of speech is not an absolute right though as we have in the past recognized the legitimacy of some limits on free speech.

I do not think, however, that we should open the Bill of Rights to amendment for the first time in our history unless our basic values as a nation are seriously threatened. In this case, in recent years there have not been a significant number of incidents of this misbehavior.

In my view, a few flag desecrations or burnings around the Nation by media-seeking malcontents does not meet this high standard and I therefore cannot support the adoption of this amendment.

Mr. HUTCHINSON. Mr. President, as an original cosponsor, I rise today in support of S.J. Res. 14, which would amend the United States Constitution to prohibit the desecration of our flag. Opponents to this measure contend that the right to desecrate the flag is the ultimate expression of speech and freedom. I reject the proposition as I believe that the desecration of our flag is a reprehensible act which should be prohibited. It is an affront to the brave and terrible scarifies made by millions of American men and women who willingly left their limbs, lives, and loved ones on battlefields around the world.

It is an affront to these Americans who have given the greatest sacrifices because of what the flag symbolizes. To explain what our flag represents, former United States Supreme Court Chief Justice Charles Evans Hughes in his work, ''National Symbol,'' said.

> The Flag is the symbol of our national unity, our national endeavor, our national aspiration.
>
> The flag tells of the struggle for independence, of union preserved, of liberty and union one and inseparable, of the sacrifices of brave men and women to whom the ideals and honor of this nation have been dearer than life.
>
> It means America first; it means an undivided allegiance.
>
> It means America united, strong and efficient, equal to her tasks.
>
> It means that you cannot be saved by the valor and devotion of your ancestors, that to each generation comes it patriotic duty; and that upon your willingness to sacrifice and endure as those before you have sacrificed and endured rests the national hope.
>
> It speaks of equal rights, of the inspiration of free institutions exemplified and vindicated, of liberty under law intelligently conceived and impartially administered. There is not a thread in it but scorns self-indulgence, weakness, and rapacity.
>
> It is eloquent of our community interests, outweighting all divergencies of opinion, and of our common destiny.

Former President Calvin Coolidge, echoed Chief Justice Hughes in ''Rights and Duties.''

> We do honor to the stars and stripes as the emblem of our country and the symbol of all that our patriotism means.
>
> We identify the flag with almost everything we hold dear on earth.
>
> It represents our peace and security, our civil and political liberty, our freedom of religious worship, our family, our friends, our home.
>
> We see it in the great multitude of blessings, of rights and privileges that make up our country.
>
> But when we look at our flag and behold it emblazoned with all our rights, we must remember that it is equally a symbol of our duties.
>
> Every glory that we associate with it is the result of duty done. A yearly contemplation of our flag strengthens and purifies the national conscience.

Given what our flag symbolizes, I find that incomprehensible that anyone would desecrate the flag and inexplicable that our Supreme Court would hold that burning a flag is protected speech rather than conduct which may be prohibited. I find it odd that one can be imprisoned for destroying a bald eagle's egg, but may freely burn our nation's greatest symbol. Accordingly, I urge my colleagues to pass S.J. Res. 14 so that our flag and all that it symbolizes may be forever protected.

Ms. SNOWE. Mr. President, as an original cosponsor of S.J. Res. 14, I am proud to rise in support of the proposed constitutional amendment granting Congress the power to prohibit the physical desecration of the flag of the United States. Last June, the House of Representatives passed an identical resolution by the requisite two-thirds vote margin, so I urge that my colleagues in the Senate also pass this resolution with similar bipartisan support and send the proposed amendment to the states for ratification.

Our flag occupies a truly unique place in the hearts of millions of citizens as a cherished symbol of freedom and democracy. As a national emblem of the world's greatest democracy, the American flag should be treated with respect and care. Our free speech rights do not entitle us to simply consider the flag as ''personal property'', which can be treated any way we see fit including physically desecrating it as a legitimate form of political protest.

We debate this issue at a very special and important time in our nation's history.

This year marks the 55th anniversary of the allies' victory in the Second World War. And, fifty-nine years ago, Japanese planes launched an attack on Pearl Harbor that would begin American participation in the Second World War.

During that conflict, our proud marines climbed to the top of Mount Suribachi in one of the most bloody battles of the war. No less than 6,855 men died to put our American flag on

the mountain. The sacrifice of the brave American soldiers who gave their life on behalf of their country can never be forgotten. This honor and dedication to country, duty, freedom and justice is enshrined in the symbol of our Nation—the American flag.

The flag is not just a visual symbol to us—it is a symbol whose pattern and colors tell a story that rings true for each and every American.

The 50 stars and 13 stripes on the flag are a reminder that our nation is built on the unity and harmony of 50 states. And the colors of our flag were not chosen randomly: red was selected because it represents courage, bravery, and the willingness of the American people to give their life for their country and its principles of freedom and democracy; white was selected because it represents integrity and purity; and blue because it represents vigilance, perseverance, and justice.

Thus, this flag has become a source of inspiration to every American wherever it is displayed.

For these reasons and many others, a great majority of Americans believe—as I strongly do—that the American flag should be treated with dignity, respect and care—and nothing less.

Unfortunately, not everyone shares this view.

In June of 1990, the Supreme Court ruled that the Flag Protection Act of 1989, legislation adopted by the Congress in 1989 generally prohibiting physical defilement or desecration of the flag, was unconstitutional. This decision, a 5–4 ruling in U.S. v. Eichman, held that burning the flag as a political protest was constitutionally-protected free speech.

The Flag Protection Act had originally been adopted by the 101st Congress after the Supreme Court ruled in Texas v. Johnson that existing Federal and state laws prohibiting flag-burning were unconstitutional because they violated the first amendment's provisions regarding free speech.

I profoundly disagreed with both rulings the Supreme Court made on this issue. In our modern society, there are still many different forums in our mass media, television, newspapers and radio and the like, through which citizens can freely and fully exercise their legitimate, constitutional right to free speech, even if what they have to say is overwhelmingly unpopular with a majority of American citizens.

Accordingly, in 1995, I also joined as an original cosponsor of a proposed constitutional amendment granting Congress the power to prohibit the physical desecration of the flag of the United States. Although the House of Representatives easily passed that resolution by the necessary two-thirds vote margin, the Senate fell a mere three votes short.

I am hopeful that today's effort will deliver the three additional votes that are needed to send this proposed amendment to the states for ratification. Of note, prior to the Supreme Court's 1989 Texas v. Johnson ruling, 48 states, including my own state of Maine, and the Federal government, had anti-flag burning laws on their books for years—so it's time the Congress gave the states the opportunity to speak on this issue directly.

Mr. President, whether our flag is flying over a ball park, a military base, a school or on a flag pole on Main Street, our national standard has always represented the ideals and values that are the foundation this great nation was built on. And our flag has come not only to represent the glories of our nation's past, but it has also come to stand as a symbol for hope for our nation's future.

Let me just state that I am extremely committed to defending and protecting our Constitution—from the first amendment in the Bill of Rights to the 27th amendment. I do not believe that this amendment would be a departure from first amendment doctrine.

I strongly urge my colleagues to uphold the great symbol of our nationhood by supporting the flag amendment.

Thank you, Mr. President. I yield the floor.

Mr. WARNER. Mr. President, I rise today in support of S.J. Res. 14. This important joint resolution calls for an amendment to the United States Constitution that would allow the United States Congress to prohibit the physical desecration of the flag of the United States.

For years now I have been among the strongest supporters in the United States Senate of amending the United States Constitution to allow Congress to prohibit physical desecration of the United States flag. I was pleased the House of Representatives overwhelmingly passed a resolution identical to S.J. Res. 14 on June 24, 1999, by a vote of 305–124, and I look forward to voting for S.J. Res. 14 in the near future.

In 1989, the United States Supreme Court, in a 5–4 decision in the case of Texas v. Johnson, stated that the First Amendment prevented a state from protecting the American flag from acts of physical desecration. Since that time, a number of individuals have sought to seize on this misguided Supreme Court decision to justify flag burning. Mr. President, why would any citizen, who wishes to continue enjoying the great privileges of being an American, need a legal right to burn our Nation's flag in public?

No amount of tortured legal argumentation can overcome common sense and the plain meaning of the First Amendment. The first amendment to the Constitution states that no law shall abridge the ''freedom of speech.'' The key word in this portion of the amendment is ''speech.'' Laws that do not abridge ''speech'' are not prohibited by this section of the amendment. Simply put, burning the United States flag is not speech. A flag is not burned with words. Rather, a flag is burned with fire. As such, burning a flag is more appropriately classified as conduct, which is not protected by the first amendment.

The proposition that our greatness as a nation rests on whether or not an individual is permitted to burn Old Glory simply does not add up. At a time in our national history when disparate influences appear to be dividing people, the American flag represents unity. During the American Revolution, and subsequent conflicts, the flag has unified our diverse nation. Our flag symbolizes the freedoms we enjoy everyday. Generations of Americans have gone forth from our shores to stop enemies abroad from taking away these freedoms.

In addition, our great nation has always used the flag to honor those who, proudly in the uniform of our military, made great sacrifices. These are startling statistics that tend to be forgotten with the passage of time: World War II, 406,000 U.S. service members killed; Korea 55,000 U.S. service members killed; Vietnam, 58,100 U.S. service members killed, and Persian Gulf, 147 U.S. service members killed. For all those who gave their life, let us not forget that their caskets were draped in our flag as the final expression of our nation's thankfulness.

The memory and honor of those who have fought under our flag demands that our flag be protected against reckless conduct presenting itself as ''free speech.''

AMENDMENT NO. 2890

The PRESIDING OFFICER. Under the previous order, there will now be up to 2 hours of debate on the Hollings amendment No. 2890, to be equally divided in the usual form between the Senator from Kentucky, Mr. MCCONNELL, and the Senator from South Carolina, Mr. HOLLINGS.

The Senator from South Carolina, Mr. THURMOND, is recognized.

Mr. THURMOND. Mr. President, I rise today to express my strong support for Senate Joint Resolution 14, the constitutional amendment to protect the flag of the United States. I believe it is vital that we enact this amendment without further delay.

We have considered this issue in the Judiciary Committee and on the Senate Floor many times in the past decade. I have fought to achieve protection for the flag ever since the Supreme Court first legitimized flag burning in the case of Texas v. Johnson in 1989.

The American flag is much more than a piece of cloth. During moments of despair and crisis throughout the history of our great Nation, the American people have turned to the flag as a symbol of national unity. It represents our values, ideals, and proud heritage. There is no better symbol of freedom and democracy in the world than our flag. As former Senator Bob Dole said a few years ago, it is the one symbol that brings to life the Latin phrase that appears in front of me in

the Senate Chamber, *e pluribus unum*, which means, ''out of many, one.''

Ever since the American Revolution, our soldiers have put their lives on the line to defend what the flag represents. We have a duty to honor their sacrifices by giving the flag the protection it once had, and clearly deserves today.

In our history, the Congress has been very reluctant to amend the Constitution, and I agree with this approach. However, the Constitution provides for a method of amendment, and there are a few situations where an amendment is warranted. This is one of them.

The only real argument against this amendment is that it interferes with an absolute interpretation of the free speech clause of the first amendment. However, restrictions on speech already exist through constitutional interpretation. In fact, before the Supreme Court ruled on this issue, the Federal government and the States believed that flag burning was not constitutionally protected speech. The Federal government and almost every state had laws prohibiting desecration that were thought to be valid before the Supreme Court ruled otherwise in 1989.

Passing this amendment would once again give the Congress the authority to protect the flag from physical desecration. It would not reduce the Bill of Rights. It would simply overturn a few very recent judicial decisions that rejected America's traditional approach to the flag under the law.

Flag burning is intolerable. We have no obligation to permit this nonsense. Have we focused so much on the rights of the individual that we have forgotten the rights of the people?

I strongly urge all my colleagues to join with us today and support this amendment. We are on the side of the American people, and I am firmly convinced that we are on the side of what is right. Once and for all, we should pass this constitutional amendment and give the flag of the United States of America the protection it deserves.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I want to make remarks generally on the flag amendment. Frankly, I think it is a travesty on this constitutional amendment to bring up campaign finance reform as a constitutional amendment to this amendment. But be that as it may, any Senator has a right to do that.

I hope my colleagues will vote down the Hollings amendment, as it should be voted down. That is a serious debate that has to take place, and it should not take place as a constitutional amendment. Having said that, let me comment about why we are here.

The Senate began today's session with the Pledge of Allegiance to our American flag. Today, we resume debate over a proposal that will test whether the pledge we make—with our hands over our hearts—is one of consequence or just a hollow gesture. We resume debate over S.J. Res. 14, a constitutional amendment to permit Congress to enact legislation prohibiting the desecration of the American flag. Now all we are asking, since the Court has twice rejected congressional statutes, is to give Congress the power to protect our flag from physical desecration. It seems to me that is not much of a request.

It should be a slam dunk. But, unfortunately, politics is being played with this amendment. Congress would not have to act on it if it didn't want to, but it would have the power to do so. It also involves the separation of powers doctrine.

The Supreme Court, in its infinite wisdom, has indicated that flag burning, defecating on the flag, or urinating on the flag is a form of free speech.

I don't see how anybody in his right mind can conclude that. There is no question that is offensive conduct and it ought to be stamped out. On the other hand, all we are doing is giving Congress the power to enact legislation that would prohibit physical desecration of the flag. Congress doesn't have to, if it doesn't want to; it can, if it wants to.

When we enacted those prior statutes to protect the flag, they passed overwhelmingly. It was also under the guise that we were trying to protect the flag through statutory protection, which I of course pointed out very unfailingly in both cases was unconstitutional. Of course, the Supreme Court upheld what I said they would uphold.

Symbols are important. The American flag represents, in a way that nothing else does, the common bond shared by the people of this nation, one of the most diverse in the world. It is our one overriding symbol of unity. We have no king; we won our independence from him over 200 years ago. We have no state religion. What we do have is the American flag.

Whatever our differences of party, politics, philosophy, race, religion, ethnic background, economic status, social status, or geographic region, we are united as Americans in peace and in war. That unity is symbolized by a unique emblem, the American flag. Its stars and stripes and rich colors are the visible embodiment of our Nation and its principles and values and ideals.

The American flag has come to symbolize hope, opportunity, justice, and freedom—not just to the people of this Nation but to people all over the world. Failure to protect the flag would lessen the bond among us as Americans and weaken the symbolism of our sovereignty as a nation.

This proposed amendment recognizes and ratifies James Madison's view—and the constitutional law that existed for centuries—that the American flag is an important and unique incident of our national sovereignty. As Americans, we display the flag in order to signify national ownership and protection. The Founding Fathers made clear that the flag reflects the existence and sovereignty of the United States, and that desecration of the flag was a matter of national—I repeat—national concern that warranted government action. This same sovereignty interest does not exist for our national monuments or our other symbols. While they are important to us all, the flag is unique. It is flown over our ships. We carry it into battle. We salute it and pledge allegiance to it. We do these things because the flag is the unique symbol unity and sovereignty.

The proposed amendment reads simply: ''The Congress shall have the power to prohibit the physical desecration of the flag of the United States.'' S.J. Res. 14 is not an amendment to ban flag desecration, but an amendment to allow Congress to make the decision on whether to prohibit it. It is not self-executing, so a statute defining the terms and penalties for the proscribed conduct will need to be enacted, should this amendment be approved by two-thirds of the Senate today, or whenever.

While it would be preferable to enact a statute, and not take the rare and sober step of amendment the Constitution, our amendment is necessary because the Supreme Court has given us no choice in the matter.

I understand there is some lack of knowledge in this body where people have not realized that for 200 years we have protected the flag and that 49 States have anti-flag-desecration language. But in two narrow 5–4 decisions, breaking from over 200 years of precedent—Texas v. Johnson and United States v. Eichman—the Court overturned prior State statutes prohibiting the desecration of the flag.

Make no mistake about it: The United States Senate is the forum of last resort to ensure that our flag is protected. H.J. Res. 33—an identical measure—has already won the necessary two-thirds vote in the House of Representatives by a vote of 305 to 124, with overwhelming bipartisan support. In fact, nearly 50 percent of the Democrats in the House voted for the measure.

In addition, the people, expressing themselves through 49 State legislatures, have expressed their readiness to ratify the measure by calling upon Congress to pass this constitutional amendment to protect the flag. Protecting the flag is not a partisan gesture, nor should it be. Especially at a time of election-year partisan rhetoric, this amendment to protect our flag is an opportunity for all Americans to come together as a country and honor the symbol of what we all are. This effort will not only reaffirm our allegiance to the flag, it will reestablish our national unity.

The American people revere the flag of the United States as the unique symbol of our Nation and the freedom we enjoy as Americans. As Supreme Court Justice John Paul Stevens said in his dissent in Texas v. Johnson:

[A] country's flag is a symbol of more than ''nationhood and national unity.'' It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas. . . . So it is with the American flag. It is more than a proud symbol of the courage, the determination, and the gifts of a nation that transformed 13 fledgling colonies into a world power. It is a symbol of freedom, of equal opportunity, of religious tolerance, and of goodwill for other peoples who share our aspirations.'' [491 U.S. at 437 (dissenting)]

In the long process of bringing this amendment to the floor, we have gone more than half way to address the concerns of critics. I think it is time for opponents of the amendment to join with us in offering the protection of law to our beloved American flag.

Justice John Paul Stevens, in his dissent in the Texas v. Johnson decision, said it best:

The ideas of liberty and equality have been an irresistible force in motivating leaders like Patrick Henry, Susan B. Anthony, and Abraham Lincoln, schoolteachers like Nathan Hale and Booker T. Washington, the Philippine Scouts who fought at Bataan, and the soldiers who scaled the bluff at Omaha Beach. If those ideas are worth fighting for—and our history demonstrates that they are—it cannot be true that the flag that uniquely symbolizes their power is not itself worthy of protection from unnecessary desecration. [491 U.S. at 439]

I want to talk a little bit about the arguments that I have heard over the past several years, and again this week, from some of my colleagues who oppose this amendment. Opponents contend that preventing the physical desecration of the flag actually tramples on the sacred right of Americans to speak freely. Although I respect many people who have this view, I strongly disagree with it. I hope that, as I have come to understand their perspective, they too will be open to mine and, together, we will be able to achieve consensus on the most important issue of all—protecting and preserving the American flag.

Restoring legal protection to the American flag would not infringe on free speech. If burning the flag were the only means of expressing dissatisfaction with the nation's policies, then I imagine that I, too, might oppose this amendment. But we live in a free and open society. Those who wish to express their political opinions—including any opinion about the flag—may do so in public, private, the media, newspaper editorials, peaceful demonstrations, and through their power to vote.

Certainly, destroying property might be seen as a clever way of expressing one's dissatisfaction. But such action is conduct, not speech. Law can be, and are, enacted to prevent such actions, in large part because there are peaceful alternatives equally expressive. After all, right here in the United States Senate, we prohibit speeches or demonstrations of any kind in the public galleries, even the silent display of signs or banners. As a society, we can, and do, place limitations on both speech and conduct.

Mutilating our Nation's great symbol of national unity is simply not necessary to express an opinion. Those individuals who have a message to the country should not confuse their right to speak with a supposed ''conduct right,'' which allows one to desecrate a symbol that embodies the ideals of a Nation that Americans have given their lives to protect.

For this reason, I must reiterate strongly that the flag protection amendment does not effectively amend the first amendment. It merely reverses two erroneous decisions of the Supreme Court and restores to the people the right to choose what law, if any, should protect the American flag.

I have heard some of my colleagues miss this point and talk about how we cannot amend the Bill of Rights or infringe on free speech, and I was struck by how many of them voted for the flag protection statute in 1989. Think about that. They cannot have it both ways. How can they argue that a statute that bans flag burning does not infringe on free speech, and yet say that an amendment that authorizes Congress to enact such a statute banning flag burning does infringe on free speech?

Moreover, the argument that a statute will suffice is an illusion. We have been down this road before, and it is an absolute dead end, having been rejected by the Supreme Court less than 30 days after oral argument, in a decision of fewer than 8 pages. They will do the same to any other statute of general applicability to the flag. A constitutional amendment is necessary because the Supreme Court has given us no choice in this matter.

We all understand the game that is being played. We have people who changed their vote at the last minute to prevent the flag amendment from passing, as they did on the balanced budget amendment. The same people who voted for the statute are claiming their free speech rights would be violated by this amendment, but I guess not by the statute that allows them to ban desecration of the flag—a statute that I think they all know would be automatically held unconstitutional by the Supreme Court. It is a game. It is time for people to stand up for this flag.

Some of my colleagues argue that because the Supreme Court has spoken we can do little to override this newly minted, so-called ''constitutional right.'' In my view, this concedes far too much to the judiciary.

No human institution, including the Supreme Court, is infallible. Suppose that the year is 1900 and we are debating the passage of an amendment to override the Plessy versus Ferguson decision. That was the decision in which the Supreme Court rules that separate-but-equal is equal, and that the Constitution requires only separate-but-equal public transportation and public education. The Plessy decisions was almost unanimous, 8–1 in contrast to the Johnson and Eichman decisions, which were 5–4. Would any of my colleagues be arguing that we could not pass an amendment to provide that no state may deny equal access to the same transportation, public education, and other public benefits because of race or color simply because the Court had spoken the final word? Would any one of my colleagues argue that the Plessy decision had to stand because an amendment might change the 14th amendment? Of course not.

The suggestion by some that restoring Congress' power to protect the American flag from physical desecration tears at the fabric of our liberties is so overblown that it is difficult to take seriously. In fact, I think it is phony. These arguments ring particularly hollow because until 1989, 48 states and the federal government had flag protection laws. Was there a tear in the fabric of our liberties then? Of course not.

It goes without saying that among the most precious rights we enjoy as Americans is the right to govern ourselves. It was to gain this right that our ancestors fought and died at Concord and Bunker Hill, Saratoga, Trenton, and Yorktown. And it was to preserve that right that our fathers, brothers, and sons bravely gave their lives at New Orleans, Flanders, the Bulge, and Mt. Suribachi. The Constitution exists for no other purpose than to vindicate this right of self-government by the people. The Framers of the Constitution did not expect the people to meekly surrender their right to self-government, or their judgment on constitutional issues, just because the Supreme Court decides a case a particular way. Nor, when they gave Congress a role in the amendment process, did the Framers expect us to surrender our judgment on constitutional issues just because another, equal and co-ordinate branch of government, rules a particular way. The amendment process is the people's check on the Supreme Court. If it were not for the right of the people to amendment the Constitution, set out in Article 5, we would not even have a Bill of Rights in the first place. It was the people through their elected representatives—not the courts—who enshrined the freedom of speech in the Constitution.

The Framers did not expect the Constitution to be routinely amended, and it has not been. The amendment process is difficult and exceptional. But it should not be viewed as an unworthy or unrighteous process either. The amendment process exists to vindicate the most precious right of the people to determine under what laws they will be governed. It is there to be used when the overwhelming majority of voters decide that they should make a decision rather than the Supreme Court.

In Texas versus Johnson and United States versus Eichman the Supreme Court decided for Americans that a

statute singling out the flag for special protection is based on the communicative value of the flag and therefore violates the first amendment. The Court decided that what 48 states and the federal government had prohibited for decades was now wrong. Since the Johnson and Eichman decisions, several challenges have been brought against the state statutes prohibiting flag desecration. State courts considering these types of statutes have uniformly held these statutes unconstitutional.

One recent case, Wisconsin versus Janssen, involved a defendant who confessed to, among other things, defecating on the United States flag. Relying on the Supreme Court's Johnson decision, the Wisconsin high court invalidated a state statute prohibiting flag desecration on the ground that the statute was overbroad and unconstitutional on its face.

In reaching that decision, the court noted that it was deeply offended by Janssen's conduct, and stated that ''[t]o many, particularly those who have fought for our country, it is a slap in the face.'' The court further explained that ''[t]hough our disquieted emotions will eventually subside, the facts of this case will remain a glowing ember of frustration in our hearts and minds. That an individual or individuals might conceivably repeat such conduct in the future is a fact which we acknowledge only with deep regret.'' What was particularly distressing about this decision is that the court found the statute constitutionally invalid even though the state was trying to punish an individual whose vile and senseless act was devoid of any significant political message, as so many of them are.

The court noted ''the clear intent of the legislature is to proscribe all speech or conduct which is grossly offensive and contemptuous of the United States flag. Therefore, any version of the current statute would violate fundamental principles of first amendment law both in explicit wording and intent.'' Under prevailing Supreme Court precedent, then, the Court found that the proscribed conducted was protected ''speech.'' The Wisconsin decision, like those before it, demonstrates that, because of the narrow Johnson and Eichman decisions of the U.S. Supreme Court, any statute, state or federal, that seeks to prohibit flag desecration will be struck down.

The Wisconsin Supreme Court, however, noted that all was not lost. The Court opined that ''[i]f it is the will of the people in the country to amend the United States Constitution in order to protect our nation's symbol, it must be done through normal political channels,'' and noted that the Wisconsin legislature recently adopted a resolution urging Congress to amend the Constitution to prohibit flag desecration.

Clearly, with the House having already sent us the amendment on a strong, bipartisan vote, the ball is firmly here in the Senate's court. If we are serious about protecting the American flag, it is up to this body, at this time, to take action and to send this proposed amendment to the people of the United States.

After all the legal talk and handwringing on both sides of this issue, what is comes down to is this: Will the Senate of the United States confuse liberty with license? Will the Senate of the United States deprive the people of the United States the right to decide whether they wish to protect their beloved national symbol, Old Glory? Forty-nine state legislatures have called for a flag protection amendment. By an overwhelming and bipartisan vote, the House of Representatives has passed the amendment. Now it is up to the Senate to do its job. Let us join together and send this amendment to the people.

This resolution should be adopted, and the flag amendment sent to the states for their approval. Our fellow Americans overwhelmingly want to see us take action that really protects the flag and this, my friends, can do just that. I urge you to support the flag protection amendment and, by doing so, preserve the integrity and symbolic value of the American flag.

It is now time for the Senate to heed the will of the people by voting for the flag protection constitutional amendment. Doing so will advance our common morality and the system of ordered liberty encompassed in our history, laws and traditions. We must restore the Constitution and the first amendment, send the flag amendment to the States that have requested it with near unanimity, and return to the American people the right to protect the United States flag. It is time to let the people decide.

Again, I come back do that major point. All this amendment does is recognize that there are three separated powers in this country—the legislative, executive, and judicial branches of Government. When the judicial branch says we can no longer enact by statute the protection of the flag and suggests we have to pass a constitutional amendment if we want to protect the flag, then this amendment gives the Congress the right to be coequal with the other branches of Government. It gives us the right to protect the flag through a constitutional amendment and it gives us the right, if we so choose, to pass legislation similar to the legislation that a vast majority of Members of this body voted for back in 1989.

Last but not least, in this day and age, many of our young people don't even have a clue to what happened back between 1941 and 1945. They don't even realize what happened in the Second World War.

Sending this amendment to the 50 States would create a debate on values, which is necessary in this country, like we have never had before. It will be up to the people to decide. That is all we are asking. Let the people, through their State legislatures, decide whether or not we should protect the flag. That is not a bad request. It is something that needs to be done. Above all, it restores to the Congress the coequal power as a coequal branch of Government that is gone because of the very narrow set of 4–5 Supreme Court decisions. I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CRAPO). Who yields time?

Mr. HATCH. How much time does our side have?

The PRESIDING OFFICER. The Senator from Kentucky has 1 hour, the Senator from South Carolina has 1 hour, and the Senator from Vermont has a half hour.

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

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

Mr. HATCH. Mr. President, I ask unanimous consent that I control the time on our side.

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

Mr. HATCH. I yield 5 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 5 minutes.

Mr. THOMAS. I thank the Chair. Mr. President, I will take a very short time. I speak in favor of the flag protection amendment to the Constitution. It is an honor for me to be a cosponsor of this constitutional amendment, 1 of 58. Most everything has been said, I suppose, that needs to be said about it. Of course, no one here is in favor of desecration of the flag. What we have is a difference of view as to how to deal with that issue.

This constitutional amendment has been around for a very long time and has been considered several times. Certainly, this symbol of the flag is one that should be held in the highest regard. Most everyone agrees with that.

This measure states:

> The Congress shall have the power to prohibit the physical desecration of the flag of the United States.

That should be the case. It seems to me what that does is helps to define freedom of speech. We can do that.

What we are saying is it is illegal to physically desecrate the flag of the United States. I cannot imagine how people can disagree with that. The Senate has voted on this matter in the past in 1989, 1990, and 1995, and each time a majority was in favor. The House passed an identical measure in June of 1999 by a vote of 305–124 with a sufficient majority. Each year we get a little closer to passing it.

Why do we need a flag protection amendment? Forty-nine State legislatures have already passed resolutions urging this constitutional amendment. The flag, obviously, is a sacred symbol and deserves protection from desecration. It is a symbol of national unity and identification. We all know of the sacrifices that have been made, and this flag typifies that; this flag is symbolic of that. It is an inspiration for people.

The attempts in the past have failed in terms of statutory issues. The Supreme Court struck down the Texas v. Johnson in 1989 in a 5–4 decision. In 1990, there was another 5–4 decision.

This is a reasonable request to accommodate and I believe most Americans want to protect this flag. If this is the necessary way to do it, then I am for that.

I am very pleased to be a cosponsor, and I urge this be passed in the Senate. I yield the floor.

Mr. HATCH. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. If neither side yields time, time runs equally.

Mr. HOLLINGS. Mr. President, I understand we are on the flag amendment. That is why I waited for them to complete their hour and I begin mine.

Mr. HATCH. My understanding is, it is the Hollings amendment that is being debated.

Mr. HOLLINGS. That is what Senator HATCH says, but that is not what the Chair says.

The PRESIDING OFFICER. The Senate currently has under consideration the Hollings amendment No. 2890.

Mr. HOLLINGS. All this time has been taken off the Hollings amendment? Come on. We have been talking about the flag. I approached the Chair when we started. Right to the point, the Parliamentarian said they are arguing the flag amendment. Senator THURMOND started, and then Senator HATCH talked on the flag amendment. The others have been talking on the flag amendment.

Mr. HATCH. Will the Senator yield?

The PRESIDING OFFICER. It is the Chair's understanding the Hollings amendment is an amendment to the flag amendment.

Mr. HATCH. We can use our time any way we want to on our side. The amount of time is still remaining for Senator HOLLINGS on his side. As I understand it, we are debating the Hollings amendment, but I talked generally about the flag amendment.

The PRESIDING OFFICER. The Hollings amendment is an amendment to the flag amendment and is under consideration.

Mr. HOLLINGS. How much time do I have?

The PRESIDING OFFICER. The Senator from South Carolina has 1 hour.

Mr. HOLLINGS. I thank the Chair.

Mr. HOLLINGS. Mr. President, I'm addressing the so-called freedom of speech with respect to campaign financing. I explained yesterday afternoon how we, in the 1974 act, tried to clean up the corruption. Cash was being given, all kinds of favors and demands were being made on members of the Government, as well as in the private sector. Numerous people were convicted. We enacted the 1974 act after the Maurice Stans matter in the Nixon campaign.

We debated one particular point—that you could not buy the office. Now the contention is that you can buy the office because under the first amendment protecting freedom of speech, and money being speech, there is no way under the Constitution that it can be controlled. Of course, that is a distortion by the Buckley v. Valeo decision for the simple reason that we finally have Justice Stevens saying that ''money is property.'' Justice Kennedy goes right into the distortion. I quote from the case of Nixon v. Shrink Missouri Government PAC:

> The plain fact is that the compromise the Court invented——

I emphasize the word ''invented''——

> in Buckley set the stage for a new kind of speech to enter the political system. It is covert speech. The Court has forced a substantial amount of political speech underground, as contributors and candidates devise ever more elaborate methods of avoiding contribution limits, limits which take no account of rising campaign costs. The preferred method has been to conceal the real purpose of the speech.

Then further:

> Issue advocacy, like soft money, is unrestricted . . . while straightforward speech in the form of financial contributions paid to a candidate . . . is not. Thus has the Court's decision given us covert speech. This mocks the First Amendment.

I hope everybody, particularly the other side of the aisle, understands that I am reading from Justice Kennedy:

> This mocks the First Amendment.

He goes on to say:

> Soft money must be raised to attack the problem of soft money. In effect, the Court immunizes its own erroneous ruling from change.

We have it foursquare. There is no question that the majority in Buckley has mocked the first amendment. Four Justices in Buckley v. Valeo found that you could control spending. They treated money as it has been treated in the Congress—as property and not speech.

Let's look, for example, at the hearing we had. When the Senate is asked to consider contributions, they consider them property. So we had the Thompson investigation. Seventy witnesses testified in public over a total of 33 days; 200 witness interviews were conducted; 196 depositions were conducted under oath; 418 subpoenas were issued for hearings, depositions, and documents; and more than 1.5 million pages of documents were received.

They did not say that Charlie Trie, Johnny Huang and others had free speech. The lawyers in those particular cases would be delighted to hear a Congressman who now takes the position that: Oh, it is all free speech. Don't worry about any violations because the first amendment protects this money. The first amendment protects it as free speech. That is out of the whole cloth. They have been singsonging because they enjoy this particular corruption.

What corruption? As I pointed out yesterday, we used to come in here and work. Thirty years ago, under Senator Mansfield, we would come in at 9 o'clock Monday morning and we would have a vote. The distinguished leader at that time usually had a vote to make sure we got here and started our week's work—and I emphasize ''week's work.'' We worked throughout Monday, Tuesday, Wednesday, Thursday, Friday, and we were lucky to complete our work by Friday evening at 5 o'clock.

Now: Monday is gone. Tuesday morning is gone. We don't really work here. We are waiting and not having any votes. People are coming back into town. Nobody is here to listen. On Wednesday and Thursday we have to have windows so we can go fundraise. Can you imagine that? That ought to embarrass somebody. But I have asked for windows, too, because that is the way it is.

The money chase—the amount of money that must be chased—has corrupted this Congress. Everybody knows it. The people's business is set aside. On Friday, we go back home. What do we do? We have fund-raisers. We don't have free-speech raisers, like they are talking about on the floor of the Senate now.

They get all pontifical and stand up and talk oh so eruditely about the Constitution and the first amendment. They know better than anyone that this is property. But as long as they can sell everybody that there are no limits, there are no restrictions on money because it is free speech, then it is ''Katie bar the door'' and we have really gone down the tube.

It is not that bad; it is worse. We used to have a break, I think it was on February 12, for Lincoln's birthday. It might have been a long weekend, but it was not a 10-day break. Now, January is gone. Then we had a 10-day break in February. We had a 10-day break again in March. We will have another 10-day break in April. We will have another 10-day break in May and at the beginning of June. Then we will have the Fourth of July break. Then we will have the month of August off—all of this keeping us from doing the people's business.

I thought once our campaigns were over we would come up here and go to work on behalf of the people's business. Instead, we work on behalf of our own business: reelection. All in the name of this tremendous volume of money, money, money everywhere. They are trying to defend it on the premise of: Give me the ACLU and the Washington Post. Then they put up a sandwich

board about newspapers: If the Hollings amendment is passed, the newspapers can't write editorials. I never heard of such nonsense.

This does not have to do with anybody's freedom of speech. We cannot, should not and would not ever take away anybody's speech. But we can take away the money used in campaigns and limit it just like every other country does. In England, they limit the amount of time in which you can actually conduct the campaign. They do not talk about campaigns in reference to the Magna Carta: Wait a minute, you have taken away my speech here in the Parliament. There is none of that kind of nonsense. But here, it is the kind of thing we are having to put up with.

The question is, Can this problem be solved another way?

That is exactly what the Senator from North Dakota, Mr. CONRAD, says: We have a problem. Let's solve it in another way. He puts in a statutory amendment with respect to the flag.

With respect to campaign financing, give me a break. We have tried for 25 years—everything from public finance to free TV time, to soft money, to hard money limitations, to any and every idea.

Now we have the Vice President proposing an endowment to finance federal campaigns. They think all you have to do is come up with a new idea and then you are really serious about this. If you are going to get serious, vote for this amendment. Then, by gosh, we are playing for keeps.

There are a lot of people on McCain-Feingold getting a free ride voting for it, knowing it is never going anywhere because the Senator from Kentucky is manifestly correct, it is patently unconstitutional. There is no question that this Court would find McCain-Feingold unconstitutional. Everybody knows that. This is one grand charade, as the corruption continues.

I emphasize that this amendment does not take a side with McCain-Feingold, with hard money, with soft money, with the Vice President's endowment, with anything else or any idea one may have about controlling spending in Federal elections. It is not pro, it is not con, it is not for, it is not against. It merely gives authority to the Congress to do what we intended back in 1974 with the amended version of the Federal Election Campaign Act of 1971; and that is, to stop people from buying the office.

The corruption is such that you have to buy the office. We are required to buy it. I can tell you, because two years ago I spent more of my time raising $5.5 million for my seventh reelection to the Senate than I did campaigning. So I speak advisedly. I have asked for windows. I have asked for parts of this corruption that we are all involved in. The only way it is going to be cleaned up is a constitutional amendment.

What does Justice Kennedy say? He says: Buckley mocks the first amendment. Mind you, there was only one Justice who called money property, but another said it mocked the first amendment. Then I read from the decision:

> Soft money must be raised to attack the problem of soft money. In effect, the Court immunizes its own erroneous ruling from change.

Imagine that. The Court has immunized the ruling from change; namely, you cannot change it by statute. Listen Senator CONRAD, and any other Senator interested in playing games with this corruption, saying we will put in a little statute. There have been 2,000 or 20,000 amendments to the Constitution. Give me a break. The last five or seven amendments had to do with elections. None of them is as important as this particular national corruption of Congress. We all know about it. We all participate in it. We have no time to be a Congress. We are just a dignified bunch of money raisers for each other and for ourselves.

It is sad to have to say that on the floor of the Senate, but it is time we give the people a chance. This does not legislate or provide anything. It just says, come November, as a joint resolution, let the people decide. I think the people have decided. That is why my amendment is timely. During this year's presidential primaries everyone was talking about campaign finance reform—reform, reform, reform. Candidates were saying, I am the reform candidate.

The one thing they are trying to reform is campaign financing, this corruption. Now even the Vice President has come out and said: The first day I am your President, I will submit McCain-Feingold—knowing it is an act in futility. Let's pass McCain-Feingold unanimously. The Court throws it out later this year. It is not going anywhere. The Court has time and again said soft money is speech. That is the majority of this crowd. But I admonish the four Justices in Buckley v. Valeo who said they could do it. Now we have two other Justices talking sense. We know good and well that the people want a chance to talk on this, to vote on this.

I had no sooner put this up years ago, back in the 1980s, and the States' Governors came and, by resolution, asked that we amend the Hollings amendment so as to include the States. So that now the Hollings amendment reads that Congress is hereby empowered to regulate or control spending in Federal elections, and the States are hereby allowed to regulate or control spending in State elections.

It should be remembered that the last, I think, six out of seven amendments, took an average of 17 or 18 months. This is very timely for the people to vote on in November, when the issue has already been discussed and debated throughout the primaries. The people are ready to vote on campaign finance reform. And both presidential candidates, Bush and GORE, are now trying to position themselves as reformers on campaign finance. We can solve that by having the people vote on the issue in and of itself. Within 17 months, on average, we can have the people vote and by this time next year have it confirmed by the Congress and this mess will cleaned up. Then we can go back to work for the people of America and cut out this money machine operation that we call a Congress.

We not only have to go out during breaks and raise money, we now have ''power hours.'' We have the ''united fund,'' your fair share allocation that you are supposed to raise and contribute to the committee. It becomes more and more and more. Every time I turn around, instead of trying to get some work done, we have more money demands.

So if you want to stop the corruption and stop the charade of calling campaign contributions free speech, this amendment is the solution. We are not taking away anybody's speech. We in Congress don't call it speech when we conduct these hearings, year-long hearings with hundreds of witnesses and millions of pages of testimony to get the scoundrels. For what? Not for exercising their free speech but for violating limitations on money contributions. We treat money as property when we have these fund raisers. We don't call them free-speech raisers. We treat it as property, except when we try to really stop the corruption.

I hope we will stop it today and vote affirmatively on the Hollings-Specter amendment so that we can move on and get back to our work.

Go up to the majority leader and ask him: Mr. Leader, I would like you to bring up TV violence. He will say: Well, that will take 3 or 4 days. We don't have time.

Why don't we have time? We don't work on Monday. We don't work on Friday, just the afternoons on Tuesday and Wednesday and Thursday. We can't even allow amendments.

We are going in this afternoon at 3:30 to the Budget Committee, but we have been putting that off again and again. I just checked an hour ago and it was said: We really don't know whether the vote is fixed. They try to fix the jury, fix the vote so there are no amendments to be accepted. The vote is fixed. It is an exercise—if you don't go along with their fix—in futility. Yet Members go around and say: I am a Member of the most deliberative body in the United States, most deliberative body in the world. The money chase has corrupted us so that we are fixed in a position where we can't deliberate. We don't deliberate. We have forgotten about that entirely and, in fact, rather enjoy it. So long as nobody raises any questions and we all can go back home and continue to raise money, we think we are doing a good job.

It is a sad situation. I hope we can address it in an up-front manner and support the amendment.

I retain the remainder of my time and 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. HOLLINGS. 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. HOLLINGS. I ask unanimous consent that time under the quorum call not be charged.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Reserving the right to object, is the time going to be divided equally?

The PRESIDING OFFICER. The time would ordinarily be divided equally. Under this request, if I understand the request of the Senator from South Carolina, the time will be divided equally. As the time runs, it will be subtracted equally from both sides.

There is a deadline of 12:30, which the Senator's unanimous consent request would violate if time was not charged. Is there objection?

Mr. HATCH. Parliamentary inquiry. Is the time to be charged against this amendment equally referring to the amendment of the Senator from South Carolina?

The PRESIDING OFFICER. Yes. The Senator from South Carolina asked that the time not be charged while the Senate is in a quorum call. However, the Senate is under a previous order of a deadline of 12:30. Therefore, the time would have to be charged one way or another. The time expires at 12:30.

Mr. HATCH. I have no objection to the request as long as the time is divided equally on his amendment to my constitutional amendment.

Mr. HOLLINGS. That is my request, Mr. President.

The PRESIDING OFFICER. Without objection, the time will be divided equally between now and 12:30.

Mr. MCCONNELL. Mr. President, on the matter of the Hollings amendment, we——

Mr. HATCH. If the Senator will yield, as I understand it there is an hour for debate on the underlying constitutional amendment between 11:30 and 12:30 against which this time will not be charged.

The PRESIDING OFFICER. That is correct—just a second.

Mr. HATCH. Mr. President, I ask unanimous consent that the time be charged equally only against the amendment of the distinguished Senator from South Carolina and that the hour for debate between 11:30 and 12:30 remain the same.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, we had extensive debate yesterday on the Hollings amendment. Let me repeat some of that for the record today.

The Hollings amendment is at least very straightforward. As I understand what the Senator from South Carolina is saying, in order to enact the various campaign finance schemes that have been promoted around the Senate over the last decade or so, you have to, in fact, amend the first amendment to the U.S. Constitution. I think he is correct in that. I happen to think, however, that is a terrible idea.

His amendment would essentially eviscerate the first amendment to the U.S. Constitution, change it dramatically for the first time in 200 years, to allow the Government—that is us here in the Congress—to determine who may speak, when they may speak and, conceivably, even what they may speak. Of course, under this amendment, the press would not be exempt. So everyone who had anything to say about American political matters in support of or in opposition to a candidate would fall under the regulatory rubric of the Congress. The American Civil Liberties Union called this a ''recipe for repression.'' It is the kind of power the Founding Fathers clearly did not want to reside in elected officials.

So this is a step we should not take. The good news is the last time we voted on the Hollings amendment in 1997, it only got 38 votes. I am confident this will not come anywhere near the 67 votes it would need to clear the Senate.

I am rarely aligned with either Common Cause or the Washington Post on the campaign finance issue. They oppose the Hollings amendment. Senator FEINGOLD, of McCain-Feingold fame, also opposes the Hollings amendment.

This would be a big step in the wrong direction. I am confident the Senate will not take that step when the vote occurs sometime early this afternoon.

Now, some random observations on the subject of campaign finance reform. There has been a suggestion that this has become a leading issue nationally and will determine the outcome of the Presidential election. I think, first, it is important to kind of look back over the last few months at how this issue has fared with the American people, since it has been discussed so much by the press. There was an ABC-Washington Post poll right after the New Hampshire primary among both Republicans and Democrats, weighting the importance of issues. Among Republicans, only 1 percent—this was a national poll—thought campaign finance reform was an important issue and, among Democrats, only 2 percent.

Earlier this year, in January, another poll—a national poll—asked: What is the single most important issue to you in deciding whom you will support for President? Campaign finance was down around only 1 percent of the people nationally who thought that was an important issue in deciding how to vote for President. Further, a more recent CNN-Gallup-USA Today poll, in March—essentially after the two nominations for President for both parties had been wrapped up, after Super Tuesday—asked: What do you think is the most important problem facing this country today? It was open-ended. American citizens could pick any issue they wanted to as the most important problem facing this country today.

In this poll of the American public, over 1,000 adults all across America, 32 different issues were mentioned. It was an open-ended poll among American citizens as to what they thought was the most important issue. Not a single person mentioned campaign finance reform in this open-ended survey after Super Tuesday, after this issue had been much discussed in the course of the nomination fights for both the Democrats and the Republicans. Of course, in California, on the very same day as the Super Tuesday vote, there was, in fact, a referendum on the ballot in California providing for taxpayer funding of elections and all of the various schemes promoted by the reformers here in the Senate in recent years. It was defeated 2–1.

So we have substantial evidence among the American people as to what they feel about this issue in terms of its importance in casting votes for the President of the United States or, for that matter, for Members of Congress as well.

It has been suggested by the reformers on this issue over the years that if we will just pass various forms of campaign finance reform, the public will feel better about us, their skepticism about us will be reduced, and their cynicism about politics will subside. A number of other countries have passed the kind of legislation that has been proposed here over the last 15 or 20 years. Most of those—or all of those countries don't have a first amendment, so they don't have that impeding legislative activity. I think it is interesting to look at these other countries and what the results have been in terms of public attitudes about government that have come after they have passed the kinds of legislation that has been advocated around here in one form or another over the years.

Let's look at some industrialized democracies. Our neighbor to the north, Canada, has passed many of the types of regulations supported by the reformers in the Senate over the years. They have passed spending limits for all national candidates. All national candidates must abide by these to be eligible to receive taxpayer matching funds. The Vice President just yesterday came out with a taxpayer-funded scheme for congressional elections. I have seen survey data on that. It would be more popular to vote for a congressional pay raise than to vote to spend tax money on buttons and balloons and commercials. That is what the Vice President came out for yesterday. We look forward to debating, in the course

of the fall election, how the American people feel about having their tax dollars go to pay for political campaigns.

Nevertheless, other countries have done that. I was talking about Canada. Candidates can spend $2 per voter for the first 15,000 votes they get, a dollar per voter for all votes up to 25,000, and 50 cents per voter beyond 25,000. They have spending limits on parties that restrict parties to spending the product of a multiple used to account for the cost of living. This is an incredibly complex scheme they have in Canada—a product of a multiple used to account for cost of living times the number of registered voters in each electoral district in which that party has a candidate running for office.

It almost makes you laugh just talking about this.

Right now, in Canada, it comes out to about $1 per voter. They have indirect funding via media subsidies. The Canadian Government requires that radio and TV networks provide all parties with a specified amount of free air time during the month prior to an election. The Government also provides subsidies to defray the cost of political publishing and gives tax credits to individuals and corporations which donate to candidates and/or parties. It sounds similar to the Gore proposal of yesterday.

They have this draconian scheme up in Canada in which nobody gets to speak beyond the Government's specified amount. The Government's subsidies are put into both campaigns and parties and media subsidies.

What has been the reaction of the Canadian people in terms of their confidence expressed toward their Government?

The most recent political science studies of Canada demonstrate that despite all of this regulation of political speech by candidates and parties, the number of Canadians who believe that ''the Government doesn't care what people like me think'' has grown from roughly 45 percent to approximately 67 percent.

The Canadians put in this system presumably to improve the attitude of Canadians about their Government, and it has declined dramatically since the imposition of this kind of control over political speech. Confidence in the national legislature in Canada declined from 49 percent to 21 percent, and the number of Canadians satisfied with the system of government has declined from 51 percent to 34 percent.

Here we have in our neighbor to the north, Canada, an example of a country responding to concerns about cynicism about politics in government put in all of these speech controls, and the people in Canada have dramatically less confidence in the Government now than they did before all of this was enacted.

Let's take a look at Japan.

According to the Congressional Research Service, ''Japanese election campaigns, including campaign financing, are governed by a set of comprehensive laws that are the most restrictive among democratic nations.''

After forming a seven-party coalition government in August, 1993 Prime Minister Hosokawa—this sounds like the Vice President—placed campaign finance reform at the top of his agenda, just as Vice President GORE did yesterday. He asserted that his reforms would restore democracy in Japan. In November 1994, his legislation passed. After this legislation, the Japanese Government imposed the following restrictions on political speech. Listen to this. This is the law in Japan:

Candidates are forbidden from donating to their own campaigns.

Any corporation that is a party to a Government contract, grant, loan, or subsidy is prohibited from making or receiving any political contributions for 1 year after they receive such a contract, grant, loan, or subsidy.

In addition, there are strict limits on what corporations and unions and individuals may give to candidates and parties.

There are limits on how much candidates may spend on their campaigns.

Candidates are prohibited from buying any advertisements.

Listen to this: Candidates are prohibited from buying any advertisements in magazines and newspapers beyond the five print media ads of a specified length that the Government purchases for each candidate.

Parties are allotted a specific number of Government-purchased ads of a specified length.

The number of ads a party gets is based on the number of candidates they have running.

It is illegal for these party ads to discuss individual candidates in Japan. It is illegal.

In Japan, candidates and parties spend nothing on media advertising because not only are they prohibited from purchasing print media ads, they are also prohibited from buying time on television and radio.

Talk about speech controls—in Japan, candidates can't buy any time on television and radio.

The Government requires TV stations to permit parties and each candidate a set number of television and radio ads during the 12 days prior to the election. Each candidate gets to make one Government-subsidized television broadcast.

The Government's Election Management Committee—that is a nice title—provides each candidate with a set number of sideboards and posters that subscribe to a standard Government-mandated format.

The Election Management Committee also designates the places and times that candidates may give speeches.

In Japan, the Government designates the times and places candidates may give speeches.

This is the most extraordinary control over political discussion imaginable. All of this campaign finance reform in Japan was enacted earlier in the 1990s.

What makes it even more laughable is, after all of this happened, all of these regulations on political speech that amount to a reformers wish list were imposed, you have to ask the question: Did cynicism decline? Did trust in government increase? ''Not so should be noted,'' as we say down in Kentucky. Following the disposition of these regulations, the number of Japanese who said they had ''no confidence in legislators''—the Japanese passed campaign finance reform that Common Cause could only drool over. They did it in Japan. And after they did it, following the imposition of these regulations, the number of Japanese who said they had ''no confidence in legislators'' rose to 70 percent.

Following the enactment of this draconian control of political discourse that I just outlined, in Japan only 12 percent of Japanese believe the Government is responsive to the people's opinions and wishes.

After the enactment of all of this control over political discussion in Japan, the percentage of Japanese ''satisfied'' with the nation's political system fell to a mere 5 percent and voter turnout continued to decline.

Let's take a look at France.

In France, there is significant regulation of political activity:

Government funding of candidates;

Government funding of parties;

Free radio and television time, reimbursement for printing posters and for campaign-related transportation;

They banned contributions to candidates by any entity except parties and PACs;

Individual contributors to parties are limited;

Strict expenditure limits are set for each electoral district;

And every single candidate's finances are audited by a national commission to ensure compliance with the rules.

Despite these regulations, the latest political science studies in France demonstrate that the French people's confidence in their Government and political institutions has continued to decline, and voter turnout has continued to decline.

Let's take a look at Sweden.

Sweden has imposed the following regulations on political speech:

In Sweden, there is no fundraising—none at all—or spending for individual candidates. Citizens merely vote for parties and assign seats on proportion of votes they receive.

The Government subsidizes print ads by parties.

Despite the fact that Sweden has no fundraising or spending for individual candidates since these requirements have been in force, the number of Swedes disagreeing with the statement that ''parties are only interested in people's votes, not in their opinions'' has declined from 51 percent to 28 percent.

The number of people expressing confidence in the Swedish Parliament has declined from 51 percent to 19 percent.

So we could follow the rest of the world and trash the first amendment and enact all of these draconian controls over political discussion, and there is no evidence anywhere in the world that produces greater faith in government or greater confidence in the process. In fact, there is every bit of evidence that it declines dramatically after the enactment of these kinds of reforms.

I am confident we will not start repealing the first amendment today through the passage of the Hollings amendment. Only 38 Senators voted for this in 1997 when it was last before us, and I am certain there won't be many more than that today.

Mr. President, how much time remains in opposition to the Hollings amendment?

The PRESIDING OFFICER (Mr. ENZI). Three minutes.

Mr. MCCONNELL. The Senator from Wisconsin is here to speak in opposition to the Hollings amendment.

Mr. FEINGOLD. Mr. President, I ask unanimous consent if I could speak for 15 minutes in opposition.

The PRESIDING OFFICER. The time is under the control of the Senator from Utah.

Mr. MCCONNELL. Since there are 3 minutes more in opposition to the Hollings amendment, I am happy to give the Senator from Wisconsin my 3 minutes and hope he might be accommodated for a few more minutes to complete his statement.

Mr. HATCH. I am happy to give the Senator 3 minutes, and I ask the distinguished Senator from South Carolina if he would give some time.

Mr. HOLLINGS. We have no time. I have the Senator from Pennsylvania coming. I want to be accommodating but time is limited.

Mr. FEINGOLD. Obviously, both sides have the same amount of time. I ask unanimous consent I be allowed to speak for 15 minutes, if necessary adding on to the time. Obviously, if the opponents were to feel the same, I have no opposition.

The PRESIDING OFFICER. The Senator is advised we have a deadline of 12:30. Therefore, the Senator's unanimous consent request would necessarily have to come out of Senator HOLLINGS' time, after the 3 minutes have been used from the opposition.

Mr. HATCH. Mr. President, I ask unanimous consent the debate on the Judiciary Committee amendment to the Constitution be moved to 11:45 to accommodate the distinguished Senator, with the time divided equally.

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

The Senator from Wisconsin is recognized for 15 minutes.

Mr. FEINGOLD. I certainly thank the Senator from Utah.

Mr. President, I rise today to oppose the proposed constitutional amendment offered by the junior Senator from South Carolina, Senator HOLLINGS.

First I would like to say a few words about the Senator from South Carolina. Our colleague Senator HOLLINGS has been calling for meaningful campaign finance reform for perhaps longer than any other Member of the U.S. Senate. I disagree with this particular approach. But I certainly do not question his sincerity or commitment to reform.

Back in 1993, my first year in the Senate, Senator HOLLINGS offered a sense-of-the-Senate amendment to take up a constitutional amendment very similar to the one that is before us today. I remember we had a very short period of time before that vote came up, and I decided to vote with the Senator from South Carolina on that day. I did so because I believed that other than balancing the Federal budget, there was perhaps no more fundamental issue facing our country than the need to reform our election laws.

Such a serious topic I believed at the time merited at least a consideration of a constitutional amendment. And I will certainly confess to a certain level of frustration at that time with the fact that the Senate and other body had not yet acted to pass meaningful campaign finance reform in that Congress.

To be candid, I immediately realized, even as I was walking back to my office from this Chamber, that I had made a mistake. I started rethinking right away whether I really wanted the U.S. Senate to consider amending the first amendment, even to address the extremely important subject of campaign finance reform.

Then, 18 months later, my perspective on this question began to change even more as I was presented with two new development here in the Senate.

First I was given the privilege of serving on the Senate Judiciary Committee, and, second, I learned that the 104th Congress, newly under the control of what remains the majority party, was to become the engine for a trainload of proposed amendments to the U.S. Constitution. As a member of the Judiciary Committee, I had a very good seat to witness first hand the surgery that some wanted to perform on the basic governing document of our country, the Constitution.

It started with a proposal right away for a balanced budget constitutional amendment. Soon we were considering a term limits constitutional amendment, and then a flag desecration constitutional amendment, then a school prayer amendment, then a super majority tax increase amendment, and then a victims rights amendment. In all over 100 constitutional amendments were introduced in the 104th Congress. A similar number were introduced in the last Congress as well. And in this Congress already we have seen over 60 constitutional amendments introduced.

As I saw legislator after legislator suggest that every sort of social, economic, and political problem we have in this country could be solved merely with enactment of a constitutional amendment, I chose to oppose strongly not only this constitutional amendment but others that also sought to undermine our most treasured founding principle. I firmly believe we must curb this reflexive practice of attempting to cure each and every political and social ill of our Nation by tampering with the U.S. Constitution. The Constitution of this country was not a rough draft. We must stop treating it as such.

We must also understand that even if we were to adopt this constitutional amendment, and the states were to ratify it, which we all know is not going to happen, it will not take us one single, solitary step closer to campaign finance reform. It is not a silver bullet. This constitutional amendment empowers the Congress to set mandatory spending limits on congressional candidates. Those are the kind of mandatory limits that were struck down in the landmark Buckley v. Valeo decision.

Here is the question I pose for supporters of this amendment: If this constitutional amendment were to pass the Congress and be ratified by the States, would campaign finance reformers have the necessary 51 votes—or more likely the necessary 60 votes—to pass legislation that includes mandatory spending limits? I don't think so.

We do not even have 60 votes to pass a ban on soft money at this point. And we probably don't even have a bare majority of the Senate who support spending limits, much less mandatory spending limits.

I have been working for many years with the senior Senator from Arizona, Senator MCCAIN, on a bipartisan campaign finance proposal. While our proposal has changed over the years, we have consistently been guided by a desire to work within the guidelines established by the Supreme Court. Although our opponents disagree, we are confident that the McCain-Feingold bill is constitutional and will be upheld by the courts.

I am mystified by the comments of the Senator from South Carolina who stated pointblank: Everyone knows the McCain-Feingold bill is unconstitutional. In fact, the recent Missouri Shrink case said by a 6–3 margin such limitations on contributions are constitutional. It was a supermajority of the Supreme Court. It is not credible, I believe, for anyone to argue at this point that a ban on soft money is unconstitutional.

Our original proposal, unlike the law that was considered in Buckley v. Valeo, included voluntary spending limits. We offered incentives in the form of free and discounted television time to encourage but not require candidates to limit their campaign spending. That kind of reform is patterned on the Presidential public funding system that was specifically upheld in Buckley.

Later versions of our bill have focused on abolishing soft money, the unlimited contributions from corporations, unions, and wealthy individuals to political parties. Very few constitutional scholars, other than a current nominee to the FEC, Brad Smith, believe that the Constitution prevents us from banning soft money. As I indicated, the Missouri Shrink case makes that clear.

The key point is this: We don't need to amend the Constitution to do what needs to be done. Of course, when we bring a campaign finance bill to the floor we are met with strong resistance. In fact, so far we have been stopped by a filibuster. The notion that this constitutional amendment will somehow magically pave the way for legislation that includes mandatory spending limits simply ignores the reality of the opposition that campaign finance reformers face in the Senate, and I think we face in the Senate even after a ratification of the Hollings amendment.

This amendment, if ratified, would remove the obstacle of the Supreme Court from mandatory spending limit legislation, but it will not remove the obstacle of those Senators such as the Senator from Kentucky, who believe we need more money, not less, in our political system.

Most disconcerting to me is what this proposed constitutional amendment would mean to the first amendment. I find nothing more sacred and treasured in our Nation's history than the first amendment. It is perhaps the one tenet of our Constitution that sets our country apart from every type of government formed and tested by mankind throughout history. No other country has a provision quite like our first amendment.

The first amendment is the bedrock of the Bill of Rights. It has as its underpinning the notion that every citizen has a fundamental right to disagree with his or her government. It says that a newspaper has an unfettered right to publish expressions of political or moral thought. It says that the Government may not establish a State-based religion that would infringe on the rights of those individuals who seek to be freed from such a religious environment.

I have stood on the floor of the Senate to oppose the proposed constitutional amendment that would allow Congress to prohibit the desecration of the U.S. flag, and I do so again this week. I do so because that amendment, for the first time in our history, would take a chisel to the first amendment. It would say that individuals have a constitutional right to express themselves—unless they are expressing themselves by burning a flag.

Just as I deplore as much as anyone in this body any individual who would take a match to the flag of the United States, I am firmly convinced that unrestrained spending on congressional campaigns has eroded the confidence of the American people in their government and their leaders. I believe we should speak out against those who desecrate the flag. I believe we should take immediate steps to fundamentally overhaul our system of financing campaigns. But I do not believe, as the supporters of this constitutional amendment and other amendments believe, that we need to amend the U.S. Constitution to accomplish our goals.

Nothing in this constitutional amendment before the Senate today would prevent what we witnessed in the last election. Allegations of illegality and improprieties, accusations of abuse, and the selling of access to high-ranking Government officials would continue no matter what the outcome of the vote on this constitutional amendment. Only the enactment of legislation that bans soft money contributions will make a meaningful difference.

I see Members of the Senate as having three choices. First, they can vote for constitutional amendments and one-sided reform proposals that basically have predetermined fates of never becoming law. That allows you to say you voted for something and put the matter aside. Second, they can stand with the Senator from Kentucky and others who tell us ''all is well'' with our campaign finance system and we should not be disturbed that so much money is pouring into the campaign coffers of candidates and parties.

A third option is that Senators can join with the Senator from Arizona and myself and others who have tried to approach this problem from a bipartisan perspective and have tried to craft a reform proposal that is fair to all, and constitutional.

Without meaningful bipartisan campaign finance reform, the American people will continue to perceive their elected leaders as being for sale. They will continue to distrust and doubt the integrity of their own Government. And they will have good reason for that distrust and doubt. This system of legalized bribery threatens the very foundations of our democracy.

Senator MCCAIN and I intend to make sure that the Senate will have another opportunity to address this issue. We have had many debates on campaign finance reform, and we will have many more until we pass it. I understand and share the frustration of those who support reform and are tired of seeing our efforts fail. I want to finish this job too. But the way to address the campaign finance problem is to pass constitutional legislation, not a constitutional amendment. We must redouble our efforts to break the deadlock and give the people real reform this year, not 7 or more years from now.

I urge the Members of the Senate to reject this amendment. It is not necessary to tinker with the first amendment in order to accomplish campaign finance reform. I greatly admire the sincerity and commitment of the Senator from South Carolina, but I do not think his amendment will bring us any closer to passing campaign finance reform.

I thank the Senator from Utah, again, for his courtesy in allowing me to address this issue. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from Wisconsin. I only hasten to add that this particular amendment has nothing to do with favoring or opposing the McCain-Feingold amendment. I have voted for that at least four or five times already.

Read the Nixon v. Shrink decision when they say money is speech, and in the Colorado v. FEC decision when they allowed soft money. One can tell a majority of the Court has no idea. Money talks; money is speech—that is the way the Court is going. I reiterate, McCain-Feingold is an act in futility.

Mr. President, I ask unanimous consent that an article by Jonathan Bingham, ''Democracy or Plutocracy? The Case for a Constitutional Amendment to Overturn Buckley v. Valeo'' be printed in the RECORD.

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

[From the Annals of the American Academy, Jul., 1986]

DEMOCRACY OR PLUTOCRACY? THE CASE FOR A CONSTITUTIONAL AMENDMENT TO OVERTURN BUCKLEY V. VALEO

(By Jonathan Bingham)

Abstract: In the early 1970s the U.S. Congress made a serious effort to stop the abuses of campaign financing by setting limits on contributions and also on campaign spending. In the 1976 case of Buckley v. Valeo, the Supreme Court upheld the regulation of contributions, but invalidated the regulation of campaign spending as a violation of the First Amendment. Since then, lavish campaigns, with their attendant evils, have become an ever more serious problem. Multimillion-dollar campaigns for the Senate, and even for the House of Representatives, have become commonplace. Various statutory solutions to the problem have been proposed, but these will not be adequate unless the Congress—and the states—are permitted to stop the escalation by setting limits. What is needed is a constitutional amendment to reverse the Buckley holding, as proposed by several members of Congress. This would not mean a weakening of the Bill of Rights, since the Buckley ruling was a distortion of the First Amendment. Within reasonable financial limits there is ample opportunity for that ''uninhibited, robust and wide-open'' debate of the issues that the Supreme Court correctly wants to protect.

The First Amendment is not a vehicle for turning this country into a plutocracy,'' says Joseph L. Rauh, the distinguished civil rights lawyer, deploring the ruling in Buckley v. Valeo.[1] It is the thesis of this article that the Supreme Court in Buckley was wrong in nullifying certain congressional efforts to limit campaign spending and that the decision must not be allowed to stand. While statutory remedies may mitigate the evil of excessive money in politics and are worth pursuing, they will not stop the feverish escalation of campaign spending. They

[1] Footnotes at end of article.

will also have no effect whatever on the spreading phenomenon of very wealthy people's spending millions of dollars of their own money to get elected to Congress and to state office.

When the Supreme Court held a national income tax unconstitutional, the Sixteenth Amendment reversed that decision. Buckley should be treated the same way.

BACKGROUND

The Federal Election Campaign Act of 1971 was the first comprehensive effort by the U.S. Congress to regulate the financing of federal election campaigns. In 1974, following the scandals of the Watergate era, the Congress greatly strengthened the 1971 act. As amended, the new law combined far-reaching requirements for disclosure with restrictions on the amount of contributions, expenditures from a candidate's personal funds, total campaign expenditures, and independent expenditures on behalf of identified candidates.

The report of the House Administration Committee recommending the 1974 legislation to the House explained the underlying philosophy:

''The unchecked rise in campaign expenditures, coupled with the absence of limitations on contributions and expenditures, has increased the dependence of candidates on special interest groups and large contributors. Under the present law the impression persists that a candidate can buy an election by simply spending large sums in a campaign.

''Such a system is not only unfair to candidates in general, but even more so to the electorate. The electorate is entitled to base its judgment on a straightforward presentation of a candidate's qualifications for public office and his programs for the Nation rather than on a sophisticated advertising program which is encouraged by the infusion of vast amounts of money.

''The Committee on House Administration is of the opinion that there is a definite need for effective and comprehensive legislation in this area to restore and strengthen public confidence in the integrity of the political process.''[2]

The 1974 act included a provision, added pursuant to an amendment offered by then Senator James Buckley, for expedited review of the law's constitutionality. In January 1976 the Supreme Court invalidated those portions that imposed limits on campaign spending as violative of the First Amendment's guarantee of free speech.

In his powerful dissent, Justice White said, ''Without limits on total expenditures, campaign costs will inevitably and endlessly escalate.''[3] His prediction was promptly borne out. Multimillion-dollar campaigns for the Senate have become the rule, with the 1984 Helms-Hunt race in North Carolina setting astonishing new records. It is no longer unusual for expenditures in contested House campaigns to go over the million-dollar mark; in 1982 one House candidate reportedly spent over $2 million of his own funds.

In 1982 a number of representatives came to the conclusion that the Buckley ruling should not be allowed to stand and that a constitutional amendment was imperative. In June Congressman Henry Reuss of Wisconsin introduced a resolution calling for an amendment to give Congress the authority to regulate campaign spending in federal elections. In December, with the cosponsorship of Mr. Reuss and 11 others,[4] I introduced a broader resolution authorizing the states, as well as the Congress, to impose limits on campaign spending. The text of the proposed amendment was:

Section 1. The Congress may enact laws regulating the amounts of contributions and expenditures intended to affect elections to federal office.

Section 2. The several states may enact laws regulating the amounts of contributions and expenditures intended to affect elections to state and local offices.[5]

In the Ninety-eighth Congress, the same resolution was reintroduced by Mr. Vento and Mr. Donnelly and by Mr. Brown, Democrat of California, and Mr. Rinaldo, Republican of New Jersey. A similar resolution was introduced in the Senate by Senator Stevens, Republican of Alaska. As of the present writing, the resolution has been reintroduced in the Ninety-ninth Congress by Mr. Vento.[6]

No hearings have been held on these proposals, and they have attracted little attention. Even organizations and commentators deeply concerned with the problem of money in politics and runaway campaign spending have focused exclusively on statutory remedies. Common Cause, in spite of my pleading, has declined to add a proposal for a constitutional amendment to its agenda for campaign reform or even to hear arguments in support of the proposal. A constituency for the idea has yet to be developed.

THE NATURE OF THE PROBLEM

This article proceeds on the assumption that escalating campaign costs pose a serious threat to the quality of government in this country. There are those who argue the contrary, but their view of the nature of the problem is narrow. They focus on the facts that the amounts of money involved are not large relative to the gross national product and that the number of votes on Capitol Hill that can be shown to have been affected by campaign contributions is not overwhelming.

The curse of money in politics, however, is by no means limited to the influencing of votes. There are at least two other problems that are, if anything, even more serious. One is the eroding of the present nonsystem on the public's confidence in our form of democracy. If public office and votes on issues are perceived to be for sale, the harm is done, whether or not the facts justify that conclusion. In *Buckley* the Supreme Court itself, in sustaining the limitations on the size of political contributions, stressed the importance of avoiding ''the appearance of improper influence'' as '''critical . . . if confidence in the system of representative government is not to be eroded to a disastrous extent.'''[7] What the Supreme Court failed to recognize was that ''[6]confidence in the system of the representative government'' could likewise be '''eroded to a disastrous extent''' by the spectacle of lavish spending, whether the source of the funds is the candidate's own wealth or the result of high-pressure fund-raising from contributors with an ax to grind.

The other problem is that excellent people are discouraged from running for office, or, once in, are unwilling to continue wrestling with the unpleasant and degrading task of raising huge sums of money year after year. There is no doubt that every two years valuable members of Congress decide to retire because they are fed up with having constantly to beg. For example, former Congressmen Charles Vanik of Ohio and Richard Ottinger of New York, both outstanding legislators, were clearly influenced by such considerations when they decided to retire, Vanik in 1980 and Ottinger in 1984. Vanik said, among other things, ''I feel every contribution carries some sort of lien which is an encumbrance on the legislative process. . . . I'm terribly upset by the huge amounts that candidates have to raise.''[8] Probably an even greater number of men and women who would make stellar legislators are discouraged from competing because they cannot face the prospect of constant fundraising or because they see a wealthy person, who can pay for a lavish campaign, already in the race.

In ''Politics and Money,'' Elizabeth Drew has well described the poisonous effect of escalating campaign costs on our political system:

''Until the problem of money is dealt with, it is unrealistic to expect the political process to improve in any other respect. It is not relevant whether every candidate who spends more than this opponent wins—though in races that are otherwise close, this tends to be the case. What matters is what the chasing of money does to the candidates, and to the victors' subsequent behavior. The candidates' desperation for money and the interests' desire to affect public policy provide a mutual opportunity. The issue is not how much is spent on elections but the way the money is obtained. The point is what raising money, not simply spending it, does to the political process. It is not just that the legislative product is bent or stymied. It is not just that well-armed interests have a head start over the rest of the citizenry—or that often it is not even a contest. . . . It is not even relevant which interest happens to be winning. What is relevant is what the whole thing is doing to the democratic process. What is at stake is the idea of representative government, the soul of this country.''[9]

Focusing on the different phenomenon of wealthy candidates' being able to finance their own, often successful, campaigns, the late columnist Joseph Kraft commented that ''affinity between personal riches and public office challenges a fundamental principle of American life.''[10]

SHORTCOMING OF STATUTORY PROPOSALS

In spite of the wide agreement on the seriousness of the problems, there is no agreement on the solution. Many different proposals have been made by legislators, academicians, commentators, and public interest organizations, notably Common Cause.

One of the most frequently discussed is to follow for congressional elections the pattern adopted for presidential campaigns: a system of public funding, coupled with limits on spending.[11] Starting in 1955, bills along these lines have been introduced on Capitol Hill, but none has been adopted. Understandably, such proposals are not popular with incumbents, most of whom believe that challengers would gain more from public financing than they would.

Even assuming that the political obstacles could be overcome and that some sort of public financing for congressional candidates might be adopted, this financing would suffer from serious weaknesses. No system of public financing could solve the problem of the very wealthy candidate. Since such candidates do not need public funding, they would not subject themselves to the spending limits. The same difficulty would arise when aggressive candidates, believing they could raise more from private sources, rejected the government funds. This result is to be expected if the level of public funding is set too low, that is, at a level that the constant escalation of campaign costs is in the process of outrunning. According to Congressman Bruce Vento, an author of the proposed constitutional amendment to overturn Buckley, this has tended to happen in Minnesota, where very low levels of public funding are provided to candidates for state office.

To ameliorate these difficulties, some proponents of public financing suggest that the spending limits that a candidate who takes government funding must accept should be waived for that candidate to the extent an opponent reports expenses in excess of those

limits. Unfortunately, in such a case one of the main purposes of public funding would be frustrated and the escalation of campaign spending would continue. The candidate who is not wealthy is left with the fearsome task of quickly having to raise additional hundreds of thousands, or even millions, of dollars.

Another suggested approach would be to require television stations, as a condition of their licenses, to provide free air time to congressional candidates in segments of not less than, for instance, five minutes. A candidate's acceptance of such time would commit the candidate to the acceptance of spending limits. While such a scheme would be impractical for primary contests—which in many areas are the crucial ones—the idea is attractive for general election campaigns in mixed urban-rural states and districts. It would be unworkable, however, in the big metropolitan areas, where the main stations reach into scores of congressional districts and, in some cases, into several states. Not only would broadcasters resist the idea, but the television-viewing public would be furious at being virtually compelled during preelection weeks to watch a series of talking-head shows featuring all the area's campaigning senators and representatives and their challengers. The offer of such unpopular television time would hardly tempt serious candidates to accept limits on their spending.

Proponents of free television time, recognizing the limited usefulness of the idea in metropolitan areas, have suggested that candidates could be provided with free mailings instead. While mailings can be pinpointed and are an essential part of urban campaigning, they account for only a fraction of campaign costs, even where television is not widely used; accordingly, the prospect of free mailings would not be likely to win the acceptance of unwelcome campaign limits on total expenses.[12]

Yet another method of persuading candidates to accept spending limits would be to allow 100 percent tax credits for contributions of up to, say, $100 made to authorized campaigns, that is, those campaigns where the candidate has agreed to abide by certain regulations, including limits on total spending.[13] It is difficult to predict how effective such a system would be, and a pilot project to find out would not be feasible, since the tax laws cannot be changed for just one area. For candidates who raise most of their funds from contributors in the $50-to-$100 range, the incentive to accept spending limits would be strong, but for those—and they are many—who rely principally on contributors in the $500-to-$1000 range, the incentive would be much weaker. This problem could be partially solved by allowing tax credits for contributions of up to $100 and tax deductions for contributions in excess of $100 up to the permitted limit. Such proposals, of course, amount to a form of public financing and hence would encounter formidable political obstacles, especially at a time when budgetary restraint and tax simplification are considered of top priority.

Some of the most vocal critics of the present anarchy in campaign financing focus their wrath and legislative efforts on the political action committees (PACs) spawned in great numbers under the Federal Election Campaign Act of 1974. Although many PACs are truly serving the public interest, others have made it easier for special interests, especially professional and trade associations, to funnel funds into the campaign treasuries of legislators or challengers who will predictably vote for those interests. Restrictions, such as limiting the total amount legislative candidates could accept from PACs, would be salutary[14] but no legislation aimed primarily at the PAC phenomenon—not even legislation to eliminate PACs altogether—would solve the problem so well summarized by Elizabeth Drew. The special interests and favor-seeking individual givers would find other ways of funneling their dollars into politically useful channels, and the harassed members of Congress would have to continue to demean themselves by constant begging.

PAC regulation and all the other forms of statutory regulation suffer from one fundamental weakness: none of them would affect the multimillion-dollar self-financed campaign. Yet it is this type of campaign that does more than any other to confirm the widely held view that high office in the United States can be bought.

Short of a constitutional amendment, there is only one kind of proposal, so far as I know, that would curb the super-rich candidate, as well as setting limits for others. Lloyd N. Cutler, counsel to the president in the Carter White House, has suggested that the political parties undertake the task of campaign finance regulation.[15] Theoretically, the parties could withhold endorsement from candidates who refuse to abide by the party-prescribed limits and other regulations. But the chances of this happening seem just about nil. Conceivably a national party convention might establish such regulations for its presidential primaries, but to date most contenders have accepted the limits imposed under the matching system of public funding; John Connally of Texas was the exception in 1980. For congressional races, however, it is not at all clear what body or bodies could make such rules and enforce them. Claimants to such authority would include the national conventions, national committees, congressional party caucuses, various state committees, and, in some cases, country committees. Perhaps our national parties should be more hierarchically structured, but the fact is that they are not.

On top of all this, the system would work for general election campaigns only if both major parties took parallel action. If by some miracle they did so, the end result might be to encourage third-party and independent candidacies.

Let me make clear that I am not opposed to any of the proposals briefly summarized earlier. To the extent I had the opportunity to vote for any of the statutory proposals during my years in the House, I did so. Nor am I arguing that a constitutional amendment by itself would solve the problem; it would only be the beginning of a very difficult task. What I am saying is that, short of effective action by the parties, any system to reverse the present lethal trends in campaign financing must have as a basic element the restoration to the Congress of the authority to regulate the process.

THE MERITS OF THE BUCKLEY RULING

The justices of the Supreme Court were all over the lot in the *Buckley* case, with numerous dissents from the majority opinion. The most significant dissent, in my view, was entered by Justice White, who, alone among the justices, had had extensive experience in federal campaigns. White's position was that the Congress, and not the Court, was the proper body to decide whether the slight interference with First Amendment freedoms in the Federal Election Campaign Act was warranted. Justice White reasoned as follows:

''The judgment of Congress was that reasonably effective campaigns could be conducted within the limits established by the Act. . . . In this posture of the case, there is no sound basis for invalidating the expenditure limitations, so long as the purposes they serve are legitimate and sufficiently substantial, which in my view they are . . . ''. . . expenditure ceilings reinforce the contribution limits and help eradicate the hazard of corruption. . . .

''Besides backing up the contribution provisions, . . . expenditure limits have their own potential for preventing the corruption of federal elections themselves.[16]''

Justice White further concluded that

''limiting the total that can be spent will ease the candidate's understandable obsession with fundraising, and so free him and his staff to communicate in more places and ways unconnected with the fundraising function.

''It is also important to restore and maintain public confidence in federal elections. It is critical to obviate and dispel the impression that federal elections are purely and simply a function of money, that federal offices are bought and sold or that political races are reserved for those who have the facility—and the stomach—for doing whatever it takes to bring together those interests, groups, and individuals that can raise or contribute large fortunes in order to prevail at the polls.[17]''

Two of the judges of the District of Columbia Circuit Court, which upheld the 1974 act—judges widely respected, especially for their human rights concerns—later wrote law journal articles criticizing in stinging terms the Supreme Court's holding that the spending limits were invalid. For example, the late Judge Harold Leventhal said in the Columbia Law Review: ''The central question is what is the interest underlying regulation of campaign expenses and is it substantial? The critical interest, in my view, is the same as that accepted by the [Supreme] Court in upholding limits on contributions. It is the need to maintain confidence in self-government, and to prevent the erosion of democracy which comes from a popular view of government as responsive only or mainly to special interests.[18]

''A court that is concerned with public alienation and distrust of the political process cannot fairly deny to the people the power to tell the legislators to implement this one-word principle: Enough![19]''

Here are excerpts from what Judge J. Skelly Wright had to say in the Yale Law Journal:

''The Court told us, in effect, that money is speech.

''. . . [This view] accepts without question elaborate mass media campaigns that have made political communication expensive, but at the same time remote, disembodied, occasionally . . . manipulative. Nothing in the First Amendment . . . commits us to the dogma that money is speech.[20]

''. . . far from stifling First Amendment values, [the 1974 act] actually promotes them. . . . In place of unlimited spending, the law encourages all to emphasize less expensive face-to-face communications efforts, exactly the kind of activities that promote real dialogue on the merits and leave much less room for manipulation and avoidance of the issues.[21]''

The Supreme Court was apparently blind to these considerations. Its treatment was almost entirely doctrinaire. In holding unconstitutional the limits set by Congress on total expenditures for congressional campaigns and on spending by individual candidates, the Court did not claim that the dollar limits set were unreasonably low. In the view taken by the Court, such limits were beyond the power of the Congress to set, no matter how high.

Only in the case of the $1000 limit set for spending by independent individuals or groups ''relative to a clearly identified candidate'' did the Court focus on the level set in the law. The Court said that such a limit ''would appear to exclude all citizens and

groups except candidates, political parties and the institutional press from any significant use of the most effective modes of communication.''[22] In a footnote, the Court noted:

''The record indicates that, as of January 1, 1975, one full-page advertisement in a daily edition of a certain metropolitan newspaper cost $6,971.04—almost seven times the annual limit on expenditures ''relative to'' a particular candidate imposed on the vast majority of individual citizens and associations.''[23]

The Court devoted far more space to arguing the unconstitutionality of this provision than to any of the other limits, presumably because of this point it had the strongest case. Judge Leventhal, too, thought the $1000 figure for independent spending was unduly restrictive and might properly have been struck down. As one who supported the 1974 act while in the House, I believe, with the benefit of hindsight, that the imposition of this low limit on independent expenditures was a grave mistake.

Let us look for a moment at the question of whether reasonable limits on total spending in campaigns and on spending by wealthy candidates really do interfere with the ''unfettered interchange of ideas,'' ''the free discussion of governmental affairs,'' and the ''uninhibited, robust and wide-open'' debate on public issues that the Supreme Court has rightly said the First Amendment is designed to protect.[24] In *Buckley* the Supreme Court has answered that question in the affirmative when the limits are imposed by law under Congress' conceded power to regulate federal elections. The Court answered the same question negatively, however, when the limits were imposed as a condition of public financing. In narrow legalistic terms the distinction is perhaps justified, but, in terms of what is desirable or undesirable under our form of government, I submit that the setting of such limits is either desirable or it is not.

Various of the solutions proposed to deal with the campaign-financing problem, statutory and nonstatutory, raise the same question—for example, the proposal to allow tax credits only for contributions to candidates who have accepted spending limits, and the proposal that political parties should impose limits. All such proposals assume that it is good public policy to have such limits in place. They simply seek to avoid the inhibition of the *Buckley* case by arranging for some carrot-type motivation for the observance of limits, instead of the stick-type motivation of compliance with a law.

I am not, of course, suggesting that those who make these proposals are wrong to do so. What I am suggesting is that they should support the idea of undoing the damage done by *Buckley* by way of a constitutional amendment.

Summing up the reason for such an amendment, Congressman Henry Reuss said, ''Freedom of speech is a precious thing. But protecting it does not permit someone to shout 'fire' in a crowded theater. Equally, freedom of speech must not be stressed so as to compel democracy to commit suicide by allowing money to govern elections.[25]

INDEPENDENT EXPENDITURES IN PRESIDENTIAL CAMPAIGNS

Until now the system of public financing for presidential campaigns, coupled with limits on private financing, has worked reasonably well. Accordingly, most of the proposals mentioned previously for the amelioration of the campaign-financing problem have been concerned with campaigns for the Senate and the House.

In 1980 and 1984, however, a veritable explosion occurred in the spending for the presidential candidates by allegedly independent committees—spending that is said not to be authorized by, or coordinated with, the campaign committees. In both years, the Republican candidates benefited far more from this type of spending than the Democratic: In 1980, the respective amounts were $12.2 million and $45,000; in 1984, $15.3 million and $621,000.[26]

This spending violated section 9012(f) of the Presidential Campaign Fund Act, which prohibited independent committees from spending more than $1000 to further a presidential candidate's election if that candidate had elected to take public financing under the terms of the act. In 1983 various Democratic Party entities and the Federal Election Commission, with Common Cause as a supporting amicus curiac, sued to have section 9012(f) declared constitutional, so as to lay the groundwork for enforcement of the act. These efforts failed. Applying the *Buckley* precedent, the three-judge district court that first heard the case denied the relief sought, and this ruling was affirmed in a 7-to-2 decision by the Supreme Court in *FEC* v. *NCPAC* in March 1985.[27]

The *NCPAC* decision clearly strengthens the case for a constitutional amendment to permit Congress to regulate campaign spending. For none of the statutory or party-action remedies summarized earlier would touch this new eruption of the money-in-politics volcano.

True, even with a constitutional amendment in place, it would still be possible for the National Conservative Political Action Committee or other committees to spend unlimited amounts for media programs on one side of an issue or another, and these would undoubtedly have some impact on presidential—and other—campaigns. However, the straight-out campaigning for an individual or a ticket, which tends to be far more effective than focusing on issues alone, could be brought within reasonable limits.

LOOKING AHEAD

The obstacles in the way of achieving a reversal of Buckley by constitutional amendment are, of course, formidable. This is especially true today when the House Judiciary Committee is resolutely sitting on other amendments affecting the Bill of Rights and is not disposed to report out any such amendments.

In addition to the practical political hurdles to be overcome, there are drafting problems to solve. The simple form so far proposed[28]—and quoted previously—needs refinement.

For example, if an amendment were adopted simply giving to the Congress and the states the authority to ''enact laws regulating the amount of contributions and expenditures intended to affect elections,[29] the First Amendment question would not necessarily be answered. The argument could still be made, and not without reason, that such regulatory laws, like other powers of the Congress and the states, must not offend the First Amendment. I asked an expert in constitutional law how this problem might be dealt with, and he said the only sure way would be to add the words ''notwithstanding the First Amendment.'' But such an addition is not a viable solution. The political obstacles in the way of an amendment overturning Buckley in its interpretation of the First Amendment with respect to campaign spending are grievous enough; to ask the Congress—and the state legislatures—to create a major exception to the First Amendment would assure defeat.

The answer has to be to find a form of wording that says, in effect, that the First Amendment can properly be interpreted so as to permit reasonable regulation of campaign spending. In my view, it would be sufficient to insert in the proposed amendment,[30] after ''The Congress,'' the words ''having due regard for the need to facilitate full and free discussion and debate.'' Section 1 of the amendment would then read, ''The Congress, having due regard for the need to facilitate full and free discussion and debate, may enact laws regulating the amounts of contributions and expenditures intended to affect elections to federal office.'' Other ways of dealing with this problem could no doubt be devised.

Another drafting difficulty arises from the modification in the proposed amendment of the words ''contributions and expenditures'' by ''intended to affect elections.'' This language is appropriate with respect to money raised or spent by candidates and their committees, but it does present a problem in its application to money raised and spent by allegedly independent committees, groups, or individuals. It could hardly be argued that communications referring solely to issues, with no mention of candidates, could, consistent with the First Amendment, be made subject to spending limits, even if they were quite obviously ''intended to affect'' an election. Accordingly, a proper amendment should include language limiting the regulation of ''independent'' expenditures to those relative to ''clearly identified'' candidates, language that would parallel the provisions of the 1971 Federal Election Campaign Act, as amended.[31]

These are essentially technical problems that could be solved with the assistance of experts in constitutional law if the Judiciary Committee of either house should decide to hold hearings on the idea of a constitutional amendment and proceed to draft and report out an appropriate resolution.

Many of those in and out of Congress who are genuinely concerned with political money brush aside the notion of a constitutional amendment and focus entirely on remedies that seem less drastic. They appear to assume that Congress is more likely to adopt a statutory remedy, such as public financing, than go for an enabling constitutional amendment that could be tagged as tampering with the Bill of Rights. I disagree with that assumption.

Incumbents generally resist proposals such as public financing because challengers might be the major beneficiaries, but most incumbents tend to favor the idea of spending limits. The Congress is not by its nature averse to being given greater authority; that would be especially true in this case, where until 1976 the Congress always thought it had such authority. I venture to say that if a carefully drawn constitutional amendment were reported out of one of the Judiciary Committees, it might secure the necessary two-thirds majorities in both houses, with surprising ease.

The various state legislatures might well react in similar fashion. A power they thought they had would be restored to them.

The big difficulty is to get the process started, whether it be for a constitutional amendment or a statutory remedy or both. Here, the villain, I am afraid, is public apathy. Unfortunately, the voters seem to take excessive campaign spending as a given—a phenomenon they can do nothing about—and there is no substantial consistency for reform. The House Administration Committee, which in the early 1970s was the spark plug for legislation, has recently shown little interest in pressing for any of the legislative proposals that have been put forward.

The 1974 act itself emerged as a reaction to the scandals of the Watergate era, and it may well be that major action, whether statutory or constitutional, will not be a practical possibility until a new set of scandals bursts into the open. Meanwhile, the situation will only get worse.

FOOTNOTES

[1] Personal communication with Joseph L. Rauh, Mar, 1985; *Buckley* v. *Valeo*, 424 U.S. (1976).

[2] U.S., Congress, House, Committee on House Administration, *Federal Election Campaign Act, Amendments of 1974; Report to Accompany H.R. 16090,* 93rd Cong., 2d sess., 1974, H. Rept. 93–1239, pp. 3–4.

[3] 424 U.S., p. 264.

[4] The other representatives were Mrs. Fenwick, Republican of New Jersey; Ms. Mikulski, Democrat of Maryland; and Messrs. Bevil, Democrat of Alabama; Donnelly, Democrat of Massachusetts; D'Amours, Democrat of New Hampshire; Edgar, Democrat of Pennsylvania; LaFalce, Democrat of New York; and Wolpe, Democrat of Michigan.

[5] U.S., Congress, House, *Proposing an Amendment to the Constitution of the United States Relative to Contributions and Expenditures Intended to Affect Congressional, Presidential and State Elections,* 97th Cong., 2d. sess., 1982, H.J. Res. 628, p. 2.

[6] Ibid., 99th Cong., 1st sess., 1985, H.J. Res. 88.

[7] 424 U.S., p. 27, quoting *CSC* v. *Letter Carriers,* 413 U.S. 548, 565 (1973); see also 424 U.S., p. 30.

[8] Quoted by Congressman Henry Reuss, in U.S., Congress, House, *Congressional Record,* daily ed., 97th Cong., 2d sess., 1982, 128(81):H3900.

[9] *New Yorker,* 6 Dec. 1982, pp. 55–56.

[10] *Washington Post,* 2 Nov. 1982.

[11] In the *Buckley* case the Supreme Court simply assumed that limits on spending were not a violation of free speech when acceptance of such limits was made the condition for receiving public funds. 424 U.S., pp. 85–110. See also Charles McC. Mathias, Jr., ''Should There Be Public Financing of Congressional Campaigns?'' this issue of *The Annals* of the American Academy of Political and Social Science.

[12] A variation of the idea of free television and/or mail, proposed by Common Cause and others, would provide for such privileges as a means of answering attacks made on candidates by allegedly independent organizations or individuals. See Fred Wertheimer, ''Campaign Finance Reform: The Unfinished Agenda,'' this issue of *The Annals* of the American Academy of Political and Social Science.

[13] See ibid.

[14] The Obey-Railsback Act, which contained such restrictions, actually passed the House in 1979, but got no further. See ibid.

[15] See Lloyd N. Cutler, ''Can the Parties Regulate Campaign Financing?'' this issue of *The Annals* of the American Academy of Political and Social Science.

[16] 424 U.S., pp. 263–64.

[17] Ibid., p. 265.

[18] Leventhal, ''Courts and Political Thickets,'' *Columbia Law Review,* 77:362 (1977).

[19] Ibid., p. 368.

[20] Wright, ''Politics and the Constitution: Is Money Speech?'' *Yale Law Journal,* 85:1005 (1979).

[21] Ibid., p. 1019.

[22] 424 U.S., pp. 20–21.

[23] Ibid., p. 21.

[24] *Roth* v. *United States,* 354 U.S. 476, 484 (1957); *Mills* v. *Alabama,* 384 U.S. 214, 218 (1966); *New York Times* v. *Sullivan,* 376 U.S. 254, 270 (1964).

[25] U.S., Congress, House, *Congressional Record,* 97th Cong., 2d sess., daily ed., 128(81):H3901.

[26] *New York Times,* 19 Mar. 1985.

[27] *FEC* v. *NCPAC,* 105 S. Ct. 1459 (1985).

[28] U.S. Congress, House, *Contributions and Expenditures;* H.J. Res. 628.

[29] Ibid.

[30] Ibid.

[31] 2 U.S. C.A. §431(17).

Mr. HOLLINGS. Mr. President, that article was 10 years after Buckley v. Valeo. I am constantly reminded by the opposition that I only got 38 votes in 1997 for my amendment. There is a pleasure, an enjoyment to this wonderful corruption. There is not any question we used to have a better conscience. This article shows how even the Senator from Alaska, Mr. STEVENS, and others cosponsored it. I had a dozen Republican cosponsors.

Now the Senator from Kentucky, Mr. MCCONNELL, and the Senator from Texas, Mr. GRAMM, have it down to a Republican article of faith: We have the money and they, the Democrats, have the unions, and so we are not going to limit the money.

Governor George W. Bush has already raised $74 million and spent all but $8 million of it. He spent $64 million by March. The very idea of buying the office is a disgrace. It is a disgrace. As Senator Long of Louisiana said when we passed the Federal Election Campaign Act of 1971, we want to make sure everyone can participate.

Buckley v. Valeo has stood the first amendment on its head. It has taken it away. That is what the Senator from Wisconsin, the Senator from Kentucky, and others do not understand.

The Court, in Buckley v. Valeo, amended the first amendment to take away the speech of the ordinary American in important Federal elections. There is no question when one has to raise 5.5 million bucks in a little State like South Carolina—I looked around for somebody else to run last time. We could not get them to run for Congress because it cost too much. We could not even get a candidate on our side in the First District, in the Third District, and all around. It has gotten to where people say: Look, this thing costs too much; I don't have the time, I don't have the money.

That is a part of the corruption.

Look at the considerations of Justice White 25 years ago, and I read from his opinion. I remind everybody that four of the Justices found money as property and not speech; it could be controlled. It was only by a 1-vote margin that we are into this 25-year dilemma, like a dog chasing its tail around and around and the corruption growing and growing.

I quote from Justice White:

It is accepted that Congress has power under the Constitution to regulate the election of Federal officers, including the President and Vice President. This includes the authority to protect the elective processes against the two great natural and historical enemies of all republics—open violence and insidious corruption.

Then talking about the insidious corruption:

Pursuant to this undoubted power of Congress to vindicate the strong public interest in controlling corruption and other undesirable uses of money in connection with election campaigns, the Federal Election Campaign Act substantially broadened the reporting and disclosure requirements that so long have been a part of the Federal law. Congress also concluded that limitations on contributions and expenditures were essential if the aims of the act were to be achieved fully.

Buckley v. Valeo limited contributions. It took away freedom of speech under the premise here—what a terrible thing. I have the quotes from the distinguished Senator from Kentucky that ''we eviscerate the first amendment with this Hollings-Specter amendment that limits who may speak, when they may speak, what they may speak''—by the way, this applies to the press—''what they may report, when they may report and who may report.''

Actually, there is no question that the decision in Buckley amended the first amendment. What we are trying to do is complete a uniformity where everybody is treated equally, the speech of the contributor as well as the speech of the candidate.

Going on, I quote from Justice White:

The congressional judgment which was ours to accept was that other steps must be taken to counter the corrosive effects of money in Federal election campaigns.

This is 25 years ago:

One of these steps is 608(e), which aside from those funds that are given to the candidate or spent at his request or with his approval or cooperation, limits what a contributor may independently spend in support or denigration of one running for Federal office.

That is the soft money about which we are talking. Moving on, I quote:

Congress was plainly of the view that these expenditures also have the potential for corruption. But the Court claimed more insight as to what may improperly influence candidates than is possessed by the majority of Congress that passed this bill, and the President who signed it. Those supporting the bill undeniably include many seasoned professionals who have been deeply involved in elective processes and have viewed them at close range over many years.

Then he goes on:

I have little doubt, in addition, that limiting the total that can be spent will ease the candidate's understandable obsession with fundraising and so free him and his staff to communicate in more places and ways unconnected with the fundraising function.

Actually talking about freedom of speech, you have time to talk to constituents. I remember after the last campaign, I went around the State, county to county, and they said: Fritz, why in the world are you coming around? You just won. I said: Yeah, but I really didn't get to talk to the voters. I had to talk to contributors. I didn't have time for the voters other than during the scheduled debates. I would like to meet the voters and talk to them in a more intimate way. That is quoted in the press.

This is 25 years ago, foreseeing the corruption.

I quote from Justice White:

There is nothing objectionable, indeed, it seems to me a weighty interest in favor of the provision in the attempt to insulate the political expression of Federal candidates from the influence inevitably exerted by the endless job of raising increasingly large sums of money. I regret that the Court has returned them all to the treadmill.

It is also important to restore and maintain public confidence in Federal elections. It is critical to obviate or dispel the impression that Federal elections are purely and simply a function of money, that Federal officers are bought and sold, or that political races are reserved for those who have the facility and the stomach for doing whatever it takes to bring together those interest groups and individuals who can raise or contribute large fortunes in order to prevail at the polls.

I could go on and on. There is no question that we had a very erudite observation here by Justice White, very visionary. Everybody says: You have to have somebody who has vision. That is a visionary statement in Buckley v.

Valeo. Even though it was in a dissenting opinion, it foretold what we were going to run into.

Once the campaign was over, I thought we would come up here and work for the people of the United States, not for ourselves. We could give all the time to our treadmill here, as Justice White says, but we raise the money, raise the money, raise the money, raise the money. It goes on and on and it takes away from our actual function as the most deliberative body.

Yes, we got only 38 votes the last time. The conscience is diminishing. We got a majority vote back in the 1980s back when we had a conscience.

We also once had a conscience on the budget. Now we hold the totally false premise that a deficit is a surplus. I do not have today's data, but I have the day before yesterday's. We have The Public Debt To the Penny. I ask unanimous consent to have that printed in the RECORD.

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

The Public Debt to the Penny

[Current 03/24/2000—$5,730,876,091,058.27]

Current month:	Amount
03/23/2000	$5,729,458,665,582.66
03/22/2000	5,727,734,275,348.06
03/21/2000	5,728,846,067,846.82
03/20/2000	5,728,253,942,273.38
03/17/2000	5,728,671,330,064.36
03/16/2000	5,724,694,663,639.63
03/15/2000	5,747,793,381,625.76
03/14/2000	5,748,566,517,856.04
03/13/2000	5,745,831,852,208.71
03/10/2000	5,745,712,662,449.10
03/09/2000	5,744,560,824,206.30
03/08/2000	5,745,125,070,490.06
03/07/2000	5,747,932,431,376.73
03/06/2000	5,745,099,557,759.64
03/03/2000	5,742,858,530,572.10
03/02/2000	5,732,418,769,036.22
03/01/2000	5,725,649,856,797.45
Prior months:	
02/29/2000	5,735,333,348,132.58
01/31/2000	5,711,285,168,951.46
12/31/1999	5,776,091,314,225.33
11/30/1999	5,693,600,157,029.08
10/29/1999	5,679,726,662,904.06
Prior fiscal years:	
09/30/1999	5,656,270,901,615.43
09/30/1998	5,526,193,008,897.62
09/30/1997	5,413,146,011,397.34
09/30/1996	5,224,810,939,135.73
09/29/1995	4,973,982,900,709.39
09/30/1994	4,692,749,910,013.32
09/30/1993	4,411,488,883,139.38
09/30/1992	4,064,620,655,521.66
09/30/1991	3,665,303,351,697.03
09/28/1990	3,233,313,451,777.25
09/29/1989	2,857,430,960,187.32
09/30/1988	2,602,337,712,041.16
09/30/1987	2,350,276,890,953.00

Note.—Looking for more historic information? Visit the Public Debt Historical Information archives.

Source: Bureau of the Public Debt.

Mr. HOLLINGS. This is the conscience of this crowd here. When you can't get votes—it is amazing I get any kind of votes because the overwhelming majority calls this deficit a surplus. You can find out that on 9–30–99, the debt was $5.656 trillion. It has now grown to $5.730 trillion.

I just got back from London. I had lunch there with Parliament, and I asked the Presiding Officer: Do you all have a deficit or a surplus? He said: Oh, we have a surplus. We have a balanced budget. I said: How do you measure it? He said: By the amount of money you have to borrow.

The distinguished Presiding Officer is an eminent certified public accountant. He knows how to keep the books. He would not go along with the kinds of books we keep here, showing that we're borrowing money and calling it a surplus. It's a deficit. It is an increase in the debt.

In addition, the interest expense on the public debt outstanding is $158,799,000,000. That is what we have spent just on interest costs since the beginning of the fiscal year. That is the real waste. We had a conscience under President Reagan; now it's waste, fraud, and abuse. I served on the Grace Commission. Surely, we could get votes in those days because we had a conscience.

We don't have a conscience anymore. Thirty-eight votes; I am lucky to get 18. I don't mind. Somehow, somewhere, some time, this has to be exposed. It is one grand corruption of the Congress itself. We know it. Everybody else knows it. The public showed that they know it, too, during the primaries.

If we do not get a hold of ourselves and do something about it in this particular session, we are gone goslings. That is all I have to say.

It is a tragic thing when you have to stand up here and defend the right of the people to vote on controlling spending in elections. They have it at city hall with the constable. They have it in the State capitals with the Governor. Now we have it with the national Congress. Everybody wants to try to control spending.

We go along with this farce of free speech and that we are amending the Constitution, really, the first amendment. In reality we are amending the Constitution to give the first amendment its freedom of speech. The first amendment gave that freedom of speech, but once money is attached to the speech, you take it away from those who do not have money. That is exactly what has occurred.

Buckley v. Valeo has amended the first amendment. They are all so excited and alarmed about it and laugh as they go back into the Cloakroom because they know exactly what we are talking about on the floor. Nobody is here. It is a Tuesday morning and nobody has to vote until 2:15. We will have a caucus and we will go in and talk about how we have been doing on fundraising. Then when we get through talking about doing the fundraising, we will go ahead and vote this down, according to the Senator from Kentucky. But there will come another day. I am glad for the 6-year term. We have a little time left. I have been at it some 20 years now. We will continue. It takes a little time. But what Justice White stated back in Buckley v. Valeo has come to pass. It has brought us to where the most deliberative body can't deliberate.

I retain the remainder of my time and suggest the absence of a quorum. Does the other side have any time? Both sides?

The PRESIDING OFFICER. The other side has 3 minutes.

Mr. HOLLINGS. Well, I think we will allocate the time to both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Mr. President, there is a right way and a wrong way of reforming our system of campaign finance. The Hollings proposal to amend our Constitution is simply the wrong way. It would, in effect, amend the first amendment to our Constitution to allow any ''reasonable'' restrictions to be placed on independent campaign expenditures and contributions. Why does he propose that we amend the first amendment? Because the Supreme Court of the United States has held that restrictions on independent expenditures violate the first amendment's free speech protection and that such restrictions could only be justified upon a showing of a compelling—as opposed to any reasonable—reason.

The Hollings amendment would gut the free speech protections of the first amendment. It would allow the curtailing of independent campaign expenditures that could overcome the natural advantage that incumbents have. It would, thus, limit free speech and virtually guarantee that incumbents be reelected. Thus, the Hollings amendment could change the very nature of our constitutional democratic form of government by establishing what the Founders of the Republic feared most: a permanent elite or ruling oligarchy. Let me explain.

The very purpose of the first amendment's free speech clause is to ensure that the people's elected officials effectively and genuinely represent the public. For elections to be a real check on government, free speech must be guaranteed—both to educate the public about the issues, and to allow differing view points to compete in what Oliver Wendell Holmes called ''the market place of ideas.''

Simply put, without free speech, government cannot be predicated upon, what Thomas Jefferson termed, ''the consent of the governed.'' Without free speech, there can be no government based on consent because consent can never be informed.

The Supreme Court of the United States recognized this fundamental principle of democracy in the 1976 case of *Buckley* v. *Valeo,* 424 U.S. 1 (1976). The Court in *Buckley* recognized that free speech is meaningless unless it is

effective. In the words of Justice White, ''money talks.'' Unless you can get your ideas into the public domain, all the homilies and hosannas to freedom of speech are just plain talk. Thus, the Supreme Court held that campaign contributions and expenditures are speech—or intrinsically related to speech—and that the regulating of such funds must be restrained by the prohibitions of the first amendment.

The *Buckley* Court made a distinction between campaign contributions and campaign expenditures. The Court found that free speech interests in campaign contributions are marginal at best because they convey only a generalized expression of support. But independent expenditures are another matter. These are given higher first amendment protection because they are direct expressions of speech. The Court reaffirmed the principles it outlined in *Buckley* just a few months ago in *Nixon* v. *Shrink Missouri Gov't.*

Consequently, because contributions are tangential to free speech, Congress has a sizeable latitude to regulate them in order to prevent fraud and corruption. But not so with independent expenditures. In the words of the Court:

> A restriction on the amount of money a person or group can spend necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached. This is because virtually every means of communicating in today's mass society requires the expenditure of money. [424 U.S. at 19–20].

The Hollings amendment's allowance of restrictions on expenditures by Congress and state legislatures would impose direct and substantial restraints on the quantity of political speech. It would permit placing drastic limitations on both individuals and groups from spending money to disseminate their own ideas as to which candidate should be supported and what cause is just. The Supreme Court noted that such restrictions on expenditures, even if ''neutral as to the ideas expressed, limit political expression at the core of our electoral process and of the First Amendment freedoms.'' [*Buckley* at 39].

Indeed, even candidates under the Hollings proposal could be restricted in engaging in protected first amendment expression. Justice Brandeis observed, in *Whitney* v. *California*, 274 U.S. 357, 375 (1927), that in our republic, ''public discussion is a political duty,'' and that duty will be circumscribed where a candidate is prevented from spending his or her own money to spread the electoral message. That a candidate has a first amendment right to engage in public issues and advocate particular positions was considered by the *Buckley* Court to be of:

> . . . particular importance . . . candidates [must] have the unfettered opportunity to make their views known so that the electorate may intelligently evaluate the candidates' personal qualities and their positions on vital public issues before choosing among them on election day. 424 U.S. at 53.

Campaign finance reform should not be at the expense of free speech. This amendment—in trying to reduce the costs of political campaigns—could cost us so much more: our heritage of political liberty. Without free speech our Republic would become a tyranny. Even the liberal American Civil Liberties Union opposes Hollings-type approaches to campaign reform and called such approaches a ''recipe for repression.''

The simple truth is that there are just too many on the other side of the aisle that believe that the first amendment is inconsistent with campaign finance reform. That is why they are pushing the Hollings proposal. To quote House Minority Leader RICHARD GEPHARDT, ''[w]hat we have is two important values in direct conflict: freedom of speech and our desire for a healthy campaign in a healthy democracy. You can't have both.''

I strongly disagree. You can have both. We have to have both. For without both, the very idea of representative democracy is imperiled. That is why I oppose the Hollings amendment.

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. LEAHY. 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. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. Senator HOLLINGS controls the time until 11:45 a.m.

Mr. LEAHY. Mr. President, does the Senator from Vermont have 30 minutes under a previous order?

The PRESIDING OFFICER. The Senator from Vermont has 22 and a half minutes.

Mr. LEAHY. Mr. President, my understanding was that the Senator from Vermont had 30 minutes in the order entered into last week.

The PRESIDING OFFICER. The Senator is correct, but the UC was amended by a subsequent UC that moved the time from the beginning time to 11:45.

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senator from Vermont be restored to his full 30 minutes, following the time of the Senator from South Carolina.

Mr. HOLLINGS. If the Senator will yield, I am trying to retain some time for my cosponsor, Senator SPECTER from Pennsylvania. I heard 10 minutes ago he was on his way to the floor. I would be glad for the Senator to proceed if we could reserve 10 minutes of time when Senator SPECTER gets here at 11:45.

Mr. LEAHY. Mr. President, I tell the Senator that my only concern—and I am perfectly willing to make sure he is protected, however the time works. I think by mistake somebody on the other side of the aisle yielded some of my time without my permission.

I ask unanimous consent that I be restored to a full 30 minutes, without in any way interfering with the time of the Senator.

The PRESIDING OFFICER. Was that starting time 30 minutes from this moment and then to reserve the 10 minutes for Senator SPECTER?

Mr. LEAHY. Yes, I will start now. But the distinguished Senator from South Carolina will not lose any of the time reserved for him.

The PRESIDING OFFICER. He will retain his 10 minutes, that is correct. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, on April 20, 1999, 14 young students and a teacher lost their lives at Columbine High School in Littleton, CO. That was one of a series of deadly incidents of school violence over the last 2 years. The day that happened, the Senate Judiciary Committee was not engaged in working on crime proposals or public safety issues. That day, like today, we were devoting our attention to the symbolism of this proposed amendment to the Constitution, which would weaken the first amendment for the first time in history, so that we might make criminal the burning of the American flag.

Scores of our Nation's children have been killed and wounded over the last 2 years. They haven't been killed or wounded by burning flags. They have been killed and wounded by firearm violence. Our loss has been from school violence that has shaken communities across this country.

Unfortunately, the Republican leadership in the Senate and the House have not found time to have the juvenile crime bill conference meet and resolve the differences. So even though we have passed a juvenile crime bill, one that has modest gun control in it, the gun lobby said we can't meet on that. We cannot have meetings on it. We cannot resolve those differences. Instead, we step forward and say to the American people: We will protect your children, we will protect your schools, we will make sure we have a constitutional amendment banning the burning of flags.

Like all Americans, all parents, I abhor the burning of flags. But like American parents, especially those with children in school, I know the danger to those children of gun violence and other criminal activity in this country is far more of a danger than the burning of a flag.

The Republican majority has not moved the emergency supplemental appropriations bill that is needed to provide Federal assistance to victims of Hurricane Floyd, or to help those who need fuel assistance, or to fund our men and women engaged in international peacekeeping efforts in Kosovo. Nor has the Republican majority moved responsibly to help fill the 77 judicial vacancies plaguing the Federal courts around the Nation. Nor has the majority yet moved a budget resolution to meet the April 1 and April 15

deadlines of the Budget Act. I recall that 2 years ago no final budget resolution passed the Congress, and I hope that experience of congressional inattention will not be repeated. We need to raise the minimum wage, pass a Patients' Bill of Rights, approve prescription drug benefits, and authorize the FDA to help stem the public health hazard of tobacco products. There is a lot to be done, and very little is being done.

I came to the Senate again last week to urge action on the juvenile crime conference. This Congress has kept the country waiting too long for action on juvenile crime legislation and sensible gun safety laws. We are fast approaching a first-year anniversary of the shooting at Columbine High School in Littleton, CO, without any response from Congress except for a bill that passed the Senate 3-to-1, a bill that we all praised and took credit for, a bill that, unfortunately, didn't go anywhere. It sat in a closed conference, behind a door that says: Parents of America cannot be admitted.

If we did all our work, if we did something about gun violence, if we did something about our children who are dying in the streets of America, if we did something about school safety and something about juvenile justice, if we passed our budget on time, as the law requires, if we did something on medical privacy, if we did those things, fine, set aside a couple of weeks for symbolic actions. But let's do our work first. Let's do the things that should be done first.

Next month, Americans have to have their tax returns in, by April 15, because it is the law. It is also the law that says we are supposed to get our budget done. But we won't. The Congress of the United States has shown 2 years ago that we have not followed the law.

For some time I have been urging the Senate to rededicate itself to the work of helping parents, teachers, police and others to curb school violence. On May 11 last year, the Republican majority in the Senate allowed us to turn our attention to the important problems of school violence and juvenile crime. Over the ensuing two weeks the Senate worked its way through scores of amendments. The Hatch-Leahy juvenile justice legislation that passed the Senate last May 20, received a strong bipartisan majority of 73 votes. Under the plan put forward by the Republican leader, this juvenile justice legislation had become the vehicle for the anti-violence amendments adopted by the Senate last May.

I urged a prompt conference. When things bogged down, I took the unusual step of coming to the Senate to offer a unanimous consent request to move to conference on the legislation, which eventually provided the blueprint for finally agreeing to conference on July 28.

Unfortunately, the conference was convened for a single afternoon of speeches. Democrats from the House and Senate tried to proceed, to offer motions about how to proceed, and to begin substantive discussion, but we were ruled out of order by the Republican majority.

Since that time I have returned to the Senate a number of times to speak to these important issues and to urge the Republican to reconvene the juvenile crime conference. I have joined with fellow Democrats to request both in writing and on the floor that the majority let us finish our work on the conference and send a good bill to the President. On October 20, 1999, all the House and Senate Democratic conferees sent a letter to Senator HATCH and Congressman HYDE calling for an open meeting of the juvenile crime conference. On March 3, 2000, after yet another shocking school shooting involving 6-year-old classmates in Michigan, Representative CONYERS and I wrote again to Senator HATCH and Congressman HYDE requesting an immediate meeting of the conference. The response has been resounding silence.

I worry that after a major debate on the floor, one in which we have both Republicans and Democrats bring up amendments and pass some and vote down others, we then let the subject of juvenile justice languish. We have seen press releases, but the families of America have yet to see a bill.

Three weeks ago, I was honored to be invited to a White House summit by the President of the United States. He had three other Members of Congress—the distinguished chairman of the House Judiciary Committee, HENRY HYDE; the distinguished chairman of our Judiciary Committee, Senator HATCH; and the distinguished ranking member of the House Judiciary Committee, Congressman CONYERS. We met in the Oval Office in a rather extraordinary meeting. I have been to many over 25 years, and I do not remember one where the President stayed so engaged for such a long period of time in such a frank and open exchange.

The President concurs with the reconvening of the conference and action by the Congress to send him a comprehensive bill before the 1-year anniversary of the Columbine tragedy. But all of his entreaties have been rebuffed as well. We have been in recess more than we have been in session since that time. Take a couple of days and wrap this up, and send it to the President.

Democrats have been ready for months to reconvene the juvenile crime conference and put together an effective juvenile justice conference report that would include reasonable gun safety provisions. It bothers me that this Senate, under its majority leadership, cannot find the time nor the will to pass balanced, comprehensive juvenile justice legislation.

With respect to juvenile crime, I hope the majority will heed the call of our Nation's law enforcement officers to act now to pass a strong and effective juvenile justice conference report. Ten national law enforcement organizations representing thousands of law enforcement officers have endorsed the Senate-passed gun safety amendment. They support loophole-free firearm laws.

These are the ones who do:

International Association of Chiefs of Police;

International Brotherhood of Police Officers;

Police Executive Research Forum;

Police Foundation;

Major Cities Chiefs;

Federal Law Enforcement Officers Association;

National Sheriffs Association;

National Association of School Resource Officers;

National Organization of Black Law Enforcement Executives; and

Hispanic American Police Command Officers Association.

Should we not at least listen to the law enforcement people who are asked every day to put their lives on the line to protect all of us, and should we not at least listen to them when they say, Pass this modest bill? But no. We see the gun lobbies run all kinds of ads basically telling the Congress, Don't do it; we will not allow you to do it. The Congress meekly says, Yes, sir; yes, sir; we will let the gun lobby run our schedule—not those of us who are elected to do it.

I was in law enforcement. I spent 8 years in law enforcement. I know law enforcement officers in this country need help in keeping guns out of the hands of people who should not have them.

I am not talking about people who use guns for hunting or for sport, as my neighbors and I do in Vermont, but about criminals and unsupervised children. The thousands of law enforcement officers represented by these organizations are demanding the Congress act now to pass a strong and effective juvenile justice conference. As leader of the Democrats on this side, I am willing to meet on a moment's notice to do that.

Every parent, teacher and student in this country is concerned about school violence over the last two years and worried about when the next shooting may occur. They pray it does not happen at their school or involve their children.

We all recognize that there is no single cause and no single legislative solution that will cure the epidemic of youth violence in our schools or in our streets. But we have an opportunity before us to do our part. We should seize this opportunity to act on balanced, effective juvenile crime legislation, and measures to keep guns out of the hands of children and away from criminals. It is well past the time for Congress to act.

Instead, the Senate will be called upon to devote several more days this week to debating this proposal to amend the Constitution to restrict the First Amendment's fundamental protection of political expression for the

first time in our nation's history in order to criminalize flag burning as a form of political protest. We can debate that. But can't we take at least as much time to debate things that will actually involve the safety of our children?

I am prepared to debate the merits of the proposed constitutional amendment to restrict political speech. I contributed to an extensive set of minority views in the Committee's report that lay out the flaws in the proponents' arguments and the case for protecting the Constitution and our Bill of Rights. We have debated this before and must do so, again.

I treat proposals to amend the Constitution with utmost seriousness. Our role in the process is a solemn responsibility. But when we have concluded this debate, as we will in the next few days, I hope that the juvenile crime bill conference committee will complete its work. I hope that we will move the emergency supplemental appropriations needed to help our citizens hurt by Hurricane Floyd and by high fuel prices. I hope that we will vote to increase the minimum wage without further delay; I hope that we will enact a real patients' bill of rights, and that we will approve a meaningful prescription drug benefit, and that we will pass the statutory authority now needed by the FDA to regulate tobacco products. I hope that we will vote on the scores of judicial nominations sent to us by the President to fill the 77 vacancies plaguing the federal courts and our system of justice; and I hope that we will make progress on the many other matters that have been sidetracked by the majority.

My friends on the Republican side of the Senate control the schedule. They set the priorities. But I hope they realize that these are priorities of the American people and will allow us to vote on them.

Mr. President, on the proposed constitutional amendment we are debating, I note that the minority views in the committee report extend over 30 pages, yet we are asked to limit the debate on the proposal to 2 hours. Nobody wants to filibuster a proposal. But if we are going to amend the Constitution, especially if we are going to amend the first amendment, and especially if we are going to amend the Bill of Rights for the first time in over 200 years, I think the American people deserve more than a couple of hours of chitchat and quorum calls to discuss what we are going to do.

I look forward to hearing from Senator FEINGOLD, the ranking member of the Constitution Subcommittee. I look forward to hearing from Senator BOB KERREY, the only Congressional Medal of Honor recipient among us; or Senator ROBB, of Virginia, who is a decorated veteran and distinguished Senator; and, of course, the constitutional sage of the Senate, the senior Senator from West Virginia, Mr. ROBERT C. BYRD.

The Senate was intended to be a place for thoughtful debate, for the offering of amendments and for votes on amendments. We should not shortchange this debate. Let us do justice to the task of considering this constitutional amendment before we are called upon to vote, again.

This afternoon we will first vote on the Flag Protection Act amendment offered by Senators MCCONNELL, BENNETT, DORGAN and CONRAD with the support of Senators DODD, TORRICELLI, BINGAMAN, LIEBERMAN and BYRD. Having reviewed that proposal, I intend to support it as well. It is a statutory alternative to the proposed constitutional amendment.

Now, let us remember one thing. No matter how Senators vote on the proposed amendment, either for or against it, there is one thing that unites every single Member of this body. We all agree that flag burning is a despicable and reprehensible act. It is usually done to show great disrespect to our country and our institutions and all it stands for. It has to be especially offensive to those who put their lives on the line for this country, whether in the Armed Forces, law enforcement, or elsewhere.

But the ultimate question before us is not whether we agree that flag burning is a despicable and reprehensible act. We all agree that it is. The issue is whether we should amend the Constitution of the United States, with all the risks that entails, and narrow the precious freedoms ensured by the First Amendment for the first time in our history, so that the Federal Government can prosecute the tiny handful of Americans who show contempt for the flag. Such a monumental step is unwarranted and unwise.

Proponents of the constitutional amendment note the views of distinguished American veterans and war heroes who have expressed their love of the flag and support for the amendment. Those who fought and sacrificed for our country deserve our respect and admiration. I remember very much the letters that came back from my uncle in World War II, and other friends and neighbors in subsequent wars.

They know the costs as well as the joys of freedom and democracy. Their sacrifices are lessons for us all in what it means to love and honor our flag and the country and the principles for which our flag stands. On this question of amending our Constitution, some would like to portray the views of veterans as being monolithic, when in fact many outstanding veterans oppose the amendment.

Above all, these veterans believe that they fought for the freedoms and principles that make this country great, not just the symbols of those freedoms. To weaken the nation's freedoms in order to protect a particular symbol would trivialize and minimize their service.

Last year, we were honored to have former Senator John Glenn, my dear friend, who served this nation with special distinction in war and in peace and in the far reaches of space, come back to the Senate to testify before the Judiciary Committee. This is a veteran of both World War II and the Korean conflict.

He told us:

It would be a hollow victory indeed if we preserved the symbol of our freedoms by chipping away at those fundamental freedoms themselves. Let the flag fully represent all the freedoms spelled out in the Bill of Rights, not a partial, watered-down version that has altered its protections.

The flag is the nation's most powerful and emotional symbol. It is our most sacred symbol. And it is our most revered symbol. But it is a symbol. It symbolizes the freedoms that we have in this country, but it is not the freedoms themselves. . . .

Those who have made the ultimate sacrifice, who died following that banner, did not give up their lives for a red, white and blue piece of cloth. They died because they went into harm's way, representing this country and because of their allegiance to the values, the rights and principles represented by that flag and to the Republic for which it stands.

These are powerful words from our former colleague, John Glenn, a man we all agree is a true American hero.

Last spring I wrote to General Colin L. Powell, our Chairman of the Joint Chiefs of Staff during the Persian Gulf War, about this proposed constitutional amendment. I thank him for having answered the call and for adding his powerful voice to this debate. He wrote me the following:

We are rightfully outraged when anyone attacks or desecrates our flag. Few Americans do such things and when they do they are subject to the rightful condemnation of their fellow citizens. They may be destroying a piece of cloth, but they do no damage to our system of freedom which tolerates such desecration.

If they are destroying a flag that belongs to someone else, that's a prosecutable crime. If it is a flag they own, I really don't want to amend the Constitution to prosecute someone for foolishly desecrating their own property. We should condemn them and pity them instead.

I understand how strongly so many of my fellow veterans and citizens feel about the flag and I understand the powerful sentiment in state legislatures for such an amendment. I feel the same sense of outrage. But I step back from amending the Constitution to relieve that outrage. The First Amendment exists to insure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous.

I would not amend that great shield of democracy to hammer a few miscreants. The flag will still be flying proudly long after they have slunk away.

Mr. President, I ask for unanimous consent to have the full text of General Powell's letter printed in the RECORD.

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

GEN. COLIN L. POWELL, USA (RET),
Alexandria, VA, May 18, 1999.

Hon. PATRICK LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: Thank you for your recent letter asking my views on the proposed flag protection amendment.

I love our flag, our Constitution and our country with a love that has no bounds. I defended all three for 35 years as a soldier and was willing to give my life in their defense.

Americans revere their flag as a symbol of the Nation. Indeed, it is because of that reverence that the amendment is under consideration. Few countries in the world would think of amending their Constitution for the purpose of protecting such a symbol.

We are rightfully outraged when anyone attacks or desecrates our flag. Few Americans do such things and when they do they are subject to the rightful condemnation of their fellow citizens. They may be destroying a piece of cloth, but they do no damage to our system of freedom which tolerates such desecration.

If they are destroying a flag that belongs to someone else, that's a prosecutable crime. If it is a flag they own, I really don't want to amend the Constitution to prosecute someone for foolishly desecrating their own property. We should condemn them and pity them instead.

I understand how strongly so many of my fellow veterans and citizens feel about the flag and I understand the powerful sentiment in state legislatures for such an amendment. I feel the same sense of outrage. But I step back from amending the Constitution to relieve that outrage. The First Amendment exists to insure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous.

I would not amend that great shield of democracy to hammer a few miscreants. The flag will still be flying proudly long after they have slunk away.

Finally, I shudder to think of the legal morass we will create trying to implement the body of law that will emerge from such an amendment.

If I were a Member of Congress, I would not vote for the proposed amendment and would fully understand and respect the views of those who would. For or against, we all love our flag with equal devotion.

Sincerely,

COLIN L. POWELL.

Mr. LEAHY. Gary May lost both his legs while serving this country in Vietnam. He spoke about how he felt and why he did not feel that we should amend the Constitution on this point:

I am offended when I see the flag burned or treated disrespectfully. As offensive and painful as this is, I still believe that those dissenting voices need to be heard. This country is unique and special because the minority, the unpopular, the dissenters and the downtrodden, also have a voice and are allowed to be heard in whatever way they choose to express themselves that does not harm others. The freedom of expression, even when it hurts, is the truest test of our dedication to the belief that we have that right . . .

Freedom is what makes the United States of America strong and great, and freedom, including the right to dissent, is what has kept our democracy going for more than 200 years. And it is freedom that will continue to keep it strong for my children and the children of all the people like my father, late father in law, grandfather, brother, me, and others like us who served honorably and proudly for freedom.

The pride and honor we feel is not in the flag per se. It's in the principles that it stands for and the people who have defended them. My pride and admiration is in our country, its people and its fundamental principles. I am grateful for the many heroes of our country and especially those in my family. All the sacrifices of those who went before me would be for naught, if an amendment were added to the Constitution that cut back on our First Amendment rights for the first time in the history of our great nation.

I love this country, its people and what it stands for. The last thing I want to give the future generations are fewer rights than I was privileged to have. My family and I served and fought for others to have such freedoms and I am opposed to any actions which would restrict my children and their children from having the same freedoms I enjoy.

Many thoughtful and patriotic veterans object to this attempt to legislate patriotism. Those who testified before the Committee did not have to prove their patriotism. They are automatically, by their service to this country, true patriots. They spoke in eloquent terms about the importance of respect and love for country coming from the heart of a citizen or a soldier, not being imposed from without by the government.

I have thought so many times when I have been in countries where dictators rule to be able to say to them, do you have laws that require everybody to respect the symbols of your country, and they say, of course we have laws and we will prosecute anybody who doesn't obey the laws and respect the symbols of our country.

I say, we are better in our country. We don't need the laws. We are a nation of a quarter of a billion people and our people respect the symbols of this great nation and what it stands for, without having to have the ''flag police'' on the corner, without having to have laws passed by Congress. They do it because they honor those symbols.

For the same reason, my family and I fly the flag proudly at our home in Vermont. We know it is protected by the people of Vermont. We also know that it would probably be a very foolish thing for anybody to step foot on the property to do any damage to that flag. But we don't have to worry about it. People drive by, smile and wave. They know what a proud symbol it is and how proudly we fly the flag.

I remember what Senator BOB KERREY, the only recipient of the Congressional Medal of Honor currently serving in the United States Congress, said last year: ''Real patriotism cannot be coerced. It must be a voluntary, unselfish, brave act to sacrifice for others.'' Senator KERREY reminded us that in this country we believe that ''it is the right to speak the unpopular and objectionable that needs the most protecting by our government.'' Speaking specifically of the act of flag burning, he added: ''Patriotism calls upon us to be brave enough to endure and withstand such an act—to tolerate the intolerable.''

The late John Chafee, a distinguished member of this body and a highly decorated veteran of World War II and Korea, pointed out that just as forced patriotism is far less significant than voluntary patriotism, a symbol of that patriotism that is protected by law will be not more, but less worthy of respect and love. He said: ''We cannot mandate respect and pride in the flag. In fact, in my view taking steps to require citizens to respect the flag, sullies its significance and symbolism.''

James Warner, a decorated Marine flyer who was a prisoner of war of the North Vietnamese for six years, has made this point in graphic terms. He wrote:

I remember one interrogation where I was shown a photograph of some Americans protesting the war by burning a flag. ''There,'' the officer said. ''People in your country protest against your cause. That proves that you are wrong.''

''No.'' I said, ''that proves that I am right. In my country we are not afraid of freedom, even if it means that people disagree with us.'' The officer was on his feet in an instant, his face purple with rage. He smashed his fist onto the table and screamed at me to shut up. While he was ranting I was astonished to see pain, compounded by fear, in his eyes. I have never forgotten that look, nor have I forgotten the satisfaction I felt at using his tool, the picture of the burning flag, against him . . .

We don't need to amend the Constitution in order to punish those who burn our flag. They burn the flag because they hate America and they are afraid of freedom. What better way to hurt them than with the subversive idea of freedom? . . . Don't be afraid of freedom, it is the best weapon we have.

Mr. President, I ask for unanimous consent to have the James Warner editorial printed in the RECORD.

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

WHEN THEY BURNED THE FLAG BACK HOME—THOUGHTS OF A FORMER POW

(By James H. Warner)

In March of 1973, when we were released from a prisoner of war camp in North Vietnam, we were flown to Clark Air Force base in the Philippines. As I stepped out of the aircraft I looked up and saw the flag. I caught my breath, then, as tears filled my eyes, I saluted it. I never loved my country more than at that moment. Although I have received the Silver Star Medal and two Purple Hearts, they were nothing compared with the gratitude I felt then for having been allowed to serve the cause of freedom.

Because the mere sight of the flag meant so much to me when I saw it for the first time after 5½ years, it hurts me to see other Americans willfully desecrate it. But I have been in a Communist prison where I looked into the pit of hell. I cannot compromise on freedom. It hurts to see the flag burned, but I part company with those who want to punish the flag burners. Let me explain myself.

Early in the imprisonment the Communists told us that we did not have to stay there. If we would only admit we were wrong, if we would only apologize, we could be released early. If we did not, we would be punished. A handful accepted, most did not. In our minds, early release under those conditions would amount to a betrayal, of our comrades of our country and of our flag.

Because we would not say the words they wanted us to say, they made our lives wretched. Most of us were tortured, and some of my comrades died. I was tortured for

most of the summer of 1969. I developed beriberi from malnutrition. I had long bouts of dysentery. I was infested with intestinal parasites. I spent 13 months in solitary confinement. Was our cause worth all of this? Yes, it was worth all this and more.

Rose Wilder Lane, in her magnificent book ''The Discovery of Freedom,'' said there are two fundamental truths that men must know in order to be free. They must know that all men are brothers, and they must know that all men are born free. Once men accept these two ideas, they will never accept bondage. The power of these ideas explains why it was illegal to teach slaves to read.

One can teach these ideas, even in a Communist prison camp. Marxists believe that ideas are merely the product of material conditions; change those material conditions, and one will change the ideas they produce. They tried to ''re-educate'' us. If we could show them that we would not abandon our belief in fundamental principles, then we could prove the falseness of their doctrine. We could subvert them by teaching them about freedom through our example. We could show them the power of ideas.

I did not appreciate this power before I was a prisoner of war. I remember one interrogation where I was shown a photograph of some Americans protesting the war by burning a flag. ''There,'' the officer said. ''People in your country protest against your cause. That proves that you are wrong.''

''No,'' I said. ''That proves that I am right. In my country we are not afraid of freedom, even if it means that people disagree with us.'' The office was on his feet in an instant, his face purple with rage. He smashed his fist onto the table and screamed at me to shut up. While he was ranting I was astonished to see pain, compounded by fear, in his eyes. I have never forgotten that look, nor have I forgotten the satisfaction I felt at using his tool, the picture of the burning flag, against him.

Aneurin Bevan, former official of the British Labor Party, was once asked by Nikita Khrushchev how the British definition of democracy differed from the Soviet view. Bevan responded, forcefully, that if Khrushchev really wanted to know the difference, he should read the funeral oration of Pericles.

In that speech, recorded in the Second Book of Thucydides' ''History of the Peloponnesian War,'' Pericles contrasted democratic Athens with totalitarian Sparta. Unlike the Sparatans, he said, the Athenians did not fear freedom. Rather, they viewed freedom as the very source of their strength. As it was for Athens, so it is for America—our freedom is not to be feared, for our freedom is our strength.

We don't need to amend the Constitution in order to punish those who burn our flag. What better way to hurt them than with the subversive idea of freedom? Spread freedom. The flag in Dallas was burned to protest the nomination of Ronald Reagan, and he told us how to spread the idea of freedom when he said that we should turn American into ''a city shining on a hill, a light to all nations.'' Don't be afraid of freedom, it is the best weapon we have.

Mr. LEAHY. Those of us who oppose the constitutional amendment concerning flag protests understand that the political pressure for this amendment is strong, but our hope is that the Senate will in the end heed the wisdom of John Glenn, when he urged us to reject the amendment:

There is only one way to weaken the fabric of our country, and it is not through a few misguided souls burning our flag. It is by retreating from the principles that the flag stands for. And that will do more damage to the fabric of our nation than 1,000 torched flags could ever do. . . . History and future generations will judge us harshly, as they should, if we permit those who would defile our flag to hoodwink us into also defiling our Constitution.

We should not adopt a proposal that will whittle away at the first amendment for the first time in our history. We act here as stewards of the Constitution, guardians and trustees of a precious legacy. The truly precious part of that legacy does not lie in outward things—in monuments or statues or flags. All that those tangible things can do is remind us of what is precious—our liberty.

Our Constitution guards our freedoms and the first amendment is the marble of our democracy; it is the bedrock of our rights and constitutional protections. It guarantees the freedom of religion—the freedom to practice a religion or not to practice a religion, as you believe. It guarantees our freedom of speech. By doing that, it guarantees diversity. If you guarantee diversity, you guarantee democracy. Our bill of rights has been doing that for over 200 years. We are the envy of the world because of the way we protect our freedoms.

Look at all the other countries, countries that have not achieved and will not achieve greatness because they stifle dissent, because they do not allow freedom of expression.

If, God forbid, some natural disaster or terrorist act swept away all the monuments of this country, the Republic would survive just as strong as ever. But if some failure of our souls were to sweep away the ideals of Washington, Jefferson and Lincoln, then not all the stone, not all the marble, not all the flags in the world would restore our greatness. Instead, they would be mocking reminders of what we had lost.

I trust this Senate will uphold the Constitution and the first amendment. I trust this Senate will uphold the lessons of history. I trust this Senate will tell the founders of this Nation, when they wrote the bill of rights, they gave us a precious gift that we would hold unchanged throughout our lives and the lives of our children and the lives of our grandchildren, because that is the way we honor our country.

That is the way we honor the sacrifices of so many millions who protected our freedoms throughout the years.

Mr. President, do I still have time?

The PRESIDING OFFICER. Twelve seconds.

The Chair recognizes the Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

Mr. President, I have sought recognition to comment on the amendment, whose principal sponsor is the Senator from South Carolina, Mr. HOLLINGS, which would authorize the Congress and State legislatures to limit campaign contributions and campaign expenditures.

Senator HOLLINGS and I have been the principal cosponsors of this provision since 1988. It is denominated as a constitutional amendment, but, in fact, it is not a constitutional amendment, but instead it is a provision which would alter the opinion of the Supreme Court of the United States in Buckley v. Valeo which says that money was equated with speech. I believe that to be an incorrect constitutional interpretation, as do 209 professors of law who have submitted a statement urging the overruling of Buckley v. Valeo.

Since the Supreme Court of the United States is not about to do that, the only recourse is to follow the procedure today on what is denominated a constitutional amendment, but it is not a constitutional amendment because there is nothing in the first amendment which says speech is money. That is not in the first amendment. The first amendment guarantees freedom of speech, and an opinion by a majority of the Supreme Court of the United States in Buckley v. Valeo has made that interpretation.

Just as in the flag-burning case, there is nothing in the first amendment which says freedom of speech includes the right to burn an American flag. But in a 5–4 decision, the Supreme Court handed down that interpretation. It is important to note, as a matter of constitutional law, what the Supreme Court says is denominated as the opinion of the Court. If any effort were to be made to change the language of the first amendment, I would strenuously oppose any such effort. But the provision to allow Congress and State legislatures to control campaign contributions and expenditures does not do that.

On a purely personal note, this decision had special significance for me on January 30, 1976, the day it was handed down, because at that time I was in the middle of a campaign for the Republican nomination to the Senate for the Commonwealth of Pennsylvania. When the campaign started in the fall of 1975, the campaign finance law of 1974 governed, which limited the contributions of an individual for his own candidacy to $35,000, which was about the size of my bank account.

My opponent in the campaign was Congressman John Heinz. On January 30, the Supreme Court said that any individual can spend whatever he chose, millions if he chose, and John did. That was the balance of the election.

At the same time, the Supreme Court said that my brother, Morton Specter, who had the financial ability to finance my campaign—not in the Heinz style, perhaps, but adequately—was limited to $1,000 which was provided for in the law. The question, I think not illogically, came to my mind: What was the difference between John Heinz's money and Morton Specter's money? But that is what the Supreme Court said, and they said it in a very curious way.

They said:

In order to preserve the provisions against invalidation on vagueness grounds—

They cite the statute—

it must be construed to apply only to expenditures for communications that express in terms that advocate the election or defeat of a clearly identified candidate for Federal office.

They then drop to a footnote:

. . . which required language such as ''vote for,'' ''elect,'' ''support,'' ''cast your ballot for,'' ''Smith for Congress,'' ''vote against,'' ''defeat and reject.''

That has led to the very extraordinary so-called issue advertisements, which are not controllable, where they are bought by soft money. Listen to a couple of illustrative issue advertisements in the 1996 campaign for President Clinton in the summer of 1996, which ultimately tipped the scales:

''American values,'' ''do our duty to our parents,'' ''President Clinton protects Medicare,'' ''the Dole-Gingrich budget tried to cut Medicare $270 billion,'' ''protect families,'' ''President Clinton cut taxes for millions of working families,'' ''the Dole-Gingrich budget tried to raise taxes on 8 million of them,'' ''opportunity,'' ''President Clinton proposes tax breaks for tuition,'' ''the Dole-Gingrich budget tried to slash college scholarships,'' ''only President Clinton's plan meets our challenges, protects our values.''

That is curiously, insanely categorized not as an advocacy advertisement, but only an issue ad. But what quality is there in the English language which could more emphatically say: Elect President Clinton, defeat Senator Dole?

That is the consequence when millions of dollars are poured into campaigns in soft money, unregulated under the decision of the Supreme Court in Buckley v. Valeo.

I note one very important factor: That the consequence of this provision, denominated as an amendment, is not to put into effect any specific reforms, but only to give the Congress of the United States the authority constitutionally to do so. This does not say what corporations can do, what unions can do, what individuals can do. It says only that the constraint of Buckley v. Valeo, the opinion of Justices in a split Court, will not preclude Congress from acting on the very important item of having democracy prevail in elections.

It is totally antithetical, in my opinion, to have money equated with power in a democracy. It subverts the principle of one man-one woman equals to one vote if power is equal to money and the rich can dominate the electoral process.

I do not believe that Members of the House and Senate sell their votes, although there is a widespread perception of that kind of corruption.

There is a problem of access which I try to deal with by holding town meetings in the 67 counties in Pennsylvania. On recent economies where the budgets of Senators are limited as to mailing, it has not been possible for me to mail all of my constituents who attended the town meetings. But I think that is a very practical answer to those who complain about access.

If Senators go to the county seat to be in the proximity of their constituents and let their constituents know by a postcard that the Senator will be present at a given time, a given place to answer their questions, then I think that kind of a guarantee of access would answer a great many skeptical comments about fundraisers and the purchase of access.

That is why I am proposing legislation which would permit a Senator to supplement his mailing budget for one postcard, once a year, to each constituent in each county, providing the Senator personally appears at that event.

The reality is, many Senators do not undertake town meetings anymore because they are very rough, tough affairs where people come in—may the RECORD show a smile on the face of the Presiding Officer, the distinguished Senator from Wyoming—they are rough, tough affairs.

I think the cost would probably be fairly low because I think relatively few Senators would avail themselves of that opportunity.

In conclusion, let me remind my colleagues that what Senator HOLLINGS and I are proposing does not change the language of the first amendment, but instead it substitutes our judgment for the judgment of the Court on what is an opinion of the interpretation of the Constitution's first amendment.

I ask unanimous consent that a list of the 209 scholars calling for the reversal of Buckley be printed in the RECORD and that the bill for postal mailings also be printed in the RECORD.

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

STATEMENT IN SUPPORT OF OVERTURNING BUCKLEY V. VALEO

(This statement was organized jointly by: Brennan Center for Justice at NYU School of Law, National Voting Rights Institute, U.S. Public Interest Research Group)

In its 1976 decision, *Buckley v. Valeo,* the Supreme Court of the United States held that mandatory campaign spending limits are an unconstitutional denial of free speech.

We believe that the *Buckely* decision should be overturned. The decision overstated the extent to which reasonable limits on campaign expenditures impinge on free speech. The Court also underestimated the corrosive effect of unlimited campaign expenditures on the integrity of our political process.

We the undersigned call for the reconsideration and overturning of the *Buckley* decision.

209 SCHOLARS OPPOSING BUCKLEY V. VALEO

Prof. Lee A. Albert, Professor of Law, SUNY at Buffalo School of Law.

Prof. George J. Alexander, Elizabeth H. & John A. Sutro Professor & Director, Institute of International & Comparative Law, Santa Clara University School of Law.

Prof. Dean Alfange, Jr., Professor of Political Science, University of Massachusetts at Amherst, Political Science Dept.

Prof. Francis A. Allen, Huber C. Hurst Eminent Scholar Emeritus, University of Florida, College of Law.

Prof. Jose Julian Alvarez Gonzalez, Professor of Law, University of Puerto Rico School of Law.

Prof. Howard C. Anawalt, Professor of Law, Santa Clara University School of Law.

Prof. Claudia Angelos, Professor of Clinical Law, New York University School of Law.

Prof. Ellen P. April, Professor of Law, Loyola University School of Law.

Prof. Peter Arenella, Professor of Law, UCLA School of Law.

Prof. Robert Aronson, Professor of Law, University of Washington School of Law.

Prof. Gerald G. Ashdown, Professor of Law, West Virginia University College of Law.

Prof. Gordon E. Baker, Professor Emeritus of Political Science, University of California at Santa Barbara.

Prof. Thomas E. Baker, James Madison Chair in Constitutional Law and Director of the Constitutional Law Resource Center, Drake University Law School.

Prof. Fletcher N. Baldwin, Jr., S.D. Dell Research Scholar & Professor of Law, University of Florida, College of Law.

Prof. William C. Banks, Professor of Law, Syracuse University College of Law.

Prof. Loftus E. Becker, Jr., Professor of Law, University of Connecticut School of Law.

Prof. Patricia A. Behlar, Associate Professor of Social Science, Pittsburg State University.

Prof. Robert W. Benson, Professor of Law, Loyola University School of Law.

Prof. Gary L. Blasi, Professor of Law, UCLA School of Law.

Prof. Vincent A. Blasi, David Lurton Massee, Jr. Professor of Law, University of Virginia School of Law.

Prof. Henry J. Bourguignon, Professor of Law & Distinguished University Professor, University of Toledo College of Law.

Prof. Craig M. Bradley, James Louis Calamaras Professor of Law, Indiana University School of Law, Bloomington.

Prof. Mark E. Brandon, Assistant Professor of Political Science, University of Michigan.

Prof. Daan Braveman, Dean & Professor of Law, Syracuse University College of Law.

Prof. Richard A. Brisbin, Jr., Associate Professor of Political Science, West Virginia University.

Prof. Judith Olans Brown, Professor of Law, Northeastern University School of Law.

Prof. G. Sidney Buchanan, Baker & Botts Professor of Law, University of Houston Law Center.

Prof. Thomas D. Buckley, Professor of Law, Cleveland State University, Cleveland-Marshall College of Law.

Prof. Sarah E. Burns, Professor of Clinical Law, New York University School of Law.

Prof. William G. Buss, O.K. Patton Professor of Law, University of Iowa College of Law.

Prof. Richard M. Buxbaum, Jackson H. Ralston Professor & Dean, International & Area Studies, University of California at Berkeley School of Law.

Prof. Bert C. Buzan, Professor of Political Science, California State University, Fullerton.

Prof. Paulette M. Caldwell, Professor of Law, New York University School of Law.

Prof. Lief H. Carter, McHugh Family Distinguished Professor, The Colorado College.

Prof. Paul G. Chevigny, Professor of Law, New York University School of Law.

Prof. Robert N. Clinton, Wiley B. Rutledge Professor, University of Iowa College of Law.

Prof. Joshua Cohen, Arthur & Ruth Sloan Professor of Political Science & Professor of Philosophy, Massachusetts Institute of Technology.

Prof. William Cohen, C. Wendell & Edith M. Carlsmith, Professor of Law, Stanford Law School.

Prof. Charles D. Cole, Lucille Beeson Professor, Cumberland School of Law of Samford University.

Prof. C. Michael Comiskey, Associate Professor of Political Science, Penn State, Fayette Campus.

Prof. Robert A. Dahl, Sterling Professor Emeritus of Political Science, Yale University.

Prof. David J. Danelski, Mary Lou & George Boone Centennial, Professor Emeritus, Stanford University.

Prof. Perry Dane, Professor of Law, Rutgers University School of Law, Camden.

Prof. George Dargo, Professor of Law, New England School of Law.

Prof. Derek H. Davis, Director, J.M. Dawson Institute of Church-State Studies, Baylor University School of Law.

Prof. Howard E. David, Professor of Political Science, Randolph-Macon College.

Prof. John A. Davis, Professor Emeritus of Political Science, City College of the City University of New York.

Prof. John Denvir, Professor of Law, University of San Francisco School of Law.

Prof. David F. Dickson, Professor of Law, Florida State University College of Law.

Prof. Victoria J. Dodd, Professor of Law, Suffolk University Law School.

Prof. Jameson W. Doig, Professor, Department of Politics & Woodrow Wilson School, Princeton University.

Prof. Dennis D. Dorin, Professor of Political Science, University of North Carolina at Charlotte.

Prof. Norman Dorsen, Stokes Professor of Law, New York University School of Law.

Prof. Donald W. Dowd, Professor of Law, Villanova University School of Law.

Prof. Rochelle C. Dreyfuss, Professor of Law & Director of the Engelberg Center on Innovation Law & Policy, New York University School of Law.

Prof. J.D. Droddy, Assistant Professor of Government, Western Kentucky University.

Prof. Melvyn R. Durchslag, Professor of Law, Case Western Reserve University Law School.

Prof. Ronald M. Dworkin, Frank H. Sommer Professor of Law, New York University School of Law.

Prof. Peter D. Enrich, Professor of Law, Northeastern University School of Law.

Prof. Michael Esler, Assistant Professor of Political Science, Ohio Wesleyan University.

Prof. Daryl R. Fair, Professor of Political Science, The College of New Jersey.

Prof. Antonio Fernos, Professor of Law, Inter American University Law School.

Prof. Nancy H. Fink, Professor of Law, Brooklyn Law School.

Prof. Edwin B. Firmage, Samuel D. Thurman Professor of Law, University of Utah College of Law.

Prof. James E. Fleming, Associate Professor of Law, Fordham University School of Law.

Prof. Edward B. Foley, Associate Professor of Law, The Ohio State University College of Law.

Prof. W. Ray Forrester, Professor of Law, University of California, Hastings, College of Law.

Dean Arthur N. Frakt, Dean, Widener University School of Law.

Prof. Beatrice S. Frank, Clinical Associate Professor, New York University School of Law.

Prof. Paula Galowitz, Professor of Clinical Law, New York University School of Law.

Prof. Daniel G. Gibbens, Regents' Professor of Law, University of Oklahoma College of Law.

Prof. Stephen Gillers, Professor of Law, New York University School of Law.

Prof. James M. Glaser, Associate Professor of Political Science, Tufts University.

Prof. Alvin L. Goldman, Dorothy Salmon Professor, University of Kentucky College of Law.

Prof. Roger L. Goldman, Professor of Law, St. Louis University School of Law.

Prof. Sheldon Goldman, Professor of Political Science, University of Massachusetts at Amherst, Political Science Dept.

Prof. Leslie F. Goldstein, Unidel Professor of Political Science, University of Delaware.

Prof. Howard A. Gordon, Professor Emeritus, City College of Chicago.

Prof. Howard L. Greenberger, Professor of Law, New York University School of Law.

Prof. Benjamin Gregg, Assistant Professor of Government, University of Texas at Austin.

Prof. David L. Gregory, Professor of Law, St. John's University School of Law.

Prof. Martin Guggenheim, Clinical Professor & Director, Clinical & Advocacy Programs, New York University School of Law.

Prof. Lani Guinier, Professor of Law, University of Pennsylvania Law School.

Prof. Samuel O. Gyandoh, Jr., Professor of Law, Temple University School of Law.

Prof. Michael G. Hagen, Associate Professor of Government, Harvard University.

Prof. Richard L. Hasen, Associate Professor of Law, Loyola University School of Law.

Prof. Francis H. Heller, Roy A. Roberts Professor of Law & Political Science Emeritus, University of Kansas School of Law.

Prof. Helen Hershkoff, Assistant Professor of Law, New York University School of Law.

Prof. Richard A. Hesse, Professor of Law, Franklin Pierce Law Center.

Prof. Philip B. Heymann, James Barr Ames Professor of Law, Harvard Law School.

Prof. Daniel N. Hoffman, Associate Professor of Political Science, Johnson C. Smith University.

Prof. Thomas P. Huff, Lecturer in Law & Professor of Philosophy, University of Montana School of Law.

Prof. Joseph Richard Hurt, Dean & Professor of Law, Mississippi College School of Law.

Prof. Stewart M. Jay, Professor of Law, University of Washington School of Law.

Prof. John Paul Jones, Professor of Law, University of Richmond, T. C. Williams, School of Law.

Prof. Ronald Kahn, Monroe Professor of Politics & Law, Oberlin College.

Prof. Stephen Kanter, Professor of Law (Dean 1986–1994), Lewis & Clark Northwestern School of Law.

Prof. Kenneth L. Karst, David G. Price & Dallas P. Price, Professor of Law, UCLA School of Law.

Prof. Thomas A. Kazee, Professor of Political Science, Davidson College.

Prof. Edward Kearny, Professor of Government, Western Kentucky University.

Prof. Gregory C. Keating, Professor of Law, University of Southern California Law Center.

Prof. Alan Keenan, Lecturer on Social Studies, Harvard University.

Prof. Christine Hunter Kellett, Professor of Law, Pennsylvania State University, Dickinson School of Law.

Prof. Robert B. Kent, Professor of Law Emeritus, Cornell Law School.

Prof. Mark Kessler, Chair & Professor of Political Science, Bates College.

Prof. Philip C. Kissam, Professor of Law, University of Kansas School of Law.

Prof. Robert A. Kocis, Professor of Political Science, University of Scranton.

Prof. Donald P. Kommers, Joseph & Elizabeth Robbie Professor of Government & International Studies & Professor of Law, Notre Dame Law School.

Prof. Milton R. Konvitz, Professor Emeritus of Law, Cornell Law School.

Prof. J. Morgan Kousser, Professor of History & Social Science, Caltech—Division of the Humanities & Social Sciences.

Prof. Paul M. Kurtz, J. Alton Hosch Professor & Associate Dean, University of Georgia School of Law.

Prof. James A. Kushner, Professor of Law, Southwestern University School of Law.

Prof. Robert W. Langran, Professor of Political Science, Villanova University.

Prof. Lewis Henry LaRue, Alumni Professor of Law, Washington & Lee University School of Law.

Prof. Sylvia Ann Law, Elizabeth K. Dollard Professor of Law, Medicine & Psychology & Co-Director, Arthur Garfield Hays Civil Liberties Memorial Program, New York University School of Law.

Prof. Timothy O. Lenz, Associate Professor of Political Science, Florida Atlantic University.

Prof. Frederick P. Lewis, Professor of Political Science, University of Massachusetts at Lowell.

Prof. Peter Linzer, Law Foundation Professor of Law, University of Houston Law Center.

Prof. Robert Justin Lipkin, Professor of Law, Widener University School of Law.

Prof. Stephen Loffredo, Associate Professor of Law, CUNY School of Law.

Prof. Jim Macdonald, Professor of Law, University of Idaho College of Law.

Hugh C. Macgill, Dean, University of Connecticut School of Law.

Prof. Holly Maguigan, Professor of Clinical Law, New York University School of Law.

Prof. Joan Mahoney, Professor of Law & Dean Emeritus, Western New England College School of Law.

Prof. Karl M. Manheim, Professor of Law, Loyola University School of Law.

Prof. Clair W. Matz, Professor of Political Science, Marshall University.

Prof. Christopher N. May, James P. Bradley Chair in Constitutional Law, Loyola University School of Law.

Prof. William Shepard McAninch, Solomon Blatt Professor, University of South Carolina School of Law.

Prof. Wayne McCormack, Professor of Law, University of Utah College of Law.

Prof. W. Joseph McCoy, Associate Professor of Public Administration, Marshall University.

Prof. Patrick C. McGinley, Professor of Law, West Virginia University College of Law.

Prof. Wayne V. McIntosh, Associate Professor of Political Science, Dept. of Government & Politics, University of Maryland.

Prof. Evan McKenzie, Assistant Professor of Political Science, University of Illinois at Chicago, Political Science Dept.

Prof. Edward A. Mearns, Jr., Professor of Law, Case Western Reserve University Law School.

Prof. Frank I Michelman, Harvard Law School.

Hon. Abner J. Mikva, Walter V. Schaefer Fellow in Public Policy & Visiting Professor of Law, University of Chicago Law School.

Prof. Mark C. Miller, Associate Professor of American Government, Clark University.

Prof. Arval A. Morris, Professor of Law, University of Washington School of Law.

Prof. Kenneth M. Murchison, James E. & Betty M. Phillips Professor, Louisiana State University Law Center.

Prof. Carol Nackenoff, Chair, Department of Political Science, Swarthmore College.

Prof. James A. R. Nafziger, Thomas B. Stoel Professor of Law, Willamette University College of Law.

Prof. Thomas Nagel, Professor of Philosophy & Law, New York University School of Law.

Prof. Sheldon Nahmod, Distinguished Professor of Law, Chicago-Kent College of Law.
Prof. John B. Neibel, Professor & John B. Neiber Chair, University of Houston Law Center.
Prof. Burt Neuborne, John Norton Pomeroy Professor of Law & Legal Director, Brennan Center for Justice, New York University School of Law.
Prof. Michael DeHaven Newsom, Associate Dean for Academic Affairs, Howard University School of Law.
Prof. Nell Jessup Newton, Professor of Law, American University, Washington, College of Law.
Prof. Gene R. Nichol, Dean Emeritus & Professor of Law, University of Colorado School of Law.
Prof. Harold Norris, Distinguished Professor Emeritus, Detroit College of Law at Michigan State University.
Prof. John E. Nowak, David C. Baum Professor of Law, University of Illinois College of Law.
Prof. James M. O'Fallon, Frank Nash Professor of Law, University of Oregon School of Law.
Prof. Marcia O'Kelly, Professor of Law, University of North Dakota School of Law.
Prof. Daniel R. Ortiz, Professor of Law, University of Virginia School of Law.
Prof. Vernon Valentine Palmer, Thomas Pickles Professor of Law, Tulane University School of Law.
Prof. Simon D. Perry, Professor of Political Science, Marshall University.
Prof. Daniel H. Pollitt, Kenan Professor Emeritus of Law, University of North Carolina School of Law.
Prof. H. Jefferson Powell, Professor of Law, Duke University School of Law.
Prof. Albert T. Quick, Dean & Professor of Law, University of Toledo College of Law.
Prof. Jamin Ben Raskin, Professor of Law & Pauline Ruyle, Moore Scholar, American University, Washington College of Law.
Prof. John Rawls, Professor of Philosophy, Harvard University.
Prof. Clifford Rechtschaffen, Associate Professor of Law, Golden Gate University School of Law.
Prof. David A. J. Richards, Edwin D. Webb Professor of Law, New York University School of Law.
Prof. Daniel C. Richman, Associate Professor of Law, Fordham University School of Law.
Prof. Cary Rickabaugh, Associate Professor of Political Science, Rhode Island College.
Prof. Joel E. Rogers, Professor of Law & Sociology, University of Wisconsin Law School.
Prof. Rand E. Rosenblatt, Professor of Law & Associate Dean, Academic Affairs, Rutgers University School of Law, Camden.
Prof. Victor G. Rosenblum, Nathaniel L. Nathanson Professor, Northwestern University School of Law.
Prof. Albert J. Rosenthal, Dean Emeritus & Maurice T. Moore, Professor Emeritus of Law, Columbia University School of Law.
Prof. Gregory D. Russell, Director, Criminal Justice Program & Associate Professor, Washington State University.
Prof. Rosemary C. Salomone, Professor of Law, St. John's University School of Law.
Prof. Thomas O. Sargentich, Professor of Law, American University, Washington College of Law.
Prof. Thomas M. Scanlon, Harvard University Philosophy Department.
Prof. Douglas D. Scherer, Professor of Law, Touro College, Jacob D. Fuchsberg Law Center.
Prof. Lawrence Schlam, Professor of Law, Northern Illinois University College of Law.
Prof. Leo L. Schmolka, Professor of Law, New York University School of Law.
Prof. Jeffrey M. Shaman, Professor of Law, De Paul University College of Law.
Prof. Peter M. Shane, Dean & Professor of Law, University of Pittsburgh School of Law.
Prof. Sidney A. Shapiro, John M. Rounds Professor, University of Kansas School of Law.
Prof. Stephen Kent Shaw, Professor of Political Science, Northwest Nazarene College.
Prof. Steven H. Shiffrin, Professor of Law, Cornell Law School.
Prof. David M. Skover, Professor of Law, Seattle University School of Law.
Prof. W. David Slawson, Torrey H. Webb Professor, University of Southern California Law Center.
Prof. Rogers M. Smith, Professor of Political Science, Yale University.
Prof. Barbara R. Snyder, Professor of Law, The Ohio State University College of Law.
Dean Aviam Soifer, Dean & Professor of Law, Boston College Law School.
Prof. Rayman L. Solomon, Associate Dean, Northwestern University School of Law.
Prof. Frank J. Sorauf, Regents' Professor Emeritus of Political Science, University of Minnesota.
Prof. Troy M. Stewart, Chair & Professor of Political Science, Marshall University.
Prof. Marc Stickgold, Professor of Law, Golden Gate University School of Law.
Prof. Peter L. Strauss, Betts Professor of Law, Columbia University School of Law.
Prof. Kenneth W. Street, Professor of Political Science, Austin College.
Prof. Frank R. Strong, Cary Boshamer Distinguished Professor Emeritus of Law, University of North Carolina School of Law.
Prof. Allen N. Sultan, Professor of Law, University of Dayton School of Law.
Prof. Cass R. Sunstein, Karl N. Llewellyn Distinguished Professor of Law, University of Chicago Law School.
Prof. Mary Thornberry, Professor of Political Science, Davidson College.
Prof. Michael C. Tolley, Associate Professor of Political Science, Northeastern University.
Prof. James W. Torke, Professor of Law, Indiana University School of Law, Indianapolis.
Prof. Jon M. Van Dyke, Professor of Law, University of Hawaii, William S. Richardson School of Law.
Prof. Kenneth Vinson, Professor of Law, Florida State University College of Law.
Prof. Burton D. Wechsler, Alumni Distinguished Teacher & Professor, American University, Washington College of Law.
Prof. Eldon D. Wedlock, Jr., David H. Means Professor of Law, University of South Carolina School of Law.
Prof. Philip Weinberg, Professor of Law, St. John's University School of Law.
Prof. Brian A. Weiner, Assistant Professor of Politics, University of San Francisco.
Prof. Harry H. Wellington, Dean & Professor, New York Law School.
Prof. William E. Westerbeke, Professor of Law, University of Kansas School of Law.
Prof. James G. Wilson, Professor of Law, Cleveland State University, Cleveland-Marshall College of Law.
Prof. Louis E. Wolcher, Professor of Law, University of Washington School of Law.
Prof. Raymond L. Yasser, Professor of Law, University of Tulsa College of Law.
Prof. Steven Zeidman, Associate Professor of Law, New York University School of Law.

S. —

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

SECTION 1. MAIL ALLOWANCES FOR SENATORS.

Section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58) is amended by inserting after subsection (b) the following:

''(c) In addition to the funds provided for in subsection (b), the amount available to a Member under subsection (b)(3)(A)(iii) shall include an additional amount sufficient to pay the expenses that would be incurred mailing 1 letter to each postal address in each county in the State of that Member where the Member holds and personally attends a town meeting (not to exceed 1 town meeting per county per year).''.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. Mr. President, I think we have 5 more minutes. I yield the time to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank my distinguished colleague from South Carolina. I think brevity is ideal, and I have said what I have to say. I would not oppose a constitutional amendment to limit Senators' speeches to 10 minutes generally. But I thank my colleague from South Carolina.

I thank the Chair and yield the floor.

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

Mr. LEAHY. I wish to commend the Senator from Pennsylvania for his comments about town meetings. But I hope there are Senators in this body who will do town meetings. I expect there probably are some. I think they are the most advantageous thing we could possibly do in rural States like mine and, I think, like the distinguished Presiding Officer's State. I do not think either one of us would ever come back here if we were not willing to do them. I think that is the experience of most Senators.

I yield the floor.

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

Mr. DURBIN. Mr. President, I ask unanimous consent to speak on the amendment related to flag burning.

The PRESIDING OFFICER. We have a unanimous consent agreement that actually runs over on the time we are allocated. Is the Senator asking unanimous consent to extend the time?

Mr. DURBIN. I ask unanimous consent to speak for 10 minutes on the flag burning amendment.

Mr. HOLLINGS. Mr. President, I have time left. I would be glad to yield it to the distinguished Senator from Illinois. I have no objection to the 10-minute request.

The PRESIDING OFFICER. The Senator has 3½ minutes left. There are meetings we have to get to.

Mr. DURBIN. Mr. President, it is my understanding we will now go to a quorum call rather than to have me speak for 10 minutes?

The PRESIDING OFFICER. The quorum call will be charged against allocated time.

Mr. HATCH. Mr. President, I ask unanimous consent that we be permitted, on our time, to go up to as long as 12:45.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Mr. President, even though he is on the other side of this issue, I yield 10 minutes to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank my friend and colleague from the State of Utah for yielding. I am aware of the fact we disagree on this issue. We have been friends and are adversaries only on issues without any personal basis.

Mr. President, this has become a perennial issue before the Senate—the question of whether we will amend the Constitution of the United States to, in fact, somehow ban the desecration of the American flag.

Make no mistake about it, flag burning is an insensitive and shameful act. But the issue before us is not whether we support flag burning but whether we should amend the Constitution, whether we should amend the Bill of Rights for the first time in the history of the United States of America, whether we should narrow the precious freedoms ensured by the first amendment for the very first time in our Nation's history.

When we trace back the origin of this flag burning amendment, we find that it came about as a result of an act by an individual during the 1984 Presidential election campaign in the State of Texas during the Republican National Convention. A person went down there and ignited an American flag, and ignited the passions of many people who feel very strongly about that symbol of our Nation. It gave rise to an effort on the floor of the Congress to pass a law which would ban this sort of activity. Efforts were made, overturned by the Supreme Court, and then finally a constitutional amendment was offered.

It is interesting, to me, to put this in some context because we are talking about first amendment rights—rights of expression, rights of speech—which, in fact, are envied around the world.

As nations came out from under the yoke of communism and were finally given an opportunity to write their own future, they looked to the United States, not to our flag—they had their own flag—but to our values. They said: The United States is different. The United States respects the rights of individuals to express themselves, even when it is unpopular.

In many of these same countries, it had been against the law, punishable by imprisonment, to even question the Government, let alone to burn the flag of the country. But they said: We are going to walk away from that totalitarian view of the world. We are going to stand for freedom, just like the United States of America.

One after another, the leaders of these new democracies came here to the U.S. Capitol to appear before a joint session of Congress and really said, in so many words, their model, their ideal, their goal, was to follow our 200-plus year history of the Bill of Rights.

Those of us who want to stand in defense of the Bill of Rights understand that sometimes our positions are unpopular and sometimes uncomfortable. I think back a year ago. Remember, it was just a year ago the Columbine High School massacre shocked America. It stunned us to believe this could happen in a school, that innocent children could be mowed down with guns.

If the epicenter of this shock was at Columbine, it was certainly in the State of Colorado, as well, as they reflected on this violence.

Do you recall a few days after the Columbine shootings, the National Rifle Association held its convention in Denver, CO? Those in the surrounding areas came out to peacefully protest and demonstrate against the National Rifle Association and its agenda and its insensitivity to the Columbine High School shootings.

As much as I might disagree with the agenda of the National Rifle Association, I will have to stand here and say they had a right to meet. They had a right to meet in Denver, CO, and to express their points of view. As reprehensible and shameful as some might have found it, that is a right guaranteed by the first amendment to the Constitution.

In 1998, in Idaho, white supremacists obtained a permit for a ''100-man flag parade,'' and they marched, carrying American flags alongside Nazi banners. The owner of a local bookstore in Coeur D'Alene made a point of keeping his store opened. He observed: ''Nazis were burning books in the 1930s, and I don't want them closing stores in the 90s.''

To think of it—Old Glory side by side with the Nazi banner.

I am not certain this amendment would even touch that activity. I find that reprehensible; I find that disgusting. Yet I understand it. That is what America is all about. The real test of our belief in the Bill of Rights, the real test of our belief in freedom of expression is we stand back and say, as much as we disagree and despise every word you are saying, you have a right as an American to say it. That is a core principle of this democracy. That is a principle that is at issue with the offering of this amendment, this amendment which says: We will separate out one group of Americans who engage in this despised conduct of burning flags, and we will say, we will amend the Bill of Rights for the first time in our history to stop that activity.

Senator HATCH, last year, before the Senate Judiciary Committee, invited a man I respect very much, Tommy Lasorda, who was a former manager of the Los Angeles Dodgers, who came and talked about his strong feelings in support of this amendment. He talked about a day in the baseball park when someone jumped out of the stands, started to burn a flag, and one of the other players raced over to grab the flag and put out the fire, how proud he was that this player—Rick Monday—would put out the fire of this flag.

I asked Mr. Lasorda a question when it came my turn. I said: As I understand it, most of the people who jump out of the stands and run onto the field are not televised. A decision is made by the television stations and the management not to put the television cameras on these people who race around the field whenever they do. He said: That is correct. I said: Why is that? He said: Because if you give them attention, it just encourages that kind of activity. I said to Mr. Lasorda—and say today in debate—what more attention could we give to these dim-witted clods who would burn the flag but to amend the Bill of Rights for the first time in history? How seldom this occurs, how reprehensible it is, how awful it would be for us to respond to this terrible conduct by saying: You have our attention. We are going to amend the Bill of Rights. We will show you. Then we will see a flood of this kind of activity, I am afraid.

Some of the people I respect from both sides of the aisle have been quoted during the course of this debate. Gen. Colin Powell, former Chairman of the Joint Chiefs of Staff, no one would question his patriotism, whether they belong to the American Legion or the VFW, AMVETS, or any veterans group. He opposes this amendment. He wrote a letter to Senator LEAHY in 1999 and said:

> We are rightfully outraged when anyone attacks or desecrates our flag. Few Americans do such things and when they do they are subject to the rightful condemnation of their fellow citizens. They may be destroying a piece of cloth, but they do no damage to our system of freedom which tolerates such desecration. * * * I would not amend that great shield of democracy to hammer a few miscreants. The flag will still be flying proudly long after they have slunk away.

General Powell got it right, a man who has served our country, has put his life on the line in combat like so many other veterans who are quoted in the minority views and who understand they were fighting for something more than a piece of cloth. They were fighting for a piece of history, a piece of history that goes back over 200 years, when men—and they were all men—came forward to write this document, the Constitution of the United States and said: We will make certain that no matter what any State or Federal Government should try to do, we will hold sacred the rights of an individual for freedom of expression and freedom of speech no matter how unpopular it may be.

I ask my colleagues in the Senate to join us in condemning the action but not in desecrating our Bill of Rights. It is a document which has been a source of pride for many generations. It will continue to be.

Some people say even the word ''desecration'' in this amendment is a little hard to follow. What is a physical desecration of the flag? Well, burning it is one illustration, but is it the only one? For example, I raised this in committee about 2 years ago. Would we

consider it a desecration of the flag for someone to use an American flag as a seat cover in their automobile? Some might say that is a desecration, sitting on the flag. I would ask them to think twice. Take a trip down to the Lincoln Memorial in Washington, DC. Get up close and see Abraham Lincoln, that son of Illinois of whom we are so proud. Look very closely at what he is sitting on. He is sitting on an American flag. I don't think that is a desecration. I think we understand the context is trying to indicate the importance of this President.

I urge my colleagues in the Senate to oppose this amendment and yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am intrigued by the comments of my colleague from Illinois. I would like to focus all the attention in the world on those who desecrate the American flag. I think it would be a great thing. It would help everybody in this country to know how distasteful it is and how denigrating to our country it is and how denigrating it is for all those who have died for this country following the flag, how denigrating it is to everybody who served in the military, how denigrating it is to every schoolchild, how denigrating it is to people who believe in values and things that are right. I have no trouble focusing on somebody who runs on the field burning a flag. I would like to focus on that creep as much as I could. I think if we did a little bit more of that, we might find a renewed resurgence of feelings about our country out there.

To be honest with you, if I interpret what the Senator said, he basically said that people ought to be able to make their statement. I wonder if he would be happy to have anybody who wants to make a statement in our gallery make any statement they want to every day that we meet. I think he would acknowledge that would disrupt the workings of the most important legislative body in the world.

There are limitations on everything, including the first amendment. By the way, how do you call offensive conduct of defecating, urinating on the flag or burning the flag with contempt, how do you call that free speech? The Supreme Court apparently has done so, but then, again, what we are talking about here, just look at this amendment. It is a very simple amendment. It is not telling us to do anything about the flag. What it says is: The Congress shall have the power to prohibit the physical desecration of the flag of the United States. My gosh, it doesn't tell us what to do. It just says we are going to take back this power that we had before this other third of the three separate powers, the judiciary, took it away from us and took it away from 49 States, all of which have asked us to restore that right to the States and the Federal Government.

These people are arguing against an amendment that gives the Congress back the power it had before, that it had for 200 years. Where is the logic in that? Many of these folks who are going to vote against this amendment voted for an anti-flag-desecration statute back in 1989. If they believe it is free speech today to defecate on the flag, then why wasn't it in 1989 when they voted for that useless statute that I stood up and said was unconstitutional and voted against and which later was declared to be what I said it would be, unconstitutional? Why didn't they vote against it if they are so enamored with this argument on free speech?

But forget the free speech argument. What about the power of three separate branches of Government? Why should we let the judiciary tell 49 States and the Congress of the United States we don't have any power to protect the national symbol of our sovereignty, of our patriotism, of our Nation? Any self-respecting Senator would want to stand up for the rights of the Congress, especially since this amendment doesn't say what we have to do. It basically says we have the right to change things. That is what you do with a constitutional amendment.

Some opponents of the flag-protection amendment have argued that we should be passing more restrictions on gun ownership rather than debating our constitutional amendment to protect the American flag. Give me a break. Everything is gun amendments around here. We have 20,000 laws, rules, and regulations about guns in this society that aren't even being enforced by this administration. While I believe there is no shortage of important issues for the Senate to take up, I believe the flag amendment is not only vital to protect our shared values as Americans, but also that this debate is particularly timely today as we all strive to recover what is good and decent about our country.

We see evidence of moral decay and a lack of standards all around us. Our families are breaking down, our communities are being divided, and there are leaders who are not providing the appropriate moral leadership for the American public. Our popular culture, including movies, television, video games, and music, bombards our children with offensive messages of violence and selfishness. The very disturbing incidents of gun violence—particularly at our public schools—is a particular result of a culture that is afraid to teach that certain ideas are right or wrong. As the saying goes, you have to stand for something, or you will fall for anything.

Today, the Senate has a unique opportunity to say that our country, and our culture, does stand for something; that on the issue of protecting and safeguarding an incident of national sovereignty, we stand for something. Today, we can reaffirm that all Americans share certain beliefs and values and a respect for this symbol of our national sovereignty. We can give a united bedrock of principle to a generation that is increasingly floating adrift and alone. Think about it. If we pass this amendment, we will create a debate on values in this country in all 50 States. That alone justifies this amendment—although I could give many additional justifications even better than that.

The disillusioned young people in our society today learn a very negative lesson by watching our Government sit powerlessly as exhibitionists and anarchists deface the embodiment of our sovereignty and our common values. What do you think they take away from watching people who dishonor the memory of those millions of men and women who have given their lives for the future of America? Allowing desecration of the flag lowers again the standards of elemental decency that all of us must and should live by. This proposed amendment affirms that without some aspirations to national unity, there might be no law, no Constitution, no freedoms such as those guaranteed by the Bill of Rights. The Bill of Rights was never intended to be a license to engage in any kind or type of behavior that one can imagine. Don't sell this amendment, and what it stands for, short.

If we pass this amendment by the necessary two-thirds vote, the Senate will say that our symbol of sovereignty, the embodiment of so many of our hopes and dreams, can no longer be dragged through the mud, torn asunder, or defecated on. We will say to the young people of America that there are ideals worth fighting for and protecting. There is a reason we are united as Americans, and that our experiment in democracy has proven to be the most enlightened government in history.

Can anyone think of a better message to send to our young people than to begin to reclaim the values of liberty, equality, and personal responsibility that Americans have defended and debated?

The flag amendment is not a distraction from matters of violence and education and social decay; nor is it an abdication of responsibility, as it has been called by some who oppose it. If there has been an abdication of responsibility, it has been to defend the irresponsible notion that the Bill of Rights exists to allow people to engage in any type of behavior or conduct that one can imagine. We need more attention to public values and standards, not less.

I am deeply offended by those who say the Senate has more important things to do than discuss a flag-protection constitutional amendment. I urge those of my colleagues who think the Senate is too important for the American flag to listen to the American people on this issue. I just came from a press conference where seven Congressional Medal of Honor recipients were there praying that the people of this country will get the Members of the

Senate to support this flag amendment.

The vast majority of our citizens support amending the Constitution to protect our Nation's flag. Even then, this amendment just says it gives the right to the Congress to do that. To these citizens and elected officials, protecting the flag as the symbol of our national unity and community and utilizing the constitutional amendment process to do so is no trivial matter.

Sitting in our gallery today are people who put their lives on the line to defend our flag and the principles for which it stands. These are the fortunate ones who were not required to make the ultimate sacrifice like my brother was in the Second World War, and like my brother-in-law was in Vietnam. Every one of these people—like tens of thousands of American families across our country—have traded the life of a loved one for a flag, folded at a funeral. Let's think about that trade—and about the people who made it for us—before deciding whether the flag is important enough to be addressed in the Senate.

Given the great significance of the flag, it is not surprising that support for the flag amendment is without political boundaries. It is not, as some suggest, a battle between conservatives on one side and liberals on the other. Indeed, the flag amendment transcends all political, racial, religious, and socioeconomic divisions. This is consistently reflected in national polling, in resolutions to Congress from 49 State legislatures requesting Congress to send the flag amendment to the States for ratification, and in the support of a bipartisan supermajority of the House of Representatives both last year and during the 104th Congress.

Is this overwhelming support for the flag amendment, as manifested through polling and through the actions of State and national legislatures, frivolity? Are we trivializing the Constitution, when a vast majority of Americans speaking for themselves or through elected representatives seek to utilize the article V amendment process, itself constructed by our Founding Fathers to right the wrongs of constitutional misinterpretation? Are we irresponsible if we simply restore the law as it existed for two centuries prior to two Supreme Court decisions, which were 5–4 decisions, hotly contested decisions? Does the principle of ''government by the people'' end where the self-professed ''experts'' convince themselves that the concerns of the overwhelming majority of ordinary citizens and their representatives are not important?

Is the Constitution, which establishes processes for its own amendment, wrong? I say it is the Constitution which establishes processes for its own amendment, and it is right. It says that the Constitution will be amended when two-thirds of the Congress and three-fourths of the States want to do so. It does not say that this procedure is reserved for issues that some law professors think are important, or issues that would crumble the foundations of our great Republic.

If ''government by the people'' means anything, it means that the people can decide the fundamental questions concerning the checks and balances in our Government. The people can choose whether it is Congress or the Supreme Court that decides whether flag desecration is against the law.

I urge colleagues to think hard about what they consider to be ''important'' before they conclude that the Senate should ignore the people and what they think is important and what should be considered important before they conclude that the Senate should ignore the people's desire to make decisions about the Government which governs them. The flag amendment is the very essence of ''government by the people'' because it reflects the people's decision to give Congress a power that the Supreme Court has taken away. This question is very important. I urge my colleagues not to think that this body is above listening to the vast majority of citizens of this country who want to give Congress the ability to determine whether and how to protect the American flag.

People should not say that there are more important issues than this one. This issue involves the very fabric of our society, what we are all about, and what our children, we hope, will be all about. This issue is very important. Anybody who thinks otherwise is trivializing this very important issue and the 80 percent of the American people who are strongly for it. The other 20 percent are not strongly against it; only a small percentage of those are. The rest of them just don't know or don't care.

You should have been with those seven Congressional Medal of Honor recipients, Miss America, and a whole raft of other veterans outside as we talked about why this amendment is important.

Mr. President, I yield the remainder of my time.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:16 p.m.

Thereupon, at 12:39 p.m., the Senate recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

FLAG DESECRATION CONSTITUTIONAL AMENDMENT—Resumed

AMENDMENT NO. 2889

The PRESIDING OFFICER. We now have 4 minutes equally divided under the McConnell amendment No. 2889, S.J. Res. 14.

The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, we all despise those who desecrate the flag. The issue before the Senate today is how we should deal with that problem.

In the late 1980s, the Congress passed a statute designed to prohibit this vile practice. It was struck down by the Supreme Court on First Amendment grounds. For the last several years we have had proposals in the Senate to amend the Bill of Rights in order to prohibit flag desecration despite the First Amendment. However, I think we should be very reluctant about amending the Bill of Rights.

Therefore, I have offered the amendment which we will be voting on shortly. It takes a new a statutory approach that I am confident would be upheld by the Supreme Court. Simply put, my alternative approach protects the flag by prohibiting three kinds of desecration. First, desecration of the flag that incites violence or breach the peace. Second, desecration of a flag belonging to the United States government. Third, desecration of a flag stolen from someone else and destroyed on government land. Anyone who engages in any of this kind of reprehensible behavior would be subject to fines of up to $250,000 and/or imprisoned for up to 2 years. I think this is a better approach than tinkering with the Bill of Rights for the first time in 200 years.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I generally support the distinguished Senator from Kentucky on all campaign finance reform issues because I think he is one of the most learned people, if not the most learned person in this area and on many other occasions. On this issue I cannot.

I predicted back in 1989 it was unconstitutional when they passed the statute, which passed overwhelmingly by a lot of people who, today, when this amendment is finally voted upon, will vote against it. In other words, they passed the statute that would do what this amendment would allow the Congress, if it so chooses to do, to do.

It seemed illogical to me they are unwilling to do what really has to be done because we have had two statutory attempts to resolve the problem of physical desecration of our beloved American flag. Both times I predicted it was unconstitutional under the Supreme Court's decisions, and both times they were held to be unconstitutional. So a statute is not going to do the job.

In spite of good intentions, the only way we can resolve this problem and do it effectively without taking anybody's rights away is to do what we are doing—not passing a constitutional amendment that prohibits physical desecration of the flag. We are passing a constitutional amendment that gives the Congress a coequal status with the judiciary, two coequal branches of Government to have the right to determine what to do with regard to the flag. That is what we intend to do.

I hope our colleagues will vote against this amendment because it

would undermine, of course, the constitutional amendment.

Mrs. BOXER. Mr. President, I rise to oppose amending the Constitution of the United States to outlaw flag burning, and I will support the McConnell statute to punish flag burners who want to incite violence. The flag stands for freedom, and so does our Bill of Rights. I believe that both must be protected.

Colin Powell recently wrote, ''I would not amend that great shield of Democracy to hammer a few miscreants. The flag will still be flying proudly long after they have slunk away. Finally, I shudder to think of the legal morass we will create in trying to implement the body of law that will emerge from such an amendment.''

As our good friend John Glenn, a great Senator, a great astronaut, and a great Marine, once declared, ''[I]t would be a hollow victory indeed if we preserved the symbol of our freedoms by chipping away at those fundamental freedoms themselves. Let the flag fully represent all the freedoms spelled out in the Bill of Rights, not a partial, watered-down version that alters its protections.''

We can solve this problem with an amendment that is identical to a statute written by the Senator from Kentucky, the Flag Protection Act of 1999.

This amendment would protect the flag of the United States from being destroyed or damaged in certain situations. Under this amendment, any person who destroys or damages the flag of the United States with the primary purpose and intent to incite or produce imminent violence or a breach of peace will receive a stiff fine, imprisonment, or both.

This amendment also increases the fine and imprisonment penalties for damaging a flag belonging to the United States or damaging a flag on Federal land.

I support this amendment because I believe that our flag is the very symbol of our liberty, unity, and equality as a nation—a proud reminder of the democracy we hold so dear. But while we should protect the American flag, we also must remain vigilant in our protection of the Constitution.

This amendment stands on solid constitutional ground. Although the statute criminalizes the destruction or damaging of the American flag with the intent to provoke imminent violence or breach of the peace, Supreme Court precedent supports this approach. In Chaplinsky v. New Hampshire (1942), the Court upheld the constitutionality of laws that prohibit expression calculated, and likely to cause, a breach of the peace.

So I support this amendment because it not only protects our American flag, but it also preserves the rights and freedoms established in the United States Constitution.

Today, we have an opportunity to protect our flag. But just as important, we can preserve the constitutional ideals symbolized by the flag.

Mr. KYL. Mr. President, I rise in support of S.J. Res. 14, the flag protection constitutional amendment, and to explain, quite briefly, my opposition to Senator MCCONNELL's statutory substitute.

The McConnell amendment (No. 2889) would amend the U.S. Code to establish jail terms and fines for (1) damaging a flag ''with the primary purpose and intent to incite or produce imminent violence or a breach of the peace,'' (2) damaging a flag that belongs to the United States, or (3) damaging a flag that belongs to a third party if the damage occurs within the ''exclusive or concurrent jurisdiction of the United States.'' See Section 3, proposed 18 U.S.C. 700.

I oppose the McConnell amendment for three reasons. First, the narrow strictures of the amendment would provide little protection for the flag. For example, the McConnell amendment would not apply to the very case (*Texas* v. *Johnson*, 491 U.S. 397 (1989)) in which the Supreme Court struck down flag protection statutes. In that case, Gregory Johnson burned a flag that had been stolen from a bank. He did not burn the flag on Federal property; be burned it in front of city hall as a political protest. Thus, the second and third restrictions of the McConnell amendment (a ban on destroying flags stolen from the United States, and a ban on destroying stolen flags on Federal property) would not have applied. As for the first restriction (a ban on burning a flag when such action could cause imminent violence or a breach of the peace), it is important to note that the Court in *Texas* v. *Johnson* found that unless there was evidence that a riot ensued or threatened to ensue one could not protect the flag under the breach of the peace doctrine.

Second, it seems unlikely that the amendment would survive scrutiny by the U.S. Supreme Court. In response to *Texas* v. *Johnson*, Congress quickly enacted a facially content-neutral, flag-protection statute that it hoped would pass constitutional muster. See Public Law 101–131. On June 11, 1990, in *United States* v. *Eichman* (496 U.S. 310 (1990)), the Supreme Court struck down that law. The Court found the following: ''Although the Flag Protection Act contains no explicit content-based limitation on the scope of prohibited conduct, it is nevertheless clear that the government's asserted interest is 'related to the suppression of free expression,' and concerned with the content of such expression. The Government's interest in protecting the 'physical integrity' of a privately owned flag rests upon a perceived need to preserve the flag's status as a symbol of our Nation and certain national ideas.'' *Id.* at 315–16. If precedent is an accurate guide, it is likely that the Court would reach a similar conclusion if it considered the McConnell amendment.

Finally, as one of the 58 Senate sponsors of S.J. Res. 14, I want to see that resolution receive an up-or-down vote. The sponsors of the amendment and the numerous veterans, patriotic, civic, and religious groups have worked hard to bring the constitutional amendment to a vote.

In closing, I would like to reaffirm my support for S.J. Res. 14. I cannot believe that our Founding Fathers intended ''freedom of expression'' to encompass the willful destruction of our national symbol—the symbol of America that so many of our sons and daughters have given their lives to defend.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 2889.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 36, nays 64, as follows:

[Rollcall Vote No. 45 Leg.]

YEAS—36

Akaka	Durbin	Levin
Bennett	Edwards	Lieberman
Biden	Gorton	McConnell
Bingaman	Graham	Mikulski
Boxer	Harkin	Moynihan
Bryan	Inouye	Murray
Byrd	Jeffords	Nickles
Chafee, L.	Johnson	Sarbanes
Conrad	Kerry	Schumer
Daschle	Kohl	Smith (OR)
Dodd	Lautenberg	Torricelli
Dorgan	Leahy	Wyden

NAYS—64

Abraham	Fitzgerald	Murkowski
Allard	Frist	Reed
Ashcroft	Gramm	Reid
Baucus	Grams	Robb
Bayh	Grassley	Roberts
Bond	Gregg	Rockefeller
Breaux	Hagel	Roth
Brownback	Hatch	Santorum
Bunning	Helms	Sessions
Burns	Hollings	Shelby
Campbell	Hutchinson	Smith (NH)
Cleland	Hutchison	Snowe
Cochran	Inhofe	Specter
Collins	Kennedy	Stevens
Coverdell	Kerrey	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
DeWine	Lincoln	Voinovich
Domenici	Lott	Warner
Enzi	Lugar	Wellstone
Feingold	Mack	
Feinstein	McCain	

The amendment (No. 2889) was rejected.

AMENDMENT NO. 2890

The PRESIDING OFFICER. The Senate will now consider amendment No. 2890 to S.J. Res. 14 offered by Senator HOLLINGS. There are 4 minutes equally divided.

Mr. HOLLINGS. Mr. President, my colleagues all acknowledge the need for more and more money each time we come up for election or get into political campaigns.

There has been very little discussion of the actual chase for that money which has corrupted the institution. I hate to say that. When I got here 33 years ago, we would come to work, and Senator Mansfield, the majority leader, would have a vote at 9 o'clock on Monday morning. Senator BYRD did the

same thing as majority leader. We would work throughout the week up until 5 o'clock on Friday. Now Mondays and Fridays are gone. We start on the half day on Tuesdays, and then Wednesdays and Thursdays we all want a window.

There is no window in the Chamber, but there are plenty of windows. You to have get with the dialog, as they call it up here, and that is for the money chase. We used to have the extended Easter break and the Fourth of July, but now we have not only January gone, there are 10 days in February, March, April, 10 days in May, June, the July break, August, the month off, and we are supposed to go home and get money.

If you go to the leader and ask, please call up a bill, it may take 3 or 4 days, he looks at you as if you are loony. Talk about debating, deliberating—this deliberative body has been so corrupted, it can't deliberate. Don't give me this so-called eviscerate the first amendment. Buckley v. Valeo did that. The intent there was that every mother's son, anybody of ordinary means, could offer for the Presidency. What has really happened is that we have taken away the speech of those who are without money. And for those who are millionaires, they can buy the office. In fact, it has stood the intent on its head whereby, instead of forbidding the purchase of the office, we have to buy it. You have to get more money.

I hope we will vote for this constitutional amendment which is neutral. It is not pro or con McCain-Feingold or public financing or whatever it is. It gives the people a chance to vote. All you have to do is look to the primaries we have just gotten through. The people are ready, willing, and able to vote and stop this corruption.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Utah has 2 minutes.

The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, we had this constitutional amendment before us in 1997. It only got 38 votes, and it takes 67 votes to change the constitution. Frankly, I am surprised it even got 38 votes. This amendment would essentially repeal a major part of the First Amendment. The Bill of Rights has protected our free speech for over 200 years. We do not need to begin eviscerating it now.

The Washington Post opposes this amendment. Common Cause opposes this amendment. The distinguished Senator from Wisconsin, Mr. FEINGOLD, and others oppose this amendment. This amendment is simply a very bad idea.

I yield the remainder of my time to the Senator from Utah, Mr. BENNETT.

Mr. BENNETT. Mr. President, I congratulate the Senator from South Carolina on his honesty in that he recognizes the proposals with respect to campaign finance reform that have been on this floor are, in fact, unconstitutional. But he seeks to solve the problem with a constitutional amendment, which I think is best summarized in the comment by the Senator from Washington, Mr. GORTON, who said this does not amend the first amendment with respect to political speech, it repeals it.

I don't want to vote in favor of something that could be considered by as careful a scholar as the Senator from Washington as repealing free speech for politicians. We have the same rights, I think, that everyone else should have. For that reason, I ask my colleagues to vote against this amendment.

Mr. HATCH. Mr. President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Mr. LIEBERMAN. Mr. President, I rise today to explain my vote on Senator HOLLINGS' proposal to amend the Constitution to allow Congress and the States to impose reasonable limits on contributions and expenditures made to support or oppose candidates for elected office. In this case, I believe that the high threshold I have established for supporting a constitutional amendment—that it address a significant threat to the Republic or some egregious wrong—has been met.

This amendment addresses an unfortunate fact whose truth has become more and more apparent in the past several years: money and the never ending chase for it are threatening the integrity of our political system and jeopardizing the essence of our democracy. Although money has always played a role in American politics, its impact became overwhelming during the last few election cycles. Political fundraising and spending during the 1996 campaign was 73 percent greater than during the 1992 campaign, and there is no reason to believe we won't break that record in 2000. We are all intimately familiar with the time and resources we need to spend to raise that money, and with the numerous questionable events and actions that were spurred by the money chase during the last Presidential election. Most of those events and actions, I have sadly concluded, were legal under our current campaign finance laws. But that does not mean they were not wrong. I think they were. By ensuring that we will be able to put a limit on the amount of money spent in political campaigns, this constitutional amendment would help restore a sense of integrity—and of sanity—to our campaign finance system and to our democracy.

Much of the debate over this proposed amendment centers on what some call its threat to the principle of free speech. That, of course, is a principle we all hold dear. But I say, Mr. President, that free speech is not what is at issue here. Free speech is about the inalienable right all of us have to express our views without government interference. It is about the vision the Framers of our Constitution enshrined in that most important of documents—a vision that ensures that we in Congress will never compromise our American birthright to say things and offer opinions even when those opinions are unpopular or discomforting. But that simply is not at issue here, Mr. President—absolutely nothing in this amendment will do anything to diminish or threaten any American's right to express his or her views about candidates running for office or about any problem or issue in American life.

What would be threatened by this proposed Constitutional amendment, Mr. President, is something entirely different: the ever increasing and disproportionate power those with money have over our political system. As everyone in this chamber knows, the spiraling costs of running for office require all of us to spend more and more time raising money and more and more time with those who give it. We are all far too familiar with events or meetings with elected officials attended only by those who could afford to give $5,000 or $10,000 or even $100,000—sums of money that are beyond the capacity of the overwhelming majority of Americans to give. That, Mr. President, is threatening a principle all of us hold just as dearly as the principle of free speech: the principle of democracy. That sacred principle guides our Republic—it promises that each person has one vote, and that each and every one of us—rich or poor—has an equal right and an equal ability to influence the workings of our government. As it stands now, Mr. President, it is that sacred principle that is under attack and that sacred principle that promises to remain under attack unless we do something to save it. And that something, I submit, is campaign finance reform.

I, for one, believe that most of the campaign finance reform we need can and must be done even without this Constitutional amendment. The Supreme Court, after all, has made quite clear in its decisions that even under its view of money as being equivalent to speech, the Constitution still allows Congress to impose restrictions on the amount that can be contributed to campaigns and parties. This, in my view, means that we have no excuse not to act right now to stop the massive soft money contributions that pose the biggest threat to our system. It is important that we not use the First Amendment as a shield against change because it is clearly constitutional to limit and regulate contributions to political campaigns—including soft money.

What it appears we cannot do under the Supreme Court's rulings is limit the amount of money we and others spend in the course of campaigns unless we adopt convoluted legislation geared toward complying with the Supreme Court's view that money is

speech. I think that the need for reform is so great that it is worth accepting convoluted legislation, but I also think that we should act now to vote for this amendment and so ensure that in the future we will be able to properly regulate campaign spending, thereby controlling the amount of money spent in American political campaigns.

Mr. President, nothing less than the future of our democracy is at stake here. Unless we act to reform our campaign finance system, people with money will continue to have disproportionate influence in our system, people who are not even citizens of the United States will try to use money to influence our government's decisions, the American people will continue to lose faith in our government's institutions, and the genius of our Republic—that it is our citizenship, not our pocketbook, that gives each of us equal power to play a role in our country's governance—that genius will be lost.

Mr. President, it is for that reason that I have concluded that this is one of those rare constitutional amendments that is worth supporting. Our current campaign finance system poses an egregious threat to our Democracy. Big money donations, endless spending and the proliferation of anonymously-funded and often inaccurate attack ads all have had an extraordinarily corrosive and distorting affect on our political system and on the citizenry's view of its role in our Democracy's decisions. I frankly can think of few threats to the Republic greater than one that throws into doubt the integrity and well-functioning of our democratic decision-making process.

Mr. WELLSTONE. Mr. President, I rise today to explain my vote against the Hollings amendment to S.J.Res. 14 which would have amended the Constitution to authorize regulation of contributions to, and spending by, Federal and State candidates.

I am a strong proponent of campaign finance reform. I would even go so far as to say that I view the fight to bar private, interested money from dominating our elections as the core battle that needs to be won if Congress is going to turn its attention to enacting an agenda that put working families before wealthy, entrenched special interests. The campaign finance reform debate may be to the nineties what civil rights was to the fifties and sixties. In fact, let me go a step further and say the campaign finance reform may be the new civil rights watershed.

I do not believe that money equals speech, as some of my colleagues have argued during the debate on the Hollings amendment and in previous debates. The vote is undermined by the dollar. The vote may be equally distributed, but dollars are not. As long as elections are privately financed, those who can afford to give more will always have a leg up—in supporting candidates, in running for office themselves, and in gaining access and influence with those who get elected. We all know this is the way it works. And the American people know it, too.

I laud my colleague's intentions in offering this amendment. No one has pushed harder on campaign finance reform than the junior Senator from South Carolina. But while I have supported the Hollings amendment in the past, I voted against it today. There is now significant momentum at both the federal and state levels to enact campaign finance reform—including public financing of elections, which I believe is critical—in a manner that will pass constitutional muster. These efforts, with hard work and determination, have the best chance of resulting in meaningful, lasting improvements in our election system, and therefore in our democracy.

Amending the Constitution is a long and arduous process. It is rarely successful. I simply do not believe that it is now the best mechanism for achieving reform.

The PRESIDING OFFICER. The question is on the motion to table amendment No. 2890. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 67, nays 33, as follows:

[Rollcall Vote No. 46 Leg.]

YEAS—67

Abraham	Fitzgerald	McConnell
Akaka	Frist	Moynihan
Allard	Gorton	Murkowski
Ashcroft	Gramm	Murray
Bennett	Grams	Nickles
Bond	Grassley	Roberts
Brownback	Gregg	Santorum
Bunning	Hagel	Schumer
Burns	Hatch	Sessions
Campbell	Helms	Shelby
Chafee, L.	Hutchinson	Smith (NH)
Cochran	Hutchison	Smith (OR)
Collins	Inhofe	Snowe
Conrad	Jeffords	Stevens
Coverdell	Kennedy	Thomas
Craig	Kerrey	Thompson
Crapo	Kohl	Thurmond
DeWine	Kyl	Torricelli
Domenici	Lautenberg	Voinovich
Dorgan	Leahy	Warner
Edwards	Lott	Wellstone
Enzi	Lugar	
Feingold	Mack	

NAYS—33

Baucus	Durbin	Lincoln
Bayh	Feinstein	McCain
Biden	Graham	Mikulski
Bingaman	Harkin	Reed
Boxer	Hollings	Reid
Breaux	Inouye	Robb
Bryan	Johnson	Rockefeller
Byrd	Kerry	Roth
Cleland	Landrieu	Sarbanes
Daschle	Levin	Specter
Dodd	Lieberman	Wyden

The motion was agreed to.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I want to take a moment to thank members of my staff for their hard work on the last two amendments: Tam Somerville, staff director of the Rules Committee; Hunter Bates, general counsel, who works with him; Andrew Siff, Denise Grant, and Nathan Oman who have been deeply involved in the last two amendments. I appreciate the great assistance from Senator BENNETT of Utah.

This is a red letter day for the first amendment. The Hollings amendment had only 33 votes in favor of the amendment. As we all know, it takes 67 votes to approve an amendment to the Constitution. There were 67 votes against this amendment to the Constitution. It is clear that the first amendment is secure for another day, and I thank my colleagues who made that possible.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I ask unanimous consent that I may proceed in morning business for 10 minutes.

Mr. LEAHY. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. And I shall not. What is the parliamentary situation right now?

The PRESIDING OFFICER. The Senate is currently considering S.J. Res. 14.

Mr. SHELBY. I ask it be set aside and that I may proceed in morning business for 10 minutes.

Mr. LEAHY. Again reserving the right to object, and I will not object, will there be any objection then to, at the conclusion of the Senator's morning business speech, we go to the distinguished Senator from Wisconsin who has been waiting to speak on the amendment which is the pending business?

Mr. SHELBY. Absolutely.

Mr. WELLSTONE. Mr. President, I ask my colleague from Vermont, I am waiting to go to another committee, may I follow the Senator from Wisconsin?

Mr. HATCH. Reserving the right to object, is the Senator from Wisconsin just going to speak or is he intending to offer an amendment?

Mr. FEINGOLD. My intent is simply to speak.

Mr. HATCH. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The order will be the Senator from Alabama for 10 minutes, the Senator from Wisconsin, followed by the Senator from Minnesota.

Mr. SHELBY. Mr. President, I thank the Senator from Vermont for his understanding in helping us work this out, and also the Senator from Utah, Mr. HATCH, for his indulgence.

(The remarks of Mr. SHELBY pertaining to the introduction of S. 2304 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, we in the Senate speak today to honor the American flag, the symbol of our Nation. Both those who favor and those who oppose the amendment to the Constitution now pending do so. We all, of course, seek to honor the flag.

I dare say that there is not a Senator among us who does not feel goose bumps when first looking up at the dome of the Capitol and seeing our flag. I would wager that no U.S. Senator fails to get a lump in the throat when standing to the strains of the national anthem. And I am confident that there is none among us whose eyes do not sometimes mist over when watching those seven bars of red and six of white ripple in the breeze and tug at the heart.

But, my colleagues, honoring the flag demands that we here fully and fairly debate this amendment. Amending the Constitution is an undertaking of the greatest import. For the Congress to propose an amendment to the Constitution of the United States on the basis of anything less than a full—even an exhaustive—debate would show less than the full respect due to the flag and the Constitution that it represents.

Honor demands that we view any effort to amend the Constitution with trepidation. Since the adoption of the Bill of Rights in 1791, America has amended its Constitution on only 17 occasions. Our Constitution has served this Nation well and withstood the test of time, in large part because Congress has resisted the urge to respond to every adversity, real or imagined, with a constitutional amendment. We should exercise restraint in amending this great charter.

We honor the American flag because we love ''the Republic for which it stands.'' We honor the banner because we cherish ''one Nation . . . with liberty and justice for all.'' We honor the flag because it represents a Constitution, that solemn commitment; and a Bill of Rights, that charter of liberty; unrivaled in the history of humankind.

Honor demands that we seek to protect not just the flag, but the principles in that Constitution and that Bill of Rights—principles of freedom, opportunity, and liberty. I believe these principles, as much as our Nation's cherished symbols, frame our history and define our Nation. As dearly as we hold the flag, we must hold these principles at least as dearly.

Yes, there have been some handfuls of sociopaths who burn our flag to thrust a firebrand in our eye. The question before us today is: Will the misguided actions of these few misfits cause us to curtail our fundamental principles of freedom?

We would only grant them victory if we allow their despicable acts to goad us into desecrating the greatest protection of individual rights in human history—our Bill of Rights. As Senator BOB KERREY has said:

> Patriotism calls upon us to be brave enough to endure and withstand such an act—to tolerate the intolerable.

Let us show our strength, by not rising to the bait. Let us show our bravery, by not giving the flag burners what they want. Let us show our faith in the strength of this country and its institutions, by not lashing out in anger at those who would defile our flag.

The costs of this amendment would exact a far too great a price to pay. This amendment, if adopted, would criminalize the very acts that the Supreme Court has held to be protected by the first amendment. This amendment would clearly and intentionally erode the Bill of Rights.

This amendment would have an unprecedented, direct, and adverse effect on the freedoms embodies in the Bill of Rights. For the first time in our history, this amendment would employ the Constitution and the Bill of Rights—both premised on the idea of limiting the Government—to limit individual rights, and, in particular, the freedom of speech.

Our former colleague, Senator John Glenn, said it very well last year. He said:

> Our revered symbol stands for freedom, but is not freedom itself. We must not let those who revile our way of life trick us into diminishing our great gift or even take a chance of diminishing our freedoms.

I am very proud to attempt to carry on John Glenn's fight against this ill-advised amendment. The Bill of Rights is too fundamental to our history, too important to our people, and too necessary to our future, for us to do anything else.

Honoring the flag demands that we also question the vagueness of the language of the amendment. Our Constitution Subcommittee heard testimony that the term ''flag of the United States,'' as used in this amendment, is ''problematic'' and so ''riddled with ambiguity'' as to ''war with the due process norm that the law should warn before it strikes.'' Even supporters of the amendment, including former Attorney General William Barr, have acknowledged that the term ''flag'' could mean any of a number of different things. No one can assure us as to what the term ''flag'' will mean other than to suggest it will be up to the governments of particular jurisdictions.

How would the amendment affect flags on T-shirts? How would the amendment affect flags on scarfs? In the memorable example given by the late and revered Senator John Chafee last year, How would the amendment affect a handmade flag rug?

Now the amendment, of course, does not make anything illegal by itself. It simply gives the Congress the power to prohibit the physical desecration of the flag. But the question is still a powerful one. We must still ask: What kind of statute would this amendment insulate from constitutional attack?

Would this amendment permit Congress to enact a statute that would criminalize wearing a T-shirt with a flag on it? Or could Congress criminalize tearing such a T-shirt?

Would the amendment permit Congress to criminalize wearing a scarf with a flag on it? Or could Congress criminalize spitting on such a scarf?

Would this amendment permit Congress to criminalize making a rug with a flag on it? Or could Congress criminalize stepping on such a rug?

More generally, would the amendment allow Congress to enact statutes that permit the prosecution of people based on the views they express when they defile the flag? Consider two cases: In case one, a person smears blood on a flag while screaming protest of U.S. involvement in a foreign war. In case two, another person drips blood on a flag after suffering an injury at a summertime football game. After adoption of this amendment, would it be constitutional to prosecute the one who spoke and not prosecute the other, who did the same thing without speaking?

Here's another example. My colleagues may remember the very exciting victory of the U.S. Women's Soccer team in the Women's World Cup last year. A thrilling moment for sure, and tens of thousands of very patriotic Americans cheered the heroic deeds of the women who represented our country.

That evening, another soccer game was played here in Washington, DC, involving this city's major league soccer team, D.C. United. Many of the same fans who cheered the U.S. women that afternoon turned out to watch the D.C. United soccer team. Some of those fans, seeking to play for the TV cameras and their fellow fans brought a prop, which they unfurled during the game. Here is a picture of it. As you can see, it is an actual flag. It is not a representation or a picture. It is an actual flag of the United States with the words ''Thanks Girls!'' written on it with some type of chalk or marker.

Obviously the people who defaced this flag intended no disrespect to the United States or the flag. They were excited soccer fans, and probably very patriotic Americans. I wonder if the sponsors of this amendment can be sure of the answer to this question: Would the statute that Congress passes to prohibit flag desecration after this constitutional amendment is ratified allow for these people to be prosecuted? I think it is a fair question.

I think most of us would hope not. But how would the police or the prosecutors make that decision? If they look at the message and the beliefs of the people who have written on the flag, isn't that exactly the kind of content discrimination that the first amendment is designed to prohibit? Do we really want the government examining the motives of those who deface the flag to see if they are patriotic or well meaning enough to avoid discrimination?

I don't think so. I think that is what the first amendment is all about: to protect against Government inquiry into a citizen's political beliefs. On the other hand, if we have a completely content-neutral statute and enforcement that does not look at the motives of those who deface the flag, we might

end up prosecuting the excited and patriotic soccer fans shown in this poster. Obviously, I don't think we want that either.

So this example really shows the difficulties with outlawing desecration of the flag. People in this country use the flag to express joy and patriotism as well as opposition to the Government. And the traditions of our country, our respect for free political expression, demands that we not criminalize conduct that we would otherwise accept if it were motivated by patriotism instead of political dissent.

Some people call these kinds of examples ''wacky hypotheticals.'' But we do not have reliable answers to these questions. And when you are talking about amending the Constitution, you have a duty to consider and address hypotheticals. After all, it is not easy to correct a mistaken Constitution. We cannot just, by unanimous consent, pass a technical corrections bill to fix an unintended consequence of a constitutional amendment.

Let me share another case that I witnessed not far from this Senate Chamber. I was eating dinner at the restaurant called ''America'' over in Union Station. We noticed that the menu is colored like a giant American flag. We talked about having to be careful not to spill anything on it and how damaging our menu might be a crime under this amendment. Then we forgot about it and returned to our meal. But just a half hour later, there was a big commotion in the corner of the restaurant, and we turned to see a woman frantically trying to put out a fire that had started when her oversized American flag menu had gotten too close to the small candles on the table.

Now I hope that that woman was not engaged in an angry argument over the Government. But I suppose that is something that the police might have to investigate if this amendment and a statute that it authorized became law. Don't the police have more important things to investigate than whether the burning of a menu might violate the Constitution?

Some have been misled into believing that one can pull a flag off a building, burn it, and be protected by the Constitution. That is simply not true. There are many laws in effect today that prohibit theft, the destruction of federal property, or disturbing the peace. These can and should be used to address the majority of flag burning incidents.

Honoring the flag demands that we listen, as many on both sides of this debate have, to the true American war heroes who have testified to us on this issue. It was particularly inspiring to welcome John Glenn back to the Senate last year. The perspectives of the witnesses before the Judiciary Committee last year were of particular interest to me because they represented the diversity of views on this amendment by the American people, by veterans, and by war heroes. Those who fought and sacrificed for our country and its flag deserve our utmost respect when it comes to this flag amendment. They know well the costs of freedom and democracy, as well as the joys. Some would portray the views of veterans as monolithic, but, as our hearings showed quite plainly: They are not.

Those many veterans who oppose this amendment do so with conviction and power and strength. They know that no one can question their patriotism or love of country. Listen to the words of Professor Gary May of the University of Southern Indiana, who lost both his legs in the Vietnam war, and who testified before the Judiciary Committee last year. Professor May said:

> Freedom is what makes the United States of America strong and great, and freedom, including the right to dissent, is what has kept our democracy going for more than 200 years. And it is freedom that will continue to keep it strong for my children and the children of all the people like my father, late father in law, grandfather, brother, me, and others like us who served honorably and proudly for freedom.
>
> The pride and honor we feel is not in the flag per se. It's in the principles that it stands for and the people who have defended them. My pride and admiration is in our country, its people and its fundamental principles. I am grateful for the many heroes of our country—and especially those in my family. All the sacrifices of those who went before me would be for naught, if an amendment were added to the Constitution that cut back on our first amendment rights for the first time in the history of our great Nation.

The late Senator John Chafee, who as all will recall also served bravely at Guadalcanal and in the Korean war, last year said simply: ''[W]e cannot mandate respect and pride in the flag. In fact, . . . taking steps to require citizens to respect the flag, sullies its significance and symbolism.'' Senator Chafee's words still bring a brisk, cool wind of caution. What kind of symbol of freedom and liberty will our flag be if it has to be protected from protesters by a constitutional amendment?

My friend and constituent Keith Kruel, a World War II veteran and past National Commander of the American Legion, addressed this point quite well in testimony he submitted for the Judiciary Committee last year. He said:

> Freely displayed, our flag can be protected only by us, the people. Each citizen can gaze upon it, and it can mean what our heartfelt patriotic beliefs tell us individually. Government ''protection'' of a Nation's banner only invites scorn upon it. A patriot cannot be created by legislation. Patriotism must be nurtured in the family and educational process. It must come from the heartfelt emotion of true beliefs, credos and tenets.

Senator BOB KERREY, who is in the Chamber at this time, the only Congressional Medal of Honor winner to serve in the Senate in this century, spoke directly to the point when he said: ''Real patriotism cannot be coerced. It must be a voluntary, unselfish, brave act to sacrifice for others.'' I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank Senator FEINGOLD for his statement. I will be relatively brief.

I ask unanimous consent that if other Senators aren't here, Senator KENNEDY be allowed to speak after myself.

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

Mr. WELLSTONE. Mr. President, I come to the floor not the first time to announce my opposition to this proposed constitutional amendment, giving power to the Congress and the States to prohibit physical desecration of the flag of the United States.

I wish to speak about this a little bit more personally because I think all of us come to our point based upon real-life experience. My father was a Jewish immigrant born in the Ukraine and who fled persecution from Russia. My mother's family came from the Ukraine as well. As a first generation American on my father's side, I revere the flag and I am fiercely patriotic. I love to see the flag flying over the Capitol. I love to recite the Pledge of Allegiance to the flag. I think it is a beautiful, powerful symbol of American democracy.

What I learned from my parents more than anything else, and from my own family experience as the son of a Jewish immigrant who fled czarist Russia, is that my father came to the United States because of the freedom—the freedom we have as American citizens to express our views openly, without fear of punishment.

I am deeply impressed with the sincerity of those who, including Senator HATCH, favor this constitutional amendment. I am impressed with the sacrifice and patriotism of those veterans who support this constitutional amendment. I think in the veterans community there certainly are differences of opinion. I do not question their sincerity or commitment at all.

It is with a great deal of respect for those with whom I disagree, including some members of the American Legion, that I oppose this amendment. I oppose it because, to me, it is ultimately the freedom that matters the most. To me, the soul of the flag, as opposed to the physical part of the flag, is the freedom that it stands for, the freedom that my parents talked about with me, the freedom that all of us have to speak up. I do not want to amend the Bill of Rights for the first time in its 209 years of existence. I don't want to amend the first amendment, the founding principle of freedom of speech from which all other freedoms follow.

I want to very briefly read from some of what our Justices have had to say because I think they say it with more eloquence than I could. In Texas v. Johnson, an opinion written by Justice Brennan, joined by Justices Marshall, Blackmun, Scalia, and Kennedy—and I note this is a diverse group of judges we are talking about—they said:

If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable. . . . The way to preserve the flag's special role is not to punish those who feel differently about these matters. It is to persuade them that they are wrong. . . . We do not consecrate the flag by punishing its desecration, for in doing so we dilute the freedom that this cherished emblem represents.

If freedom of speech means anything, I think it means protecting all speech, even that speech which outrages us. I have no use for those who desecrate the flag. Speech that enjoys widespread support doesn't need any protection. As the great Justice Oliver Wendell Holmes pointed out, freedom of speech is not needed for popular speech, but instead it is for the thought that we hate, the expression threatened with censorship or punishment.

I quote from General Powell's letter. He has been quoted several times, but it is too eloquent to pass up:

We are rightfully outraged when anyone attacks or desecrates our flag. Few Americans do such things and when they do they are subject to the rightful condemnation of their fellow citizens. They may be destroying a piece of cloth, but they do no damage to our system of freedom which tolerates such desecration. . . . I would not amend that great shield of democracy to hammer a few miscreants. The flag will still be flying proudly long after they have slunk away.

Our late and dear friend and colleague, Senator Chafee, who was a highly decorated soldier in two wars wrote:

We cannot mandate respect and pride in the flag. In fact, in my view, taking steps to require citizens to respect the flag sullies its significance and its symbolism.

Finally, my colleague from Wisconsin mentioned Senator Glenn, another real American hero. Senator Glenn said:

Without a doubt, the most important of those values, rights and principles is individual liberty: the liberty to worship, to think, to express ourselves freely, openly and completely, no matter how out of step these views may be with the opinions of the majority.

That is the first part of my presentation—just to say that I love this flag. I think when you have the family background I have, you are fiercely patriotic. I love this country. My mother and father are no longer alive, but I still think they know I am a Senator. They weren't alive when I was elected. It would mean everything in the world to them. But, to me, the real soul of the flag, going beyond the physical presence of the flag, is the freedom that the flag stands for. I don't think we should give up on that freedom. I don't think we should amend the first amendment to the Constitution. I think it would be a profound mistake. I say that out of respect for those who disagree with me in the Senate. I say it out of respect for those in the veterans community who disagree with me.

Mr. KENNEDY. Mr. President, once again we are debating whether to amend the Constitution to prohibit flag burning. Flag burning is a vile and contemptuous act, but it is also a form of expression protected by the first amendment. Surely we are not so insecure in our commitment to freedom of speech and the first amendment that we are willing to start carving loopholes now in that majestic language.

I strongly oppose the constitutional amendment we are debating today. The first amendment is one of the great pillars of our freedom and democracy. It has never been amended in over 200 years of our history, and now is no time to start. There is not even a plausible factual basis for carving a hole in the heart of the first amendment. There is no significant problem.

Flag burning is exceedingly rare. Published reports indicate that fewer than 10 flag burning incidents have occurred a year since the Supreme Court's decision in Texas v. Johnson in 1989 on the first amendment. Over the last 5 years, there was only one such incident in Massachusetts. This is hardly the kind of serious and widespread problem in American life that warrants an assault on the first amendment. Surely there is no clear and present danger that warrants such a change. This proposal fails the reality test.

The Constitution is not a billboard on which to plaster amendments as if they were bumper sticker slogans. In this Congress alone, over a dozen constitutional amendments have been introduced. With every new proposed amendment, we undermine and trivialize the Constitution and threaten to weaken its enduring strength.

I remember listening to a speech given by Justice Douglas, one of the great Supreme Court Justices of this century. Students asked him: What was the most important export of the United States? He said, without hesitation: The first amendment because it is the defining amendment for the preservation of free speech as the basic and fundamental right in shaping our Nation.

Clearly, it would be a mistake of historic proportions for this Congress to make the first alteration to the first amendment in more than two centuries. The first amendment breathes light into the very concept of our democracy. It protects the freedoms of all Americans, including the fundamental freedom of citizens to criticize their government and the country itself, including the flag.

As the Supreme Court explained in Texas v. Johnson, it is a bedrock principle underlying the first amendment that the Government may not prohibit the expression of an idea simply because the society finds the idea itself offensive and disagreeable.

No one in the Senate condones the act of flag burning. We all condemn it. The flag is a symbol that embodies all that is great and good about America. It symbolizes our patriotism, our achievements, and, above all, our respect for our freedoms and our democracy. We do not honor the flag by dishonoring the first amendment.

Gen. Colin Powell agrees with our opposition to this proposed amendment. He has told us in reaching this decision he was inspired by the words of James Warner, a former marine aviator, who was a prisoner in North Vietnam between 1967 and 1973. As James Warner wrote in 1989: It hurts to see the flag being burned, but I part company with those who want to punish the flag burners. In one interrogation, I was shown a photograph of American protesters burning a flag. There, the officer said: People in your country protest against your cause. That proves you are wrong. No, I said, that proves that I am right. In my country we are not afraid of freedom, even if it means that people disagree with us.

The officer was on his feet in an instant, his face purple with rage. He smashed his fist onto the table and screamed at me to shut up. While he was ranting, I was astonished to see pain, compounded by fear, in his eyes. I have never forgotten that look, nor have I forgotten the satisfaction I felt in using his tool, the picture of the burning flag, against him.

That says it all. We respect the flag the most, we protect it the best, and the flag itself flies the highest when we honor the freedom for which it stands.

I urge my colleagues to vote against this misguided constitutional amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, at least the Senator is consistent because he opposes both the McConnell amendment and the flag amendment.

Having made that point, of the 36 Senators who voted for the McConnell ''statutory fix,'' shall we call the proposal, 30 are opponents of the flag-protection amendment. These 30 Senators apparently believe that some flag desecration should be prohibited. Voting for McConnell makes their first amendment arguments a mockery.

At least the distinguished Senator from Massachusetts is consistent, because the McConnell amendment says, one, that flag desecration on Federal land with a stolen flag should be prohibited; two, damaging a flag belonging to the United States will be prohibited; or three, desecrating a flag intending to promote violence should be prohibited.

It reminds me of 1989 when a high percentage of Senators in this body, who claim to be against the constitutional amendment to prohibit desecration of our beloved flag, voted for the statutory anti-flag-desecration amendment.

If first amendment rights hold with regard to this constitutional amendment, that it would violate first amendment rights, then why wouldn't it have violated first amendment rights with regard to any statute that would prohibit desecration?

I think anyone can see the game that is going on; that is, that some of the folks wouldn't vote to protect the flag no matter what happens because they know the flag desecration amendment or a statutory amendment is not going to protect our flag because it will be stricken down as unconstitutional. I predicted it in both cases where the Supreme Court has stricken it down.

If one agrees that flag desecration is wrong, why limit it to these circumstances provided in the McConnell amendment? Why should it be legal to burn a flag in front of a crowd who loves flag desecration, or on television where people are at a safe distance, yet make it illegal to burn a flag in front of people who would be upset by that act? Why make it illegal to burn a Post Office flag but not a flag belonging to a hospital across the street? Why make it illegal for a lone camper to burn a flag in a campfire at a Yellowstone park, when it is legal to burn a flag before hundreds of children at a public school under current law?

To anyone interested in protecting the flag, these distinctions make no sense. That is what is amazing to me. There is such inconsistency. I personally believe that it is the elitist position that calls the 80 percent of Americans who believe we should sustain the dignity of our flag, of our national symbol, that we are somehow Neanderthals, the 80 percent of the people in this country who want to protect our national symbol from acts of physical desecration.

The funny thing about it, this amendment does not even do that. All this amendment does is restore the power to the Congress of the United States to be able to pass a statute if the Congress so chooses, something that we have to do by constitutional amendment if we want to be coequal with the judicial branch of Government.

Opponents of the constitutional amendment argue that this would be an unprecedented infringement on the freedom of speech, which does not satisfy James Madison's counsel that amendments of the Constitution should be limited to ''certain great and extraordinary circumstances.'' Setting aside the fact that flag desecration is conduct, not speech, and that our freedom of speech is not absolute, these critics never fully address the fact that our Founding Fathers, James Madison in particular, saw protection of the flag as falling outside the scope of the first amendment and was more a matter of protecting national sovereignty. The original intent of the Nation's founders indicates the importance of protecting the flag as an symbol of American sovereignty. Madison and Jefferson consistently emphasized the legal significance of infractions on the physical integrity of the flag.

For example, one of Madison's earliest pronouncements concerned an incident in October 1800 when an Algerian ship forced a U.S. man of war—the *George Washington*—to haul down its flag and replace it with the flag from Algiers. As Secretary of State under Thomas Jefferson, Madison pronounced such a situation as a matter of international law, a dire invasion of sovereignty which ''on a fit occasion'' might be ''revised.''

Madison continued his defense of the integrity of the flag when he pronounced an active flag defacement in the streets of an American city to be a violation of law. On June 22, 1807, when a British ship fired upon and ordered the lowering of an American frigate's flag, Madison told the British Ambassador ''that the attack . . . was a detached, flagrant insult to the flag and sovereignty of the United States.'' Madison believed that ''the indignity offered to the sovereignty and flag of the Nation demands. . .an honorable reparation.'' Madison's statements suggests his belief that protecting the physical integrity of the flag ensured the protections of the Nation's sovereignty.

This is the author of the Constitution. We have these people inconsistently voting for statutes—twice in the last 11 years—that are unconstitutional, that would, I suppose if you take their arguments on the floor, denigrate the first amendment to the Constitution. If this constitutional amendment is denigrating it, why isn't the statute they voted for denigrating it as well?

Madison did not conclude, as some defenders of the right to deface the flag contend, that the first amendment protected the rights of Americans to tear down a flag or that defacing the flag was a form of expression protected by the first amendment. On the contrary. It would appear that Madison had an intimate familiarity with the significance of protecting the physical integrity of the flag, especially as such protection related to the first amendment, which he helped draft and move through the First Congress. He knew there had been no intent to withdraw the traditional physical protection from the flag.

Madison and Jefferson intended for the Government to be able to protect the flag consistent with the Bill of Rights. This was based on their belief that obtaining sovereign treatment was distinct from an interest in protecting against the suppression of expression. Madison and Jefferson consistently demonstrated that they sought commerce, citizenship, and neutrality rights through the protection of the flag. They did not seek to suppress the expression of alternative ''ideas,'' ''messages,'' ''views,'' or ''meanings.''

Although it is commonly asserted that Congress has never sent an amendment to the States to amend the Bill of Rights, this assertion is absolutely false. Even if you assume this amendment would lead to a violation of first amendment rights, it is absolutely false to think the Congress has never sent an amendment to the States to amend the Bill of Rights. Yet the Bill of Rights has been amended in some form on several occasions. For example, the 13th amendment amended the 5th amendment as interpreted in Dred Scott v. Sanford, to provide that the former slaves were not property subject to the due process clause, but were free men and women.

Further, the 14th amendment was interpreted in Bolling versus Sharpe, to have effectively amended the due process clause of the 5th amendment to apply equal protection principles to the Federal Government.

Moreover, in Engel versus Vitale, the Supreme Court circumscribed the 1st amendment rights of American school children by holding that the establishment clause precluded prayer in the public schools.

Each of these constitutional changes substantially modified the rights and correlative duties of affected parties from those originally envisioned by the Framers of the Bill of Rights. The change effected by the Engel versus Vitale decision did not expand rights, but restricted them by taking away the right of children to pray at school.

Further, there have always been numerous limits on free speech. We limit libelous and defamatory speech. We limit speech that constitutes ''fighting words.'' We limit speech that consists of falsely shouting ''fire'' in a crowded theater. We limit speech that is obscene. We limit speech that jeopardizes national security. And each of these limits balances an important governmental interest in protecting against an individual's right to engage in radical or dangerous speech.

Thus, the Bill of Rights has been amended numerous times and has consistently been interpreted to include limits on speech. The long legal tradition of accepting regulation of physically destructive conduct toward the flag is consistent with these limits that balance society's interest in promoting respect for the nation with an individual's interest in sending a particular message by means of desecrating our beloved flag. The proposed amendment would effect a much smaller change than the other amendments listed and a much narrower limit on speech than the other limits mentioned. The amendment would simply restore the traditional right of the people to protect the physical integrity of their flag, something that existed 200 years before the Supreme Court struck it down. Protestors would still be free to speak their opinions about the flag at a rally, write their opinions about the flag to their newspaper, and vote their opinions at the ballot box.

Most of the American people, men and women, black, brown, and white, support the flag protection amendment and 49 State legislatures have asked for the flag protection amendment. Accordingly, I believe we should send the flag protection amendment to the States for ratification.

The argument that we have never amended the Bill of Rights or limited

speech is absurd; it is false, and, in any event, the flag protection amendment would change only the results of a few recent court decisions to restore the true meaning of the Bill of Rights as ratified by our forefathers.

This proposed amendment recognizes and ratifies our Founding Fathers' view—and the constitutional law that existed for nearly 200 years—that the American flag is an important and unique incident or symbol of our national sovereignty. As Americans, we display the flag in order to signify national ownership and protection. The Founding Fathers made clear that the flag, and its physical requirements, related to the existence and sovereignty of the United States and that desecration of the flag were matters of national concern that warranted government action.

This same sovereignty interest does not exist for our national monuments or our other symbols. While they are important to us all, the flag is unique. It is flown over our ships and national buildings. We took the flag to, and planted it for eternity, on the Moon. We carry it into battle. We salute it and pledge allegiance to it. Men and women have died for it and have been tortured for their fidelity to it.

Senator MCCAIN, in appearing before our committee, told of one of the experiences he had when he was in the Hanoi prison with others of our men. He said there was a young man who literally could not afford shoes. He had no shoes until he was 13 years of age. He was raised in poverty. But when he joined the military, he stood out as a really fine human being, and ultimately he went to officer's candidate school.

Flying over Vietnam, he was shot down. When he arrived in the Hanoi prison, if I recall it correctly, he took a bamboo needle and he knitted together little bits of cloth to make an American flag, and he put it inside his shirt. Every night, he would bring out that flag and put it on the wall, and they would all salute and pledge allegiance to it. It was one of the things that kept them from going insane.

One day his captors found him with that flag and took him outside and beat him within an inch of his life. Of course, they took his flag from him. Then they tossed his broken and bleeding body inside the compound which had a concrete slab in the middle. Senator MCCAIN may tell this story because he can tell it better than I can having been there. I think it is worthwhile to retell it.

Senator MCCAIN said they picked him up and cleaned him up as best they could in those very tragic circumstances. He was all black and blue with his eyes shut from having been beaten. They had incandescent light bulbs on all day long, every day, and all night long, every night. As they all went to sleep, suddenly Senator MCCAIN looked up and here was this young military man sitting there with another bamboo needle getting little bits of cloth to make another American flag.

To be honest with you, that flag meant an awful lot to those people who were under those very terrible circumstances. It means a lot to me.

Opponents of this proposed constitutional amendment argue this would be an unprecedented infringement on the freedom of speech which does not satisfy James Madison's counsel that amendments to the Constitution should be limited to ''certain great and extraordinary circumstances.''

Setting aside the fact that flag desecration is conduct not speech and that our freedom of speech is not absolute, what these critics never fully address is the fact that our Founding Fathers, James Madison in particular, saw protection of the flag as falling outside the scope of the first amendment and was more a matter of protecting national sovereignty. The original intent of the Nation's founders indicates the importance of protecting the flag as an incident of American sovereignty. Madison and others did that.

We took this flag, as I said, and planted it for eternity on the Moon. We carry it into battle. We salute it and pledge allegiance to it. Men and women have died for it and have been tortured for their fidelity to it. As Americans we recognize and believe that the flag is our unique symbol of unity and sovereignty. As Madison noted, the flag is a unique incident which, when desecrated, ''demands an honorable reparation.''

That was how we viewed it—as a people, as a nation—until 1989 when the Court handed down its 5–4 decision in the Johnson case. Are we really going to stand here on the floor of the Senate and pretend that the law never was as it was? Does anyone here believe that two narrow Supreme Court decisions should settle whether we as a nation should and can safeguard our symbol of sovereignty?

There are opponents to S.J. Res. 14 who argue that our flag—this incident of sovereignty—is not important enough to amend the Constitution; that amending the Constitution requires a ''great and extraordinary occasion.'' Tell that to the young man in Vietnam. For reasons I have stated, the Supreme Court's decisions in the Johnson and Eichman cases—decisions which overturned centuries of law and practice—more than meets Senator LEAHY's test. Senator KERREY's test, and others. It certainly meets it more than the 27th amendment which dealt with pay raises for members of Congress or the 16th amendment which gave Congress the power to impose an income tax. I can understand why some in Congress would view the 16th amendment as one of Congress' finest moments, not that I ever have. In fact, my State of Utah was one of only three States to reject the 16th amendment.

The flag amendment presents this Congress with an opportunity to do something great and extraordinary. It is anything but an abdication of responsibility. Indeed, one could argue that, failure to vote for this amendment is an abdication of our responsibility and that restoring the power of Congress the power to prohibit acts of desecration against our symbol of national sovereignty would be a great and extraordinary occasion.

Mr. DORGAN. Ten years ago the U.S. Supreme Court in a 5–4 decision struck down a Texas flag protection statute on the grounds that burning an American flag was ''speech'' and therefore protected under the First Amendment of the Constitution. I disagreed with the Court's decision then and I still do. I don't believe that the act of desecrating a flag is an act of speech. I believe that our flag, as our national symbol, can and should be protected by law.

In the intervening years since the Supreme Court decision I have twice supported federal legislation that would make flag desecration illegal, and on two occasions I voted against amendments to the Constitution to do the same. I voted that way because, while I believe that flag desecration is despicable conduct that should be prohibited by law, I also believe that amending our Constitution is a step that should be taken only rarely and then only as a last resort.

In the past year I have once again reviewed in detail nearly all of the legal opinions and written materials published by Constitutional scholars and courts on all sides of this issue. I pledged to the supporters of the Constitutional amendment that I would re-evaluate whether a Constitutional amendment is necessary to resolve this issue.

From my review I have concluded that there remains a way to protect our flag without having to alter the Constitution of the United States. I joined Senators BENNETT, MCCONNELL and CONRAD today to introduce legislation that I believe accomplishes that goal.

The bill we offered today protects the flag but does so without altering the Constitution and a number of respected Constitutional scholars tell us they believe this type of statute will be upheld by the U.S. Supreme Court. This statute protects the flag by criminalizing flag desecration when the purpose is, and the person doing it knows, it is likely to lead to violence.

Supporters of a Constitutional amendment are disappointed I know by my decision to support a statutory remedy to protect the flag rather than support an amendment to the U.S. Constitution. I know they are impatient to correct a decision by the Supreme Court that they and I believe was wrong. I have wrestled with this issue for so long and I wish I were not, with my decision, disappointing those, including many of my friends, who passionately believe that we must amend the Constitution to protect the flag.

But in the end I know that our country will be better served reserving our attempts to alter the Constitution only for those things that are ''extraordinary occasions'' as outlined by President James Madison, one of the authors of the Constitution, and only in circumstances when it is the only remedy for something that must be done.

More than 11,000 Constitutional amendments have been proposed since our Constitution was ratified. However, since the ratification of the Bill of Rights in 1791 only 17 amendments have been enacted. These 17 include three reconstruction era amendments that abolished slavery, and gave African-Americans the right to vote. The amendments included giving women the right to vote, limiting Presidents to two terms, and establishing an order of succession in case of a President's death or departure from office. The last time Congress considered and passed a new Constitutional amendment was when it changed the voting age to 18, more than a quarter of a century ago. All of these matters were of such scope they required a Constitutional amendment to be accomplished.

However, protecting the American flag can be accomplished without amending the Constitution, and that is a critically important point.

Constitutional scholars, including those at the Congressional Research Service, the research arm of Congress, and Duke University's Professor William Alstyne, have concluded that this statute passes Constitutional muster, because it recognizes that the same standard that already applies to other forms of speech applies to burning the flag as well. This is the same standard which makes it illegal to falsely cry ''fire'' in a crowded theater. Reckless speech that is likely to cause violence is not protected under the ''fighting words'' standard, long recognized by the Supreme Court of the United States.

I believe that future generations—and our founding fathers—would agree that it's worth the effort for us to find a way to protect our flag without having to wonder about the unintended consequences of altering our Constitution.

Mr. President, I yield the floor.

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

Mrs. FEINSTEIN. Mr. President, I rise in strong support of S.J. Res. 14, a proposed constitutional amendment to protect our national flag from physical desecration.

S.J. Res. 14 would give Congress, and Congress alone, the authority to draft a statute to protect the flag. It would give Congress the opportunity to construct, deliberately and carefully, precise statutory language that clearly defines the contours of prohibitive conduct.

At the outset, let me say that amending the Constitution is serious business, indeed. I know that, and I know we need to tread carefully. The Constitution is, after all, democracy's sacred text. But the Constitution is also a living text. As originally conceived, it had no Bill of Rights. In all, it has been amended 27 times.

If the Constitution is democracy's sacred text, then the flag is our sacred symbol. In the words of Supreme Court Justice John Paul Stevens, it is ''a symbol of our freedom, of equal opportunity, of religious tolerance, and of good will for other peoples who share our aspirations.'' [dissenting opinion in *Texas* v. *Johnson*, 491 U.S. at 437 (1989)]

If the flag had no symbolic value, we would not get chills when we see it lowered to half-mast or draped on a coffin. We wouldn't feel so much pride when we see it flying in front of our homes or at our embassies abroad. I wonder, is there any of us who can forget that wonderful Joe Rosenthal photograph of the six Marines hoisting that flag on the barren crag of Mount Suribachi, after the carnage at Iwo Jima, where over 6,800 American soldiers were killed. There have been many photographs of soldiers. There has been no photograph I know of that so endures in our mind's eye, that has carried so much symbolism, as that one. I remember seeing it because the San Francisco Chronicle ran it on the front page during World War II. I was just a small child, but from that point on, I knew the flag was something special.

People speak metaphorically about the fabric of our society and how it has become frayed. I submit that in a very real sense, our flag is the physical fabric of our society, knitting together disparate peoples from distant lands, uniting us in a common bond, not just of individual liberty but also of responsibility to one another. As such, the flag is more precious to us, perhaps, than we may even know.

The flag flies over government buildings throughout the country. It flies over our embassies abroad, a silent but strong reminder that when in those buildings, one is on American soil and afforded all the protections and liberties enjoyed back home.

Constitutional scholars as diverse as Chief Justices William Rehnquist and Earl Warren and Associate Justices Stevens and Hugo Black have vouched for the unique status of the national flag. In 1974, Byron White said:

> It is well within the powers of Congress to adopt and prescribe a national flag and to protect the unity of that flag. . . [T]he flag is an important symbol of nationhood and unity, created by the Nation and endowed with certain attributes.'' [Smith v. Goguen, 415 U.S. at 585–87 (1974)]

Justice White continued, ''[T]here would seem to be little question about the power of Congress to forbid the mutilation of the Lincoln Memorial or to prevent overlaying it with words or other objects. The flag is itself a monument, subject to similar protection.''

I could not agree more with the opinion of Justice White: ''The flag is itself a monument, subject to similar protection.'' Since that time, unfortunately, a narrow majority of the Supreme Court has now ruled twice that this great symbol of our national unity is not protected under the Constitution. So that is why we are here today, to begin the process of protecting the flag, which is a symbol of all the protections we are afforded as Americans and all the liberties we enjoy.

The flag flying over our Capitol Building today, the flag flying over my home in San Francisco, each of these flags, separated by distance but not in symbolic value, is its own monument to everything America represents. It should be protected as such.

Our history books are replete with stories of American soldiers who were charged with the responsibility of leading their units into battle by carrying our Nation's flag. To them, it was more than a task, it was an honor worth dying for, and many did. When one soldier would fall, another would take his place, raise the flag, and press forward. They would not fail. Their mission was too important, the honor too great, flag and country too respected to give anything short of the last full measure of their devotion, their lives, to succeed.

The American flag is a revered object as well as a national symbol. Indeed, it is our monument in cloth. I believe it should be viewed as such, and not simply as something that serves as one of many vehicles for free speech.

Everything about the flag—its tangible form, its very fabric—has significance. The shape, the colors, the dimensions, and the arrangement of the pattern help make the flag what it is. The colors were chosen at the Second Continental Congress in 1777. We all know them well: Red for heartiness and courage; white for purity and innocence; blue for vigilance, perseverance, and justice.

Moreover, our flag is recognized as unique not only in the hearts and minds of Americans but in our laws and customs as well. No other emblem or symbol in our Nation carries with it such a specific code of conduct and protocol in its display and handling.

For example, Federal law specifically prescribes that the flag should never be displayed with its union down, except as a signal of dire distress or in instances of extreme danger to life or property. When a flag is flown upside down, it is in fact a signal of distress.

The U.S. flag should never touch anything beneath it: neither ground, floor, water, or merchandise. The U.S. flag should never be dipped to any person or thing. And the flag should never be carried horizontally but should always be carried aloft and free.

Why, then, should it be permissible conduct to burn, to desecrate, to destroy this symbol, this emblem, this national monument? That is not my definition of free speech.

For the first two centuries of this Nation's history, that was not the Supreme Court's definition of free speech

either. In fact, until the Court's 1989 decision in Texas v. Johnson, 48 of the 50 States had laws preventing burning or otherwise defacing our flag.

As I said at the outset, I don't take amending the Constitution lightly. But when the Supreme Court issued the Johnson decision and the subsequent United States v. Eichman decision [496 U.S. 310 (1990)], those of us who want to protect the flag were forced to find an alternative path.

In the Johnson case, the Supreme Court, by a 5–4 vote, struck down a State law prohibiting the desecration of American flags in a manner that would be offensive to others. The Court held that the prohibition amounted to a content-based regulation. By design, at least according to the Court, the lawfulness of Johnson's conduct could only be determined by the content of his expression. As a result, the Texas statute could not survive the strict scrutiny required by legal precedent, so the Court struck it down.

After the Johnson case was decided, Congress passed the Flag Protection Act of 1989. That Act prohibited all intentional acts of desecrating the American flag and was, therefore, not a content-based prohibition on speech or expression. Nevertheless—and this is the point why a statute won't do—another narrow majority of the Supreme Court acted quickly to strike down the Federal statute as well, ruling that it suffered the same flaw as the Texas statute in the Johnson decision and was consequently inconsistent with the First Amendment. That 5–4 decision makes today's discussion necessary.

I support S.J. Res. 14 because it offers a way to return the Nation's flag to the protected status it deserves. The authority for a nation to protect its central symbol of unity was considered constitutional for two centuries. It was only a decade ago that a narrow majority of the Supreme Court told us otherwise.

It is important to point out that S.J. Res. 14 is not intended to protect ephemeral images or representations of the flag but only the physical flag itself. In other words, this amendment is not intended to restrict the display of images of the American flag on articles of clothing, patches, or similar items. This amendment would only protect the flag itself.

Because we are protecting our national symbol, it makes sense to me that Members of Congress, representing the Nation as a whole, should craft the statute protecting our flag.

I also believe the amendment is consistent with free speech. I disagree with those who say we are making a choice between trampling on the flag and trampling on the first amendment. Protecting the flag, circumscribing certain conduct, will not prevent people from expressing their ideas through other means in the strongest possible terms.

I support this amendment because I believe flag burning is content, not speech, and can be regulated as such. But to my friends who would argue otherwise, I remind them that even the right to free speech is not unrestricted. For example, the Government can prohibit speech that threatens to cause imminent tangible harm, including face-to-face ''fighting words'', incitement to violate our laws, or shouting ''fire'' in a crowded theater. Obscenity and false advertising are not protected under the first amendment, and indecency over the broadcast media can be limited to certain times of day.

Even Justice William Brennan's decision in New York Times Co. v. Sullivan [376 U.S. 253 (1964)] accepted that some speech (in that case, known false statements criticizing official conduct of a public official) may be sanctioned.

There is much that is open to debate about the proper parameters of free speech. In the dissent to the 1990 Eichman case, Justice Stevens wrote that certain methods of expression may be prohibited if three criteria can be met:

First, the prohibition must be supported by a legitimate societal interest unrelated to the ideas the speaker desires to express. I believe protecting the flag meets the first test. It does not matter why an individual chooses to desecrate a flag—all desecration is equally prohibited.

Second, the speaker must be free to express his or her ideas through other means. Again, a law protecting the flag does nothing to keep an individual from expressing his or her views through speech or countless other activities.

Third, societal interest must outweigh the ability of an individual to choose among every possible form of speech. In this case, I believe the significance of the flag—its value as a symbol of freedom and democracy throughout the world, its ability to bring us together as a nation, and the effect its destruction has on many Americans—clearly outweighs the need to protect an individual's ability to express his or her views in every conceivable way.

Is anyone here convinced that desecrating a flag might be the only way for someone to express an opinion?

I recognize that by supporting a constitutional amendment to protect the flag, I am choosing a different course from many of my fellow Democrats in Congress and, quite frankly, from many of my close friends for whom I have the greatest respect. But my support for this amendment reflects my broader belief that the time has come for the Nation to begin a major debate on its values. We need to ask ourselves what we hold dear—is there anything upon which we will not cast our contempt?

How can we foster respect for tradition as well as ideological diversity? How can we foster community as well as individuality? These are all important values, and we must learn to reconcile them. We must not advance one value at the expense of another.

The framers of the Constitution recognized two important elements in our constitutional tradition—liberty and responsibility. Without responsibility, without the rule of law, there could be no protection of life, limb, or property—there could be no lasting liberty. I believe there is a danger in moving too far in either direction—toward too restrictive order, or toward unfettered individual liberty.

The key is the balance. In this instance, I believe we cannot tilt the scales entirely in favor of individual rights when there exists a vast community of people in this country who have gone to war for our flag.

There are mothers and fathers, wives, husbands, and children who have received that knock on their front door and have been told their son or daughter, husband or wife, father or mother has been killed in the line of duty. They have been given a flag on this occasion, a flag which helps preserve the memory of their loved one and which speaks to his or her courage. That is the symbol, that is the emblem, that is the national monument.

Requiring certain individuals to stop defacing or burning the flag, I think, is a very small price to pay on behalf of millions of Americans for whom the flag has deep personal significance.

Less than a decade ago, when 48 States had laws against flag burning, there was no less free speech. And if this amendment is adopted, the First Amendment will continue to thrive. I believe S.J. Res. 14 will protect the integrity of the flag and keep our First Amendment jurisprudence intact.

While expressing my support for S.J. Res. 14, I briefly want to explain why I oppose the amendment my colleague from Kentucky, Mr. MCCONNELL, offered. His amendment, derived from the text of S. 982, would have had the effect of replacing the constitutional language with statutory language.

However well-intentioned and earnest the Senator was in offering the amendment, I believe it was flawed. The Supreme Court, following its rulings in Texas v. Johnson and U.S. v. Eichman, would certainly strike it down as violative of the First Amendment. We have been down this road before.

The Johnson and Eichman decisions stipulate that neither Congress nor the States may provide any special protection for the flag. In both decisions, the Court made it clear that special legal protections for the American flag offend the Court's concept of free speech. Because the Court views the flag itself as an object of symbolic speech and not as a monument, any conduct taken with regard to the flag constitutes protected expression, as well. So we cannot overrule such a notion with a statute. That is why, clearly and simply, we need a constitutional amendment. And that is why I stand today to support that amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, am I correct that the Senate is not operating under a time agreement?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. Mr. President, I note that even without a time agreement, we have had a good debate. Senators on both sides of the issue have spoken. We have had practically no quorum calls. We should have debate like this where Senators can speak.

I see two of the most distinguished veterans of the Vietnam war on the floor, the distinguished Senator from Nebraska, Mr. KERREY, and the distinguished Senator from Virginia, Mr. ROBB. Both are highly decorated veterans of that war.

I ask unanimous consent that I be able to yield to the Senator from Nebraska, and then upon completion of his statement, that he be able to yield to the Senator from Virginia.

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

Mr. LEAHY. I withhold the request so the Senator from Utah can speak.

Mr. HATCH. Reserving the right to object, as I understand it, the Senate has to go out at about 5:30.

Mr. LEAHY. I renew the request.

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

The Senator from Nebraska.

Mr. KERREY. Supporters of this amendment are winning converts. Each election cycle seems to bring them closer to the 67 votes they need to send this 17-word amendment to the States for their ratification. And 49 legislatures have already indicated they would ratify this amendment if Congress were to take this action.

Mr. President, these 17 words would make it constitutional for Congress to pass a law giving the government the power to prohibit the physical desecration of the flag of the United States of America.

Let me say at the beginning that I have deep respect for those who have views that are different from mine. The Senator from California spoke very eloquently in favor of this amendment. I have heard the distinguished Senator from Utah, indeed, submit a personal appeal for me to reconsider my views on this issue. I have a great deal of respect for the purpose of this amendment. I especially pay tribute to the U.S. American Legion. These patriots have done more than any others to help young Americans understand that freedom is not free.

I have had the honor, through 16 years of public service, to experience what the American Legion and other service organizations have done, but especially the American Legion and the Girl's State and Boy's State organizations, taking on the people who do not understand the history and the story of the United States of America. They teach them that story, that history, and they teach them to require the respect necessary to be a good citizen. It is the value they add to our community that is immeasurable.

I have listened with an open mind to their appeals that I support this amendment. Regretfully and respectfully, I must say no.

I fear the unintended consequence of these 17 words and the laws that may be enacted later will be far worse than the consequences of us witnessing the occasional and shocking and disgusting desecration of this great symbol of liberty and freedom.

Mr. President, real patriotism cannot be coerced. It must be a voluntary, unselfish, brave act to sacrifice for others. When Americans feel coercion, especially from their Government, they tend to rebel. So none of us should be surprised if one unintended consequence of the laws that prohibit unpopular activity such as this is an actual increase in the incidence of flag desecration.

Another unintended consequence of this amendment will be the diversion of police resources from efforts to protect us from dangerous crime. Nobody should underestimate that this fact will happen. The efforts to protect us from those who desecrate the flag will require the training of police officers on when and where to respond to complaints.

Mr. President, we pass the laws, but others must implement and enforce them. They will receive complaints about neighbors and friends or people who desecrate the flag. The police will have to respond to every one of them. These laws will give the power of the Government to local law enforcement agencies to decide when some individual is desecrating the flag.

There are 45 words in the first amendment and this amendment protects the rights of citizens to speak, to assemble, to practice their religious beliefs, to publish their opinions and petition their Government for redress of grievance. The 17 words that are in this proposed 28th amendment would limit what the majority of Americans believe is distasteful and offensive speech.

Though this seems very reasonable because most Americans do not approve of flag desecration, it is only reasonable if we forget that it is the right to speak the unpopular and objectionable that needs the most protecting by our Government.

In this era of political correctness, when the fear of 30 second ads has homogenized and sterilized our language of any distasteful truths, this amendment takes us in the opposite direction of that envisioned by our Founding Fathers whose words and deeds bravely challenged the status quo.

Last year when I testified about this before the Judiciary Committee, I took the liberty of buying an American flag and gave it to the committee.

I bought that flag because every time I look at it, it reminds me that patriotism and the cause of freedom produces widows. Widows who hold the flag to their bosom as if it were the live body of their loved-one.

The flag says more about what it means to be an American than a thousand words spoken by me. Current law protects the flag. If anyone chooses to desecrate my flag—and survives my vengeful wrath—they will face prosecution by our Government. Such acts of malicious vandalism are prohibited by law.

The law also protects me and allows me to give a speech born of my anger and anguish in which I send this flag aflame. Do we really want to pass a law making it a crime for a citizen despondent over a war, or abortion, or something else they see going on in their country to give a speech born of their anger? Do we really want a law that says the police will go out and arrest them and put them in jail?

I hope not. Patriotism calls upon us to be brave enough to endure and withstand such an act—to tolerate the intolerable. I sincerely and respectfully thank all of those who hold views different from mine for their patriotism. I will pray this amendment does not pass. But I thank God for the love of country exhibited by those who do.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia is recognized.

Mr. ROBB. Mr. President, thank you. I thank my distinguished colleague and fellow Vietnam veteran from Nebraska for his words. It is an important topic.

Mr. President, when I came home from Vietnam a little over thirty years ago, I came home to a nation divided. I was assigned by the U.S. Marine Corps to head up a major officer recruiting program on college campuses all across America. It was 1969 and anti-war fever was consuming the nation. As you can imagine, my Marine uniform on a college campus became a lightning rod for protests and protesters. In this assignment, Mr. President, incoming bullets, rockets and artillery were replaced by insults, jeers and demonstrations. At times, it was tough.

I had just spent a tour of duty, which included commanding an infantry company in combat, and over 100 of my men received the Purple Heart, almost a quarter of them posthumously. Like all other warriors who served in uniform, it wasn't their job to question the policy that sent them to Vietnam, but they answered the call and those that died, did so with honor, for our Nation.

So while I did my best to reason with the crowds that came out to greet me on college campuses, I didn't appreciate the instinctive disrespect that was shown to me and the uniform I wore.

But Mr. President, I rise today to defend the rights of those individuals 30 years ago to protest me and my uniform.

Freedom of speech is the foundation of our democracy—and silencing that speech would have been against everything I had fought for in Vietnam. To

paraphrase an old saying: I didn't agree with what they said. But I had been willing to die to protect their right to say it.

Mr. President, I am repulsed by any individual who would burn the flag of my country to convey a message of dissent. It is an act I abhor and can barely comprehend. But in the democracy that our forefathers founded, and that generations of Americans have fought and died to preserve, I simply do not have the right to decide how another individual expresses his or her political views. I can abhor those political views, but I cannot imprison someone for expressing them. That's a fundamental tenet of democracies and its what makes America the envy of the world, as the home of the free and the brave.

Mr. President, when we frame the acceptable context for conveying a political message, we qualify freedom in America. We chip away at the extraordinary freedom that has distinguished us from our enemies for 200 years.

Last week, I received an e-mail from a retired U.S. Marine Corps Colonel from Virginia. Like many Americans (and many American veterans), he had struggled with this issue and searched his conscience for what's right. In his message to me, he said: ''I have seen our flag torn in battle, captured by our enemies, and trampled on by protesters. In all those events I never felt that the American way of life was in grave peril . . . for whenever our flag fell or was destroyed there was always another Marine to step forward and pull a replacement from his helmet or ruck sack.''

He continued: ''The Constitution is the bedrock of America, the nation . . . the people. It is not possible to pull another such document from our 'national ruck sack.' We have but one Constitution, and it should be the object of our protection.''

Mr. President, there is no question that it is precisely because the flag represents those sacred ideals that define our democracy, that we are so angry to see one being trampled or torn or torched. What angers us the most is the message of disrespect that desecration conveys. The ingratitude of the desecrater is tangible and we simply cannot help but be outraged. How can anyone be so shallow and so ungrateful that they would destroy the flag of a nation so great that it gives them the freedom to commit such a despicable act?

In fact, Mr. President, it is the motivation of the flag burner, not the burning of the flag itself, that makes us so angry that we want to punish that individual and throw away the keys. We know that when an American flag is old and tattered, or damaged and no longer fit to fly, we don't bury it, or throw it in the trash. We burn it. That is the proper, respectful method of disposing of a flag. So it is not the burning of the flag that stirs us to anger. It is the reason why the flag was burned that gets us so upset. And the reason why the flag is burned (to convey a message of dissent) is the reason why the Constitution protects it.

It is precisely because the act of flag burning sends a message that elicits such a visceral and powerful response that it is undeniably speech. Vulgar, crude, infantile, repulsive, ungrateful speech, but undeniably speech.

Mr. President, since speech that enjoys the support of the majority is never likely to be limited, the Bill of Rights, by its very design, protects the rights of a minority in key areas that the founders held dear. And it is the freedom to dissent peacefully that separates the greatest democracy the world has ever known from other regimes like those in China, Cuba, Iraq, and others where political dissent has been met with imprisonment and sometimes death.

We've applauded the awarding of the Nobel Peace Prize to individuals in other countries willing to risk their lives to peacefully protest their government. And we know that the first sign that freedom is in trouble anywhere around the world is when the government starts locking up its dissenters.

If we reach past our natural anger and disgust for a few publicity-hungry flag-burners, we know in our hearts that a great nation like ours, a nation that defends liberty all over the world, should not imprison individuals who exercise their right to political dissent. And we know in our hearts that a few repulsive flag-burners pose no real danger to a nation as great as ours.

Mr. President, a great defender of freedom in the world, General Colin Powell, had this to say in letter last year about this amendment:

> I understand how strongly so many of my fellow veterans and citizens feel about the flag and I understand the powerful sentiment in state legislatures for such an amendment. I feel the same sense of outrage. But I step back from amending the Constitution to relieve that outrage. The first amendment exists to insure that freedom of speech and expression applies not just to that which we agree or disagree, but also to that which we find outrageous. I would not amend that great shield of Democracy to hammer a few miscreants. The flag will still be flying proudly long after they have slunk away.

Mr. President, our flag stirs very deep emotions in me. It never fails to inspire me. I still get a chill down my spine when it passes in a parade. And I've handed it, folded, to too many widows not to revere it to the core of my being.

I fully support the Citizens Flag Alliance and especially my fellow members of the American Legion for all their hard work to instill in our people a greater respect for our flag. I understand why so many of my fellow veterans support this amendment. But I want the same thing they want. I want all of our citizens to respect our flag and all that it stands for.

Mr. President, I want that flag to be the proud symbol of a nation that is truly free. And for it to be that proud symbol, we must also protect the sacred freedoms placed in the first amendment of the Constitution by our forefathers.

Mr. President, I am a proud veteran of the U.S. Marine Corps. And I learned many lessons serving in combat in Vietnam. I served with Marines who loved this country and were great patriots. They were often young and sometimes scared. But they risked their lives in Southeast Asia.

Some of those brave warriors died for our nation. On two separate occasions, I had men literally die in my arms.

Those who made the ultimate sacrifice may have died keeping faith with their country. They may have died so that others might be free. They may have died for an ideal or a principle or a promise—sacred intangibles that transcend time. Some might say they died for the flag. But I was there, Mr. President, and they did not die for a piece of cloth (however sacred), that eventually becomes worn and tattered and eventually has to be replaced. No. They died fighting for all that our flag represents.

My fellow veterans who died in combat sacrificed their lives for these intangibles that are the core values of our democracy. They died for liberty and tolerance, for justice and equality. They died for that which can never burn. They died for ideals that can only be desecrated by our failure to defend them.

In opposing this amendment, I truly believe that I am again called upon to defend those intangible ideals—like freedom and tolerance—for which so many of us fought, and too many of us died. I am in a different uniform today, in a different place and time. But I feel as if, in some way, I am again battling the odds to defend principles that, as a younger man, I was willing to die for. I'd still put my life on the line today to defend those principles.

I say that because the flag represents freedom to me. But the first amendment guarantees that freedom. And when we seek to punish those who express views we don't share, then we—not the flag burners—we begin to erode the very values, the very freedoms, that make America the greatest democracy the world has ever known. I support our flag, and the republic for which it stands. But I cannot, with the faith I have in that republic, support this constitutional amendment.

I thank the Chair. And I thank my distinguished colleague from Nebraska who has received the highest honor our country can bestow on any who has defended America in battle; the Medal of Honor. I am proud to appear with him.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I commend the distinguished Senator from Virginia for his statement, as I do the distinguished Senator from Nebraska. I can assure my friend from Virginia, a

young marine, my son, will receive a copy first thing in the morning at his home in California of the speech by the Senator from Virginia and a speech by the Senator from Nebraska.

Later this evening I am going to be having dinner with my oldest and dearest friend, a man I went to college with, a marine. He served the Republic and faced the same kind of reaction when he came back from combat from Vietnam. One day he was in a firefight in Vietnam, 2 days later he was walking down the street in his uniform in the United States, facing protesters' shouts.

Having risked his life, as did both of you, he said what saved him through that time was to know exactly for what he fought. At least he has had the satisfaction of seeing so much of that come full circle: The Wall here, people realizing that whatever the protesters had against the war, it should not be against the warriors, especially when they see the names of tens of thousands who did not come back.

I recall last year when the Senate rose as one to commemorate the heroism and valor of the Senator from Nebraska. Both of you have been decorated for heroism, both of you have faced near death in battle. I think both of you have come back here to serve your country in as strong a way as you did there, both as Senators but in bringing a calm, considered, integrity constantly throughout your service in the Senate.

I am not a veteran. I did not serve in battle. But I think how proud I am to have served in the Senate with both of you. I thank you for your speech tonight. I hope all Americans and all Senators will listen.

Mr. President, I met again today with Vermont representatives to the American Legion convention, which is taking place in Washington this week. These are people who deserve our respect, who served this nation in time of war, and who sacrificed so that our freedoms and way of life would triumph over Nazi Germany. As they gather, I pledge to continue to work with them to address the unmet needs of American veterans. Abraham Lincoln reminded us of our sacred obligation ''to care for him who shall have borne the battle, and for his widow, and his orphan.''

Following the Judiciary Committee's hearings last year on the constitutional amendment to restrict the first amendment to protect the flag from use in political protest, I asked Maj. Gen. Patrick Brady, chairman of the Citizens Flag Alliance, what in his opinion were the most pressing issues facing our veterans. His response may surprise the proponents of the constitutional amendment. His response to my inquiry regarding the most pressing issues facing veterans was ''broken promises, especially health care.''

I asked the same question of Professor Gary May, an American hero who lost both legs while serving his country in Vietnam. Professor May said:

> Veterans and their families need services and opportunities, not symbolism. Recruitment for military service is predicated in part on a quid pro quo—if honorable service is rendered, then meaningful post-service benefits will follow. Our record of making good on this contract is not good. The favorable expressed sentiment for veterans by supporters of the flag desecration amendment would be better placed in support of extending and stabilizing services responsive to the day-to-day needs of ordinary veterans and their families.

Have we followed this good counsel here in the Senate? The unfortunate answer is no. Our veterans and retirees have received more high-sounding rhetoric about patriotism than real efforts on our part to resolve the broken promises.

During the debate on the Intermodal Surface Transportation Efficiency Act of 1998, the Senate voted to shift over $10 billion worth of critical veterans funding to help pay for extravagant highway spending programs.

Three times that year, the Senate raided veterans' programs: in the budget resolution, in the IRS Reform legislation, and in the VA/HUD Appropriations Bill. All three times, too many Senators voted against the veterans. If only a few more of those who now beat their chests about symbolic actions had voted for them, the necessary funding for veterans would have been assured.

We have had numerous other missed opportunities to increase the funds in the Veteran Administrations medical care account. Hospitals are seeing more patients with less funding and staff, and it can take months to get a doctor's appointment. It is not mere symbolism to fund those hospitals.

It has been estimated that a third of all homeless people in this country are American veterans. Many of those people may be suffering from post-traumatic stress disorder or other illnesses relating to their military service.

We all know that with the end of the cold war, military bases are closing. Military retirees who relied on the base hospitals for space-available free medical care are losing access to care. Many service members retired near military bases specifically so that they could enjoy the free medical care we promised them, but now they have to find health care in the marketplace.

I saw this in Vermont recently, where we had to fight—yes, fight—to keep adequate funding for the only veteran's hospital in the State. The in-patient surgical program at the White River Junction VA hospital was nearly closed down. If the closure had gone through, many elderly Vermont and New Hampshire veterans would have had to travel all the way to Boston for medical care, and many of them just cannot. The VA has recommitted itself to the White River Junction program, but this sort of thing is happening all across the country.

Last year, we finally raised the veteran's budget for medical care by $1.7 billion. I was particularly relieved that Vermont veterans finally received some assistance, in the form of a $7 million Rural Health Care Initiative. That funding will develop a number of innovative programs to bring high quality care closer to home. I would remind everyone that a majority of the Senate defeated an amendment offered by my friend PAUL WELLSTONE that would have raised VA medical care funding an additional $1.3 billion in Fiscal Year 2000. I was proud to vote for the increase, but disappointed that more of colleagues did not go along with this much-needed amendment.

We have a long way to go in ensuring that our veterans receive the health care that they so richly deserve. After many years of fixed funding and increased costs, we need continued funding increases, and new programs to provide higher quality care.

We must also keep our promises to those who have completed a military career. I have strongly supported efforts to improve TRICARE, the military health care system upon which military retirees rely for their health care. The system is generally sound, but problems have arisen in developing the provider networks and ensuring quick reimbursements for payments. Last November, I supported a TRICARE forum in Burlington, Vermont, to allow retirees and other participants to express their concerns directly to health care providers. Of course, we must also ensure that Medicare-eligible retirees continue to receive high quality health care.

What are we doing instead? In 1996, we changed the immigration laws to expedite deportation proceedings by cutting back on procedural safeguards and judicial review. The zealousness of Congress and the White House to be tough on aliens has successfully snared permanent residents who have spilled their blood for this country. As the INS prepares to deport American veterans for even the most minuscule criminal offenses, we have not even been kind enough to thank them for their service with a hearing to listen to their circumstances. Last year I introduced the Fairness to Immigrant Veterans Act, S. 871, to remedy this situation, but it has been bottled up in committee.

If we truly wish to do something patriotic, what we should be talking about is honoring our veterans. We should honor our veterans by answering Lincoln's call ''to care for him who shall have borne the battle, and for his widow, and his orphan.'' We should honor our veterans with substance rather than symbols.

If we fail to meet the concrete needs of American veterans and try to push them aside with symbolic gestures, we will have failed in our duty not only to our veterans, but to our country, as well. I wonder where we would be if the effort and funds expended each year lobbying for the constitutional amendment had been directed toward the needs of our veterans and their families

and to making sure that we honor them by fulfilling our commitments to them.

I see one of the many veterans of World War II serving still in the Senate, and I will yield to my friend and neighbor, the distinguished senior Senator from New York.

Mr. MOYNIHAN. Mr. President, I had not intended to speak in this debate. This is the fourth time this amendment has come to the floor since I have been present. But the speeches, statements, the addresses by the Senator from Nebraska and the Senator from Virginia compel me simply to bear witness to them. There are 10 Members in the Senate today, 10 remaining persons, who were in uniform in World War II.

I was in the Navy—not heroically; and I was called up again briefly in Korea. I was part of that generation in which service to the Nation was so deeply honored, and lived with horror to see the disrespect shown those who answered the country's service in Vietnam, as they were asked to do. They were commanded to do so and they had taken an oath to obey.

What a thrilling thing it is to see, two such exemplars, men of heroism, achievement and spotless honor, come to this floor and speak as they have done. We take one oath which binds us today. Those who have been in the military have taken earlier oaths. Our oath is to uphold and defend the Constitution of the United States against all enemies, foreign and domestic—not ''foreign or,'' not just ''foreign.'' This was added over the course of the 19th century.

Surely, there would be no one, however unintentionally—and I say this as a member of the American Legion—who would propose that to debase the First Amendment to the Constitution meets the criteria of upholding and defending it.

Those two men have defended their nation in battle—one in the Navy, one in the Marines. I speak as one who was involved. I was in 20 years, altogether, before being discharged. I have to grant, I was not aware that I was discharged, but it turned up later in the file somewhere.

Our oath is solemn, and it is binding, and they—Senators ROBB and KERREY—stand there as witness to what it requires of us. If we cannot do this on this floor, what can we expect Americans to do on battlefields, in the skies, under the seas, and on the land in the years ahead?

Please, I say to all Senators, heed them and walk away from this trivializing of our most sacred trust. Defeat this amendment.

I thank the Chair.

Mr. DASCHLE. Will the majority leader allow me to make one brief comment before he propounds his unanimous-consent request?

Mr. LOTT. Yes.

Mr. DASCHLE. Mr. President, I came to the floor to thank the distinguished senior Senator from New York, but also my two colleagues, Senators ROBB and KERREY, for their extraordinary statements on the Senate floor. I hope the American people have had the opportunity to hear, and I hope the opportunity to read what they have said is made to schoolkids and others who have given a great deal of thought to our Constitution and the reason our Founding Fathers wrote as they did.

Their eloquence and their power and their extraordinary persuasiveness ought to be tonic for us all late in the day on an afternoon which has seen a good debate. I am hopeful people have had the opportunity to hear this contribution, above and beyond all of those made so far in this debate.

I yield the floor.

VETERANS BENEFITS

Mr. WELLSTONE. Mr. President, I wish to make one other point, which is not a constitutional argument, but it does have a lot to do with veterans. I say that we have spent some time on this, and we should; it is not an unimportant matter. But I also hope we will spend time on the floor of the Senate talking about a range of other very important issues that affect veterans. I am amazed that every time I meet with veterans in Minnesota, or in other parts of the country, I hear about the ways in which veterans fall between the cracks. We have a budget this year that is better than a flatline budget, but Senator KENNEDY is out here—a health care Senator—and he knows that better than anybody in the Senate.

The fact is, we have an aging veteran population like we have an aging population in general, and that is all for the good because people are living longer. We don't have any real way right now of helping those veterans the way we should. We passed the millennium bill, but the question is, Will the appropriations be there? We ought to be talking about the health care needs of veterans as well. We ought to be talking about how we are going to make sure those veterans can stay at home and live at home with dignity, with home-based health care.

I was at a medical center in Minneapolis, which is a real flagship hospital. It is not uncommon, when you go visit with veterans, you will see spouses who are there with their husbands, or maybe out in the waiting room or the lobby relaxing. You can talk to them for 3 minutes and realize they are scared to death about their husband going home. Maybe they had a knee or a hip operation, or maybe they have cancer. The spouses are mainly women. They don't know how they are going to take care of their husbands.

There isn't even any support for respite care. When are we going to talk about that issue? When are we going to talk about the number of veterans who are homeless? When are we going to talk about the number of them who are Vietnam vets, because they are struggling with posttraumatic syndrome and because they are struggling with substance abuse and they don't get the treatment? When are we going to be talking about this overall budget for veterans' health care, which is not a national-line budget?

There is an increase from the President this year—I am glad for that—but it doesn't really take into account all of the gaps and all of the investment we need to make. When are we going to do that?

I did not come to the floor to not speak to this amendment. I have spoken with as much as I can muster as to why I oppose it. But I also want to say—I want this to be part of my formal remarks because I don't think it is off the Record—colleagues, that I hope we will talk about the whole set of other issues that are very important, not only to veterans but to the American people.

I can assure you that I have worked with veterans to put together their independent budget. That is a whole coalition of veterans organizations. It is really shocking how many veterans fall between the cracks. We have a lot of work to do. We are talking about people's lives. It is no way to say thanks to veterans when we don't come through with the health care we promised them.

I want to make it clear that I hope we will soon focus on these issues as well. I hope the veterans community will—I know the veterans community will—focus on these issues as well. I spend an awful lot of time with veterans. I have a lot of meetings with veterans and with county veteran service officers. These issues come up over and over again.

THE FREEDOM TO FARM ACT

Mr. WELLSTONE. Mr. President, as much as I hate to recognize this, this is the fourth anniversary of the passage by the House and the Senate of the ''freedom to fail'' bill.

On this date in 1996, both houses of Congress approved a new farm bill, described then as ''the most sweeping change in agriculture since the Depression. It would get rid of government subsidies to farmers over the next seven years.''

The bill has made sweeping changes in agriculture—it has produced one of the worst economic crises that rural American has ever experienced. Thanks to the Freedom to Farm, or as I call it the Freedom to Fail Act, tens of thousands of farm families are in jeopardy of losing their livelihoods and life savings.

The Freedom to Farm bill is not saving tax payers money, in fact we have spent $19 billion more in the first 4 years of the 1996 farm bill than was supposed to be spent through the 7 year life of the law.

However, what has resulted is the precipitous loss of family farmers because this legislation has not provided

small and moderate sized farmers with a safety net. Instead payment loopholes have been inserted in legislation that has allowed the largest argibusiness corporations to receive the lions share of government support. This is unacceptable.

In my State of Minnesota, family farm income has decreased 43 percent since 1996 and more than 25 percent of the remaining farms may not cover expenses for 2000. Every month more and more family farmers are being forced to give up their life's work, their homes, and their communities.

The primary problem is price. The average price paid to producers for their crops has plummeted. Farmers suffer from a negative cash flow. In Minnesota it costs $2.50 to grow a bushel of corn. Today the price of a bushel of corn in Minnesota sells at around $1.75 at the local elevator.

The forecast for prices is gloom. USDA projections for commodity prices are expected to remain low.

USDA estimates that farm income will decline 17 percent this year if Congress does not act.

Wheat prices have dropped $3 in the past 2 years. In May, 1996, wheat was selling $5.75 per bushel. Today, wheat is at $2.78 per bushel. This is well below the cost of production. Farmers need at least $4 a bushel to break even.

Soybean prices will probably average under $5 a bushel. Livestock and dairy prices are also being impacted. Hog farmers still face market prices below their costs of production for the third straight year.

Family farmers have struggled to survive as the devastating results of the 1996 Farm bill, exacerbated by the lack of a reliable farm safety net.

In addition, merger after merger in the agriculture sector leaves producers wondering if they will be able to survive amidst the new giants of agribusiness.

As a direct result, rural bankers, implement dealers, and other small businesses that rely on farm families as their customers have been squeezed as cash flows have dropped. Rural families with shrunken incomes have less money to pay for quality health care coverage and adequate child care for their children. There is an affordable housing crunch as urgent as in our urban areas. And finally, in our rural communities there is a lack of good jobs at decent wages.

The crisis is real. You can see it in the numbers. You can see it in the eyes of the scores of farmers who are forced to sell off the substance of their history and their livelihood.

Many compare the current farm crisis to the 1980's. We all know there was a massive shake out of family farmers at that time. It changed the face of rural America. Many communities were devastated and have not recovered. I assume many use the comparison to remind us that the distressed farm economy in the '80's somehow survived, and so farmers will survive this one too. But the crisis we now face is much graver than in the 80's, and I fear that family farmers and rural America will not survive.

The tough farm economy may resemble the agricultural crisis of the 1980's, but there is a notable difference, and that difference is namely the passage of the Freedom to Farm Act. The Act ignored the fact that family farming is a business both uniquely important and uniquely affected by nonmarket forces.

The Freedom to Farm has become Freedom to Fail.

The 1996 Freedom to Farm bill was suppose to wean rural America from subsidies by introducing a market-driven agriculture. The bill gave farmers flexibility to plant what they wanted, and it was to make farmers able to adapt to a slump in a particular commodity by switching to a more profitable crop. But the switch in crops doesn't make a difference if they are all drastically low.

We are now witnessing many farmers planting soybeans. Why is that so many farmers are planting soybeans? It isn't because the market demands soybeans. It is because the Freedom to Fail bill capped the loan rate on soybeans higher than other commodities, and so farmers are planting soybeans to get a better rate than from corn or wheat. This is not market driven agriculture.

The Freedom to Farm bill is not saving tax payers money, as I've said we have spent $19 billion in the first 4 years of the bill than was supposed to be spent through the 6-year life of the law. However, what has resulted is the precipitous loss of family farmers because this legislation has not provided small and moderate sized farmers with an adequate safety net.

Instead payment loopholes have been inserted in legislation that has allowed the largest agribusiness corporations to receive the majority of government support. This unacceptable.

In order to ensure that family farmers remain a part of this country's landscape, need a new farm bill now. We simply cannot wait until reauthorization in 2002 for Congress to act.

Congress must act now to address the impact of plummeting farm incomes and the ripple effect it is having throughout rural communities and their economic base. Farmers are not going to survive if the only help they get from Washington are inadequate, unreliable, long delayed emergency aid bills that are distributed unfairly.

We need policies that equip family farmers to withstand the low prices and weather disasters that are fueling the current farm crisis, so their livelihood is not dependent on the whims of Congress.

This crisis is a crisis of price. Farmers want and deserve a fair price. Farmers do not want a handout. Yet, the 1996 Freedom to Farm bill stripped farmers of their marketing tools, and they have been left empty handed.

People cannot—they will not—be able to survive right now unless there is some income stabilization, unless there is some safety net, unless there is some way they can have some leverage to get a decent price in the marketplace. That is the missing piece of Freedom to Farm or Freedom to Fail. Flexibility is good. But that has not worked, and I see it every day in every community that I am in.

I'm not talking about AMTA payments, which is severance pay for our Nation's farmer heritage. Our Nation's family farmers want—they desperately need some leverage in the marketplace to get a fair price.

We need to lift the loan rate. The Freedom to Fail Act capped marketing loans at artificial levels so low that they fail to offer meaningful income support. The loan rates have left farmers vulnerable to the severe economic and weather related events of the past 3 years, resulting in devastating income losses.

Family farmers deserve a targeted, countercyclical loan rate that provides a meaningful level of income support when the market price falls below the loan rate, and a loan rate with a CUP rather than a CAP so it doesn't merely track prices when they fall. Lifting the loan rate would provide relief to farmers who need it and increase stability over the long term.

We also need to institute farmer owned reserve systems to give farmers the leverage they need in the marketplace. And conservation incentives to reward farmers who carry out conservation measures on their land.

And finally, unless we address the current trend of consolidation and vertical integration in corporate agriculture, nothing else we do to maintain the family size farms will succeed.

The farm share of profit in the food system has been declining for over 20 years. From 1994 to 1998, consumer prices have increased 3 percent while the prices paid to farmers for their products has plunged 36 percent. Likewise, the impact of price disparity is reinforced by reports of record profits among agribusinesses at the same time producers are suffering an economic depression.

In the past decade and a half, an explosion of mergers, acquisitions, and anti-competitive practices has raised concentration in American agriculture to record levels.

The top four pork packers have increased their market share from 36 percent to 57 percent. In fact, the world's largest pork producer and processor is getting bigger. Smithfield Foods is buying the Farmland Industries plant in Dubuque, Iowa. This deal should be complete by mid-May.

The top four beef packers have expanded their market share from 32 percent to 80 percent.

The top four flour millers have increased their market share from 40 percent to 62 percent.

The market share of the top four soybean crushers has jumped from 54 percent to 80 percent.

The top four turkey processors now control 42 percent of production.

Forty-nine percent of all chicken broilers are now slaughtered by the four largest firms. The top four firms control 67 percent of ethanol production.

The top four sheep, poultry, wet corn, and dry corn processors now control 73 percent, 55 percent, 74 percent, and 57 percent of the market, respectively.

The four largest grain buyers control nearly 40 percent of elevator facilities.

By conventional measures, none of these markets are really competitive. According to the economic literature, markets are no longer competitive if the top four firms control over 40 percent. In all the markets I just listed, the market share of the top four firms is 40 percent or more. So there really is no effective competition in these processing markets.

But now, with this explosion of mergers, acquisitions, joint ventures, marketing agreements, and anticompetitive behavior by the largest firms, these and other commodity markets are becoming more and more concentrated by the day.

Last week, the Senate passed a resolution 99–1, expressing our feelings on the 1996 Farm bill. It read,

> Congress is committed to giving this crisis in agriculture . . . its full attention by reforming rural policies to alleviate the farm price crisis, [and] ensuring competitive markets . . .

We are committed to having the debate about what kind of changes we could make that would provide some real help for family farmers, that would enable family farmers to get a decent price, that would provide some income for families, what kind of steps we could take that will put some free enterprise back into the food industry and deal with all the concentration of power.

Other Senators may have different ideas. I just want us to address this crisis. I don't want us to turn our gaze away from our family farmers. And I say to my colleagues, on this anniversary of the Freedom of Fail Bill, we need a new farm bill—and I will come to the floor, every opportunity I have to speak about the economic convulsion this legislation has caused in our rural communities.

I say to all of my colleagues who talked about how we were going to get the Government off the farm, we were going to lower the loan rate, and do this through deregulation and exports, that we have an honest to goodness depression in agriculture. We have the best people in the world working 20 hours a day who are being spit out of the economy. We have record low income, record low prices, broken dreams and lives, and broken families.

We had close to 3,000 farmers who came here last week. It was riveting. It was pouring rain, but they were down on The Mall. We had 500 farmers from Minnesota. Most all of them came by bus. They don't have money to come by jet. Many of them are older. They came with their children and grandchildren. They did not come here for the fun of it. They came here because the reality is, this will be their last bus trip. They are not going to be able to come to Washington to talk about agriculture. They are not going to be farming any longer. These family farmers are not going to be farming any longer unless we deal with the price crisis.

Right now, the price of what they get is way below the cost of production. Only if you have huge amounts of capital can you go on. People eating at the dinner table are doing fine. The IVVs, and the Con-Agras and big grain companies are doing fine. But our dairy and crop farmers and livestock producers are going under.

This is, unfortunately, again the anniversary, and we have to write a new farm bill.

That is my cry as a Senator from Minnesota from the heartland of America.

COMMITMENT TO THE CAPITOL HILL POLICE

Mr. WELLSTONE. Mr. President, I had a chance before the last break to talk about a commitment we made to Capitol Hill police.

We lost two fine officers. They were slain. We went to their service. We made it clear that we thanked them for the ways in which they protect the public, for the ways in which they protect us. We said we never want this to happen again.

We have posts where there is 1 officer with 20 and 30 and 40 people streaming in. We made the commitment that we were going to have at least two officers at every post.

I know there are Senators, such as Senator BENNETT, who are in key positions and who care deeply about this. Senator REID was a Capitol Hill policeman. There are others as well.

We have to get this appropriations bill right. We need to hire more officers. We need to make sure the money is there for overtime so we don't have one officer at each post.

This can't go on and on because if we don't do this, there will come a day when, unfortunately, someone will show up—someone who may be insane, someone who will take a life, or lives. One officer at a post and not two officers at a post is an untenable security situation.

My plea to colleagues is, we need to get this right for the public and for the Capitol Hill police. We made this commitment. I think Democrats and Republicans alike care about this.

I thank my colleagues.

I yield the floor.

The PRESIDING OFFICER (Mr. L. CHAFEE). The Senator from Massachusetts.

VETERANS BENEFITS

Mr. KENNEDY. Mr. President, I thank my friend, the good Senator from Minnesota, for an excellent presentation and for reminding us about the needs of our veterans, particularly those who are having some service-connected disability. The problems he has talked about that have affected his region are duplicated in my region of the country as well.

I received a call just 2 days ago from a very good friend, a person who worked here in the Senate, about his uncle who is 86 years old and who was at Pearl Harbor. He was one of those wounded at Pearl Harbor, survived, and went on. He was wounded in the Second World War and is now destitute and trying to get into a service home just outside of Boston. The waiting line there is 2½ years.

I remember very well speaking to those who came back from the war. At that time, they all believed they were fortunate to make it back, and they weren't asking very much of this country. We responded in a way in which all of us have been enormously appreciative with the GI bill. Many of these men and women took 4 or 5 years out of their lives to serve their country and risked life and death. We provided the GI bill to them so they could get an education. They got an education and went on to contribute to their country. As the Senator knows, for every $1 invested in that education program, $8 was returned to the Treasury.

But there was not a member of the Armed Forces in any of the services who didn't believe in committing this Nation to taking care of those who served this country, who suffered and were wounded in the line of battle. They believed they should live in peace, respect, and dignity during their golden years. They are not, and it is a national disgrace.

We tried to join with others in this body. And I tell my good friend I will work with him closely, not on those relevant committees, but I think we have been here long enough to know we can make some difference in this area. I look forward to working with him. This is a problem that faces us in New England.

I see my colleague from Rhode Island chairing the Senate this afternoon. I am sure he and his colleague, Senator REID, have these kinds of cases as well. It is a matter of priority. We will join with him at a later time.

Mr. WELLSTONE. Mr. President, I thank my colleague.

NATIONAL RIGHT TO WORK ACT, S. 764

Mr. SESSIONS. Mr. President, I recently reviewed a video tape of some of the violence that occurred during the labor dispute between Overnite Trucking and the Teamsters. I am shocked and disturbed by the violent attacks that have been carried out against

Overnite drivers simply because they have decided to work and provide for their families.

Under a legal loophole created in federal law, union officials, who organize and coordinate campaigns of violence to ''obtain so called legitimate union objectives,'' are exempt from federal prosecution under the Hobbs Act. An update of a 1983 union violence study, released by the University of Pennsylvania Wharton School Industrial Research Unit entitled: ''Union Violence: The Record and the Response of the Courts, Legislatures, and the NLRB,'' revealed some disturbing news. While the overall number of strikes has been on the decline, union violence has increased. The study also showed the violence is now more likely to be targeted toward individuals.

Mr. President, violence is violence and extortion is extortion regardless of whether or not you are a card carrying member of a union. I am proud to be a cosponsor of S. 764, the Freedom from Union Violence Act. This legislation would plug the loopholes in the Hobbs Act and make all individuals accountable for their actions. I believe that people should be reprimanded for using violence to obstruct the law. We should not give special treatment to union violence cases or union bosses. Senator THURMOND has set out to clarify that union-related violence can be prosecuted. I commend Senator THURMOND for introducing this much-needed legislation.

During the 105th Congress, the Judiciary Committee conducted a hearing on the Freedom from Union Violence Act. After listening to and reviewing the wrenching testimony of victims of union violence at this hearing, I am now more certain of the need to eliminate these loopholes. For these reasons I respectfully urge my colleague Senator HATCH, chairman of the Senate Judiciary Committee, to schedule hearings and a markup of S. 764, the Freedom from Union Violence Act, as soon as possible. I also urge my colleagues to join me in supporting this important legislation. It is time to end federally endorsed violence. Conducting hearings on this issue would be a step in the right direction.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, March 27, 2000, the Federal debt stood at $5,731,795,924,886.02 (Five trillion, seven hundred thirty-one billion, seven hundred ninety-five million, nine hundred twenty-four thousand, eight hundred eighty-six dollars and two cents).

Five years ago, March 27, 1995, the Federal debt stood at $4,847,680,000,000 (Four trillion, eight hundred forty-seven billion, six hundred eighty million).

Ten years ago, March 27, 1990, the Federal debt stood at $3,022,612,000,000 (Three trillion, twenty-two billion, six hundred twelve million).

Fifteen years ago, March 27, 1985, the Federal debt stood at $1,709,535,000,000 (One trillion, seven hundred nine billion, five hundred thirty-five million).

Twenty-five years ago, March 27, 1975, the Federal debt stood at $507,841,000,000 (Five hundred seven billion, eight hundred forty-one million) which reflects a debt increase of more than $5 trillion—$5,223,954,924,886.02 (Five trillion, two hundred twenty-three billion, nine hundred fifty-four million, nine hundred twenty-four thousand, eight hundred eighty-six dollars and two cents) during the past 25 years.

ARBITRATION BILLS S. 1020 AND S. 121

Mr. SESSIONS. Mr. President, I would like to make a brief statement on two arbitration bills that are currently pending in the Subcommittee on Administrative Oversight and the Courts of the Committee on the Judiciary. These bills are S. 1020 and S. 121, both of which would create exceptions to the Federal Arbitration Act.

In general, arbitration is fair, efficient, and cost-effective means of alternative dispute resolution compared to long and costly court proceedings. The two bills before the subcommittee today raise concerns about the fairness of allowing some parties to opt out of arbitration and the wisdom of exposing certain parties to the cost and uncertainty of trial proceedings.

S. 1020, the Motor Vehicle Franchise Contract Arbitration Fairness Act would allow automobile dealers and manufacturers to opt out of binding arbitration clauses contained in their franchise contracts and pursue remedies in court. This is troubling because both parties are generally financially sophisticated and represented by attorneys when they enter into a franchise contract. S. 1020's enactment would allow these wealthy parties to opt out of arbitration, but would not allow customers of the dealers to opt out of arbitration. This position is difficult to justify. Indeed, in jurisdictions such as Alabama the allure of large jury verdicts serves as a powerful incentive for trial lawyers to use S. 1020 to argue against all arbitration. Jere Beasley, one of the Nation's most well-known trial lawyers, is making this exact argument in his firm's newsletter. While abandoning arbitration for dealers and manufacturers might increase attorneys fees, I have serious concerns as to whether such a selective abandonment for sophisticated dealers and manufacturers would increase the fairness of dispute resolution between these parties or would be fair to customers and employees of the dealers.

S. 121, the Civil Rights Procedures Protection Act, would prevent the enforcement of binding arbitration agreements in employment discrimination suits. However, when employment discrimination law suits cost between $20,000 and $50,000 to file, many employees cannot afford to litigate their claim in court. Arbitration provides a much more cost-effective means of dispute resolution for employees. Indeed, several studies have shown that in non-union employment arbitration employees prevail between 63 percent and 74 percent of their claims in arbitration, compared to 15 percent to 17 percent in court. Further, an American Bar Association study showed that consumers in general prevail in 80 percent of their claims in arbitration compared to 71 percent in court. Of course, if both employees and employers could avoid arbitration under S. 121. This would give employers the financial incentive to use the $20,000 to $50,000 cost of a trial as a barrier to employees suits. This does not appear to be good policy.

I note that the Chamber of Commerce, the Alliance of Automobile Manufacturers, and the National Arbitration Forum support arbitration and have raised concerns concerning the bills pending before the subcommittee. Their concerns must be explored more fully.

In sum, I believe that the arbitration process must be fair. When it is fairly applied, it can be an efficient, timely, and cost-effective means of dispute resolution. S. 1020 and S. 121 would create exceptions to arbitration that could expose businesses to large jury verdicts and effectively bar employees with small claims from any dispute resolution. We must examine these bills and the policies behind them more thoroughly before acting upon any legislation.

DEPOSIT INSURANCE FAIRNESS AND ECONOMIC OPPORTUNITY ACT

Mr. EDWARDS. Mr. President, I rise today in support of legislation Senator Santorum and I are introducing, the ''Deposit Insurance Fairness and Economic Opportunity Act.'' This legislation would increase the amount of money that is available for banks and thrifts to lend in their communities.

Our financial services industry is incredibly strong, and the public benefits from this strength. Last year, this Senate passed comprehensive banking reform legislation that will increase consumer choice and make our financial institutions more competitive. Throughout the consideration of that measure, I steadfastly supported efforts to improve and increase credit availability to local communities. Though I believe we achieved this goal, I also said that we could and should do more. The legislation I introduce today with my colleague Senator SANTORUM does just that.

This measure would use the extra money that is in the Bank Insurance Fund (BIF) and the Savings Association Insurance Fund (SAIF), money that banks and thrifts have paid, to pay the interest on Financing Corporation (FICO) bonds. As a result, banks and thrifts will be able to use the money they would otherwise pay to

FICO to increase lending in their communities. Right now, a financial institution of approximately $200 million in domestic deposits could expect to pay roughly $42,000 this year for its FICO obligation. If that $42,000 obligation can be paid out of our excess money in the insurance funds, without compromising the safety and soundness of the funds, it will mean that institution has $42,000 more to lend.

Right now, the BIF and the SAIF are beyond fully capitalized. They both contain millions of dollars more than required by federal law. That excess money is sitting here in Washington. The funds keep growing, and the money keeps sitting here. Now, the trouble with pots of money sitting in Washington is that quite often, the money just stays here in Washington and doesn't help our communities. This legislation would change that. By relieving some of the financial burden on our banks and thrifts through this common-sense legislation, we will be opening up opportunities for these institutions to put that money to good use.

The $42,000 saved in my example could translate into hundreds of thousands of dollars more in available credit. This means money available to help folks in eastern North Carolina rebuild their homes and lives after Hurricane Floyd. This means money to help revitalize inner-city neighborhoods. This means more money to help farmers who have suffered crop damage. And it means money to help more Americans know the joys of home ownership.

I would like to say a few words about safety and solvency of the insurance funds. These funds, the BIF and SAIF, are administered by the FDIC and are used to pay insured depositors in the event of a bank or thrift failure. I am pleased to say that in these booming economic times, both funds are well above their statutorily required level. Current law requires each fund to have 1.25 percent of all insured deposits. Right now, the BIF and SAIF are both well above this level, and the funds are growing.

In this legislation, we take great care to recognize the importance of protecting the insurance funds. In fact, we actually build in an additional cushion to help insure the solvency of the funds. Only if the funds are above 1.4 percent will excess money above that level be used to pay the FICO obligation. Moreover, we maintain the authority and ability of the FDIC to make necessary adjustments to the funds to protect their solvency, should the need arise.

Right now, the money is sitting in an account here in Washington. I think it can be put to better use in local communities. This legislation represents a method to help do just that, without sacrificing the safety and soundness protections that are currently in place.

ADDITIONAL STATEMENTS

RECOGNITION OF WEYERHAEUSER COMPANY ON 100TH ANNIVERSARY

● Mr. GORTON. Mr. President, my number one priority as I represent the people of Washington state in the U.S. Senate is protecting the Northwest way of life. An intricate part of that Washington way of life is preserving our healthy and productive forests and streams. With that goal in mind, I am delighted to recognize the Centennial Anniversary of the Weyerhaeuser Company—an organization whose dedication to sustainable forestry has enriched Washington state with both a vibrant timber industry and a tradition of preservation to keep our forests healthy for generations to come.

In 1900, Frederick Weyerhaeuser and fifteen partners began the company that would revolutionize the timber industry. They purchased 900,000 acres of Washington forest land from the Northern Pacific Railway and began the Weyerhaeuser Company. It quickly grew to become one of the most vibrant and remarkable companies, not only in Washington state, but around the world.

The Weyerhaeuser Company had a vision for sustainable and environmentally responsible forest management before ''green'' became fashionable. In 1904, General Manager George Long sponsored a study to look at the impacts of growing timber as a crop—replenishing the resource with every harvest. Under Long's leadership, Weyerhaeuser pioneered many of the conservation, fire protection and reforestation techniques used in forest management today.

I am proud of and thankful for the great legacy that Weyerhaeuser has given to Washington—the Evergreen State. I hope that with balanced policies and responsible stewardship, Weyerhaeuser will continue to prosper in the next century.●

SENATOR MIKULSKI'S TRIP TO NORTHERN IRELAND

● Mr. KENNEDY. Mr. President, Senator MIKULSKI recently returned from a visit to Northern Ireland, where she held productive discussions with both Catholics and Protestants who are working together for community and economic development. As columnist Thomas Oliphant wrote in a perceptive column on March 19 in the Boston Globe, Senator MIKULSKI'S trip, and her work for grassroots development and cooperation in these communities, are important both symbolically and practically.

As all of us who share the dream of a permanent and lasting peace are aware, much remains to be done to carry out the peace process. I commend Senator MIKULSKI for her initiative and leadership on this issue, and I ask that Mr. Oliphant's column about her trip may be printed in the RECORD.

The column follows:

[From the Boston Globe, Mar. 19, 2000]

NEW OPTIMISM OUT OF ULSTER

(By Thomas Oliphant)

The brain connected to the freshest pair of eyes to look into Northern Ireland in some time was somewhat surprised by two things.

The first observation by Senator Barbara Mikulski was that the six counties' political leaders are themselves surprised at their inability to get out of the stalemate-ditches they keep driving into.

The second was that during an intensive visit framed around what's really exciting in the North these days—cross-community, practical efforts by Protestants and Catholics to get basic things done together—it was not until she got to the seat of government at Stormont that she heard the word ''decommissioning,'' the absurd euphemism that refers to the turning in of weapons by paramilitary organizations.

What this shows is merely how the pull of the violent, unjust sectarian past blocks a settlement that the people want. It has been going on for the two years since the U.S.-brokered Good Friday Agreement put all the building blocks for reconciliation except local political will into place.

''But,'' says the Maryland senator, ''even though the peace process appears to be on hold, there is another informal but absolutely crucial peace process going on at the community and neighborhood level.''

Mikulski was referring to the overwhelming majority's intense desire to put the Troubles in their past. That desire is creating a ''social glue'' that has enormous potential for Northern Ireland's long-range evolution.

By far the most important example exists under the umbrella of the Northern Ireland Voluntary Trust. Beneath this umbrella exists all manner of activities that involve Catholics and Protestants informally in specific tasks. There are groups that include former prisoners as well as families of the victims of violence and their survivors; organizations working on environmental issues as well as community centers and playgrounds; unions and microeconomic development activists; work on mental health issues as well as children's health problems. As Mikulski notes, it is all specific and local—and loaded with implications.

The best symbol, in the North Belfast Community Development Council, is the cellular phones in use during the Protestant marching season. Rumors are chased down, Catholics hear that a particular march will halt at a predesignated spot without any triumphalist chanting and should thus be of no major concern, and armed with that assurance, keep their own hotheads in check.

A year ago, when some 50 of the trust's most active female activists met with U.S. supporters, they were so fresh to their cause and nervous about the impact that the names of the participants were kept private. Mikulski arranged a meeting for them with women in the U.S. Senate, most of whom came to politics via similar routes of local activism.

Mikulski's involvement at this delicate stage is important both because of what she has done and who she is. She got into her business because of her fight against a highway. Years later she remains a grass-roots political leader, able to understand the byzantine nature of Northern Ireland's street-level culture. And she is a powerful Democratic senator on the Appropriations Committee who is comfortable working across party lines.

Mikulski notes that the Fund for Ireland, the basic aid network to which the U.S. government commits $20 million, is an excellent

operation that has been especially useful in economic development and other brick and mortar activities. But she also suggests that the time has come to ''take a fresh look at the U.S. role to think about supporting this cross-communal activity.''

She is also blunt about looking at the trust's activities and potential, official U.S. support without blinders. ''Their idea, what makes them so worthwhile,'' she said, ''is their very careful focus on specific needs and projects. This is not some gooshy-poo, Irish sensitivity training where everybody gets in a hot tub and bonds. It's serious work. The fund has done a very good job, but I think we're now at a different place.''

What she says about U.S. policy also should spark new thinking about private American support for Ireland. Given the roaring condition of the Irish Republic's economy, traditional charity and philanthropy appears to be less important than the cutting-edge activism across sectarian lines of the trust's participants.

They cannot be a substitute for the appalling failure of politicians in the North to transcend the past. But they do demonstrate how much of a difference individuals can make when they band together.

There now exist networks of community organizations that personify the broader refusal to regress, and they need all the support they can get. But they can't fill the vacuum without their so-called leaders. ''It's like when you put your VCR on pause,'' said Mikulski. ''It holds for a while, but eventually the old tape starts playing again.''●

RETIREMENT OF MR. BRUCE AKERS

● Mr. VOINOVICH. Mr. President, I rise today to extend my congratulations to Mr. Bruce Akers on the occasion of his retirement as senior vice president for Civic Affairs at KeyBank in Cleveland, OH. Bruce's accomplishments are not limited to his 40 years of service in the banking industry, but extend to the difference he has made in the lives of countless citizens. His decades of leadership and generosity have helped make Cleveland the great city it is today.

Bruce has served the public at many levels—in government, the private sector, and in civic organizations. From 1975 to 1977, he served as executive secretary to Cleveland Mayor Ralph Perk. Today Bruce continues to show his dedication to civic responsibility and action in local government through his service as mayor of Pepper Pike, OH.

Bruce is also committed to a number of Cleveland's cultural, educational, charitable and civic institutions including service as chairman of the KeyFoundation, a trustee of the Cleveland Council on World Affairs and president of the Cleveland Opera. I don't believe I will ever forget Bruce's ''cameo'' appearance in the Cleveland Opera's rendition of Aida in 1984. He gave a tremendous performance that is still talked about to this day.

Bruce's community commitment also extends to service as a trustee of the Citizens League Research institute, membership on the Executive, Central, and Policy Committee's of the Cuyahoga County Republican Party, membership on the Advisory Council of the Alzheimer's Association, membership on the Cleveland Leadership Prayer Breakfast Steering Committee, and chairman of Cleveland's Promise, the local branch of America's Promise which strives to create an environment for a better future.

Bruce's belief in volunteerism was recently celebrated in ''Cleveland Live,'' a news and information ''on-line'' publication serving the Cleveland community, where he shared his philosophy on volunteering. Bruce stated, ''volunteering is a four-way win: a win for the organization benefitting from the volunteers' services; a win for the volunteers who gain new perspectives and feel self-fulfilled; a win for the employer because the employee-volunteer is a better-rounded employee; and a win for the community whose quality of life is improved, thanks to effective, dedicated volunteers.'' I could not agree more with Bruce's assessment.

In 1975, Bruce's outreach to others earned him the Big Brother of the Year Award from Big Brothers/Big Sisters of Greater Cleveland. In 1993, he received the Volunteer of the Year Award from Leadership Cleveland for his dedication to making Cleveland a better place. Bruce has supported the Salvation Army in a variety of initiatives throughout the years, and for donating his time and energy, in 1997, he received the General William Booth Award, the Salvation Army's highest award to a civilian.

Bruce's career is an inspiration to those who look to form a better future through active participation in the community. While I know Bruce Akers will enjoy his retirement with his wife Barbara, I also know that he will not cease giving of himself in service to his fellow man.

On behalf of the citizens of Cleveland and of Ohio, I would like to congratulate Bruce Akers and thank him for all he has done for his community and his State.●

THE GOOD FRIDAY PEACE ACCORDS

● Mrs. FEINSTEIN. Mr. President, on March 17, 2000, the Irish and the Irish-at-heart around the world celebrated Saint Patrick's Day, a day to remember the spirit of comradery, friendship, and peace the patron saint of Ireland brought to the Emerald Isle. I rise today to pay tribute to the Irish people and the forty million Irish Americans in this country—who are also celebrating Irish-American Heritage Month—and offer my thoughts on an issue close to their hearts and mine: peace in Northern Ireland.

The signing of the Good Friday Peace Accords on April 10, 1998 was an historic achievement in the quest for peace. After 32 years of conflict and bloodshed, the leaders of the principal Unionist and Nationalist parties in Northern Ireland agreed to a new governing structure for the province, one in which Catholics and Protestants would, for the first time, share power in a new assembly and executive.

On May 22, 1998, the people of Ireland, in the North and in the South, voted overwhelmingly in favor of the Accords. Their message was clear: it was time for a new era of peace based on reconciliation, compassion, and respect.

Thanks in no small part to the tireless work of our former colleague, Senator George Mitchell, the power sharing executive finally came into existence on December 1, 1999 and the formal devolution of power from London to the people of Northern Ireland took place. It appeared that the Irish would finally be able to celebrate the true spirit of Saint Patrick's Day.

The quest for peace, however, took a step backwards when—on February 11, 2000—the British government suspended the power sharing institutions and resumed direct rule of Northern Ireland from London. The Good Friday Peace Accords is now hanging by a thread.

As I stated earlier, the people of Ireland, Protestants and Catholics, in the North and in the South, have made their feelings clear. They support the Good Friday Peace Accords. They support the power sharing institutions. They support peace and cooperation. They believe that the people of Northern Ireland should have the ability to govern their own affairs.

Representatives of all parties in Northern Ireland met last week here in Washington with British and Irish leaders in an effort to break this impasse and return home rule to Northern Ireland. I am hopeful that their efforts will prove to be successful.

I strongly support the Accords. They represent the best hope for a lasting peace in Northern Ireland. I urge all parties to stick to the agreement and make it work. They have a responsibility to keep their word to the Irish people and stop Northern Ireland from slipping back to the ways of the ''Hard Men'': intimidation, violence, and death.

On this day, let us reflect on the turmoil the Irish have endured for so many years and commend them for their tremendous hope, persistence, and hard work. Let us remember the true spirit of Saint Patrick's Day and renew our support for the Irish people in the North and the South who desperately want, and deserve, a future of peace and prosperity.●

RETIREMENT OF JOHN CASTILLO

● Mr. SANTORUM. Mr. President, I rise today to recognize John Castillo as he retires from the Department of Defense after 47 years of service.

John Castillo and his wife, Connie, live in Camp Hill, Pennsylvania. They have three children: Mike, who lives in New Cumberland, Pennsylvania; Lisa Marie, who lives in Reston, Virginia; and Tony, who lives in Warren, Michigan.

Mr. Castillo, originally hired in 1953, was recruited as an Inventory Management Specialist Intern for the United States Air Force in 1959, where his assignments included Inventory Manager and Weapon System Logistics Officer (WSLO), supporting the Atlas ICBM Missile Squadrons assigned to the Strategic Air Command. His subsequent assignments were with the United States Army, where he worked for the U.S. Army Security Assistance Command (USASAC) in New Cumberland, Pennsylvania for 24 years. In 1997, he received a promotion to Division Chief of the Asia, Pacific and Americas Case Management Division.

Mr. Castillo has consistently received Sustained Superior Performance awards or promotions throughout his career, and has established a reputation of outstanding service among his superiors and colleagues.

Mr. Castillo will be honored at a retirement luncheon on Thursday, March 30, 2000. It is with great pleasure that I congratulate John Castillo for his 47 years of dedicated service to the Department of Defense, and I wish him continued success in all of his future endeavors.●

RECOGNITION OF DR. MICHAEL AND SHAINIE SCHUFFLER

● Mr. GORTON. Mr. President, I take the floor today to recognize the contributions of two remarkable residents of my state, Dr. Michael and Shainie Schuffler, who have dedicated their lives to strengthening their community, fostering leadership qualities in our young people and working tirelessly to improve the health of countless people.

Michael and Shainie met during their college years in Chicago where they both shared a keen interest in medicine. In 1970, the couple moved to Seattle and have since continued to make the Seattle area a better place. After their move to Seattle, Shainie became actively involved in the Hadassah Hospital. Hadassah is a volunteer women's organization that works to strengthen a partnership with Israel, ensure Jewish continuity, and realize their potential as a dynamic force in American society. In Seattle and around the United States, Hadassah enhances the quality of American and Jewish life through its education and Zionist youth programs, promotes health awareness, and provides personal enrichment and growth for its members.

After joining Hadassah, Shainie found herself inspired by its founder, Henrietta Szold, and has worked tirelessly for the past fifteen years on specific projects at both the chapter and regional levels including the Women's Symposium and last year's Bigger Gifts dinner and has served as the President of Hadassah's Seattle Chapter.

Shainie's dedication to the Seattle community is also evident in her many other involvements such as the Council of Women's Presidents for the Jewish Federation, Jewish Family Service, and the Jewish Federation of Greater Seattle.

I believe that one of the most important aspects of Shainie's work is her dedication to today's youth. Under her leadership as the Seattle area's Director of Admissions for the Alexander Muss High School in Israel, hundreds of local students have been given the opportunity to attend the Alexander Muss High School in Israel and has become one of the most successful youth programs in Seattle. I applaud her tireless efforts and believe that her work has directly impacted the lives of thousands of people throughout our state.

Michael has been equally dedicated to both his career as a leading doctor of Gastroenterology and as a volunteer in his community. Michael is a world authority on the pathology and clinical manifestations of neurological disorders of the intestinal tract and has been recognized by his colleagues for his many accomplishments.

Michael's work does not end, however, when he leaves the hospital. Like his wife, he has dedicated countless hours to Hadassah by serving as a visiting professor of Gastroenterology and as an Hadassah associate. He has also worked to encourage leadership qualities in our children through the Jewish Federation's Young Leadership Program, serving as its co-chair for three years.

One of his greatest loves in life is pro-Israel activism and has dedicated his time to furthering this cause through American Israel Public Affairs Committee otherwise known as AIPAC. He served as the Chairman of AIPAC from 1986 to 1994, strengthening the support of AIPAC across Washington state and furthering its reputation as the leading organization on United States-Israel relations.

Throughout their different commitments Michael and Shainie have always supported one another and recognized the importance of each other's work. Theirs is a true partnership and one that has positively impacted the people of our state. I ask my colleagues to join me as I applaud the outstanding and inspiring work of Dr. Michael and Shainie Schuffler.●

MEASURE PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

H.R. 2366. An act to provide small business certain protections from litigation excesses and to limit the product liability of nonmanufactuer product sellers.

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–8199. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury transmitting, pursuant to law, the report of a rule entitled ''April 2000 Applicable Federal Rates'' (Rev. Rul. 2000–19), received March 22, 2000; to the Committee on Finance.

EC–8200. A communication from the Assistant to the Board of Governors of the Federal Reserve Board, transmitting, pursuant to law, the report of a rule entitled ''Regulation Z, Truth in Lending'' (R–1050), received March 24, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–8201. A communication from the Federal Register Liaison Officer, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Transfer and Repurchase of Government Securities'' (RIN1550–AB38), received March 24, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–8202. A communication from the Acting Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Circular 97–16'' (FAC 97–16), received March 24, 2000; to the Committee on Governmental Affairs.

EC–8203. A communication from the Deputy Director, Office of Government Ethics transmitting, pursuant to law, the report of a rule entitled ''Exemption Under 18 U.S.C. 208(b)(2)'' (RIN3209–AA09), received March 14, 2000; to the Committee on Governmental Affairs.

EC–8204. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Glufosinate Ammonium, Pesticide Tolerance'' (FRL #6498–1), received March 24, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8205. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, a report entitled ''Deterioration Factors for Nonroad Engines''; to the Committee on Environment and Public Works.

EC–8206. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, a report entitled ''Choosing a Percentile of Acute Dietary Exposure as a Threshold of Regulatory Concern''; to the Committee on Environment and Public Works.

EC–8207. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''List of Approved Spent Fuel Storage Casks: Revision, NUHOMS 24–P and NUHOMS 52–B'', received March 24, 2000; to the Committee on Environment and Public Works.

EC–8208. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Texas, Control of Air Pollution from Volatile Organic Compounds Vent Gas Control and Offset Lithographic Printing Rules'' (FRL # 6567–5), received March 24, 2000; to the Committee on Environment and Public Works.

EC–8209. A communication from the Secretary of the Interior, and the Secretary of Commerce, transmitting, pursuant to law, a report entitled ''Atlantic Striped Bass Studies—1999 Biennial Report to Congress''; to

the Committee on Commerce, Science, and Transportation.

EC–8210. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Marine Mammals; Incidental Take During Specified Activities'' (RIN1018–AF54), received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8211. A communication from the Attorney-Adviser, Department of Transportation transmitting, pursuant to law, the report of a rule entitled ''Third Extension of Computer Reservations Systems (CRS) Regulations'' (RIN2105–AC75), received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8212. A communication from the Legal Advisor, Cable Services Bureau, Federal Communications Commission transmitting, pursuant to law, the report of a rule entitled ''Satellite Home Viewer Improvement Act of 1999; Retransmission Consent Issues; Good Faith Negotiation and Exclusivity'' (CS Docket No. 99–363, FCC 00–99), received March 22, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8213. A communication from the Special Assistant to the Chief, Mass Media Bureau, Federal Communications Commission transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Lufkin and Corrigan, TX'' (MM Docket No. 98–135; RM–9300, 9383), received March 22, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8214. A communication from the Special Assistant to the Chief, Mass Media Bureau, Federal Communications Commission transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Refugio and Taft, TX'' (MM Docket No. 98–256), received March 22, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8215. A communication from the Chief, Legal Branch, Accounting Safeguards Division, Common Carrier Bureau, Federal Communications Commission transmitting, pursuant to law, the report of a rule entitled ''Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 1'' (FCC 00–78; CC Doc. 99–253), received March 22, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8216. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Appliance Labeling Rule, 16 CFR Part 305'' (RIN3084–AA74), received March 24, 2000; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–447. A resolution adopted by the Senate of the General Assembly of the State of Missouri relative to the Individuals with Disabilities Education Act; to the Committee on Appropriations.

SENATE RESOLUTION NO. 1034

Whereas, the Congress of the United States enacted the Education for All Handicapped Children Act of 1975 (P.L. 94–142), now known as the Individuals with Disabilities Education Act (IDEA), to ensure that all children with disabilities in the United States have available to them a free and appropriate public education that emphasizes special education and related services designed to meet their unique needs, to assure that the rights of children with disabilities and their parents or guardians are protected, to assist states and localities to provide for the education of all children with disabilities, and to assess and assure the effectiveness of efforts to educate children with disabilities; and

Whereas, since 1975, federal law has authorized appropriation levels for grants to states under the IDEA at forty percent of the average per-pupil expenditure in public elementary and secondary schools in the United States; and

Whereas, Congress continued the forty-percent funding authority in Public Law 105–17, the Individuals with Disabilities Education Act Amendments of 1997; and

Whereas, Congress has never appropriated funds equivalent to the authorized level, has never exceeded the fifteen-percent level, and has usually only appropriated funding at about the eight-percent level; and

Whereas, the Missouri State Plan for Special Education was approved for statewide implementation on the basis of the anticipated federal commitment to fund special education programs at the federally authorized level; and

Whereas, Missouri appropriated approximately $240 million for the 2000 fiscal year in support for the state share of funding for special education programs; and

Whereas, the State of Missouri received approximately $105 million in federal special education funds under IDEA for the 1999–2000 school year, even though the federally authorized level of funding would provide over $313 million annually to Missouri; and

Whereas, local educational agencies in Missouri are required to pay for the underfunded federal mandates for special education programs, at a statewide total cost approaching $208 million annually, from regular education program money, thereby reducing the funding that is available for other education programs; and

Whereas, the decision of the Supreme Court of the United States in the case of Cedar Rapids Community School District v. Garret F. ((1999) 143 L.Ed 2d 154), has had the effect of creating an additional mandate for providing specialized health care, and will significantly increase the costs associated with providing special education services; and

Whereas, whether or not Missouri participates in the IDEA grant program, the state has to meet the requirements of Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 701) and its implementing regulations (34 C.F.R. 104), which prohibit recipients of federal financial assistance, including educational institutions, from discriminating on the basis of disability, yet no federal funds are available under that act for state grants; and

Whereas, Missouri is committed to providing a free and appropriate public education to children and youth with disabilities, in order to meet their unique needs; and

Whereas, the Missouri General Assembly is extremely concerned that, since 1978, Congress has not provided states with the full amount of financial assistance necessary to achieve its goal of ensuring children and youth with disabilities equal protection of the laws: Now, therefore, be it

Resolved by the Missouri Senate, Second Regular Session, Ninetieth General Assembly, That the President and Congress of the United States are respectfully requested to provide the full forty-percent federal share of funding for special education program so that Missouri and other states participating in these critical programs will not be required to take funding from other vital state and local programs in order to fund this underfunded federal mandate; and be it further

Resolved that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to the Chair of the Senate Committee on Budget, to the Chair of the House Committee on the Budget, to the Chair of the Senate Committee on Appropriations, to the Chair of the House Committee on Appropriations, to each member of the Missouri Congressional delegation, and to the United States Secretary of Education.

POM–448. A resolution adopted by the Council of the City of Cincinnati, Ohio relative to the Physical Education for Progress Act; to the Committee on Health, Education, Labor, and Pensions.

POM–449. A resolution adopted by the Senate of the General Assembly of the State of Illinois relative to taxation mandated by U.S. Courts; to the Committee on the Judiciary.

SENATE RESOLUTION NO. 216

Whereas, Unfunded mandates by the United States Congress and the executive branch of the federal government increasingly strain already tight state government budgets if the states are to comply; and

Whereas, To further compound this assault on state revenues, federal district courts, with the blessing of the United States Supreme Court, continue to order states to levy or increase taxes to supplement their budgets to comply with federal mandates; and

Whereas, The court's actions are an intrusion into a legitimate legislative debate over state spending priorities and not a response to a constitutional directive; and

Whereas, The Constitution of the United States of America does not allow, nor do the states need, judicial intervention requiring tax levies or increases as solutions to potentially serious problems; and

Whereas, This usurpation of legislative authority begins a process that over time could threaten the fundamental concept of separation of powers that is precious to the preservation of the form of our government embodied by the Constitution of the United States of America; and

Whereas, Fifteen states, including Alabama, Alaska, Arizona, Colorado, Delaware, Louisiana, Massachusetts, Michigan, Missouri, Nevada, New York, Oklahoma, South Dakota, Tennessee and Utah, have petitioned the United States Congress to propose an amendment to the Constitution of the United States of America that reads as follows:

''Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes.''; therefore, be it

Resolved, by the Senate of the Ninety-First General Assembly of the State of Illinois, That this legislative body respectfully requests and petitions the Congress of the United States to propose submission to the states for their ratification an amendment to the Constitution of the United States of America to restrict the ability of the United States Supreme Court or any inferior court of the United States to mandate any state or political subdivision of the state to levy or increase taxes; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United

States, the Speaker of the United States House of Representatives, the President Pro Tempore of the United States Senate, the Secretary of the United States Senate, the Clerk of the United States House of Representatives, and the members of the Illinois Congressional delegation.

Adopted by the Senate, November 18, 1999.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1487. A bill to provide for public participation in the declaration of national monuments under the Act popularly known as the Antiquities Act of 1906 (Rept. No. 106–250).

INTRODUCTION OF BILLS AND JOINT RESOLUTION

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

By Mr. THOMAS:

S. 2300. A bill to amend the Mineral Leasing Act to increase the maximum acreage of Federal leases for coal that may be held by an entity in any 1 State; to the Committee on Energy and Natural Resources.

By Mr. GORTON (for himself and Mrs. MURRAY):

S. 2301. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Lakehaven water reclamation project for the reclamation and reuse of water; to the Committee on Energy and Natural Resources.

By Mr. CLELAND:

S. 2302. A bill to amend the Internal Revenue Code of 1986 to expand the enhanced deduction for corporate donations of computer technology to public libraries and community centers; to the Committee on Finance.

By Mr. GRAHAM:

S. 2303. A bill to designate the facility of the United States Postal Service located at 14900 Southwest 30th Street in Miramar City, Florida, as the ''Vicki Coceano Post Office Building''; to the Committee on Governmental Affairs.

By Mr. SHELBY:

S. 2304. A bill to amend the Internal Revenue Code of 1986 to phase out the taxation of social security benefits; to the Committee on Finance.

By Mr. BAYH:

S. 2305. A bill to amend the Internal Revenue Code of 1986 to reduce the marriage penalty by providing a nonrefundable marriage credit and adjustment to the earned income credit; to the Committee on Finance.

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. BROWNBACK, and Mr. ROTH):

S. 2306. A bill to increase the efficiency and effectiveness of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DORGAN (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. JOHNSON, and Mr. HARKIN):

S. 2307. A bill to amend the Communications Act of 1934 to encourage broadband deployment to rural America, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN (for himself, Mr. GRAHAM, and Mrs. FEINSTEIN):

S. 2308. A bill to amend title XIX of the Social Security Act to assure preservation of safety net hospitals through maintenance of the Medicaid disproportionate share hospital program; to the Committee on Finance.

By Mr. DASCHLE:

S. 2309. A bill to establish a commission to assess the performance of the performance of the civil works function of the Secretary of the Army; to the Committee on Environment and Public Works.

By Mr. COVERDELL (for himself, Mr. LEAHY, Mr. HELMS, and Mr. DEWINE):

S.J. Res. 43. A joint resolution expressing the sense of Congress that the President of the United States should encourage free and fair elections and respect for democracy in Peru; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KERREY:

S. Res. 278. A resolution commending Ernest Burgess, M.D. for his service to the Nation and international community; to the Committee on the Judiciary.

By Mr. LOTT:

S. Con. Res. 99. A concurrent resolution congratulating the people of Taiwan for the successful conclusion of presidential elections on March 18, 2000, and reaffirming United States policy toward Taiwan and the People's Republic of China; considered and agreed to.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THOMAS:

S. 2300. A bill to amend the Mineral Leasing Act to increase the maximum acreage of Federal leases for coal that may be held by an entity in any one State; to the Committee on Energy and Natural Resources.

COAL MARKET COMPETITION ACT OF 2000

Mr. THOMAS. Mr. President, I rise today to introduce the Coal Market Competition Act of 2000. The legislation would amend the Mineral Leasing Act to increase the acreage of coal leases. Companies need this assurance as they plan and finance their operations into the future. Now, more than ever, we need to diversify our Nation's resources. The current oil prices are a daily reminder of what occurs when we allow this country to be too dependent on foreign resources. It is time to focus on domestic energy production and this legislation will facilitate development of one of our Nation's abundant natural resources, coal.

Most of the coal produced in our Nation comes from mines west of the Mississippi River and the vast majority of that coal is mined in western states with significant federal ownership of both the surface and mineral estates. In fact, my state of Wyoming is home to 11 of the top 12 coal mines based on tonnage. We produced approximately one third of the total U.S. coal in 1999, with production exceeding 330 million tons last year. Not surprisingly Wyoming is also the leader in federal coal lease acreage with approximately 145,000 federal acres under lease to 20 companies.

The current federal coal lease limitation under the Mineral Leasing Act of 1920 is 46,080 acres per state. An amendment of the Mineral Leasing Act in 1976 maintained the per-state limit and added a 100,000-acre nationwide limit for any one company. The state coal lease limit has not been changed for 36 years. Coal, sodium, phosphate and oil and gas were all assigned identical or similar per state lease acreage limitations in the 1926 amendments to the MLA (2,560 acres per state for sodium, coal and phosphate, 2,560 acres per geologic structure and 7,680 acres per state for oil and gas). The acreage limitation for each of these minerals was increased in the 1946 and 1948 MLA amendments (coal, sodium and phosphate to 5,120 per state in 1948; oil and gas to 15,360 acres per state in 1946). The per state acreage limitation for oil and gas leases was increased twice more (to 46,080 acres in 1957 and 246,080 acres in 1960) and the per state acreage ceiling for coal (and phosphate) leases was increased once more to 46,080 acres (and 20,480 acres for phosphate) in 1964. In my view, it is time to address the coal acreage limitations both on a state and national level.

The cap on coal needs to be raised to allow producers to remain competitive in the world-wide market. In Wyoming, the coal mine sizes will need to increase in order to maintain economic competitiveness. Our coal industry has grown and prospered because its economic competitiveness allowed Wyoming to be the location of choice for new low-sulfur coal capacity to serve much of the world. The scale of mining operations is much larger now.

In order for this competitiveness to continue, we must raise the acreage cap to alleviate concern from several companies in both Wyoming and Utah about the effect of the limitation on their planning and production abilities. Larger lease acreage areas are required to justify the significant capital investment necessary for mine expansion. Under current leasing operations, the penalty for violation of the acreage limitation is lease cancellation. It is essential during a time like now—when oil prices are soaring—that we diversify and develop our Nation's energy sources rather than be dependent on foreign sources. Expanding lease acreage will allow coal to be competitive and it is essential we have choices for energy here at home.

By Mr. GORTON (for himself and Mrs. MURRAY):

S. 2301. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Lakehaven water reclamation project for the reclamation and reuse of water; to the Committee on Energy and Natural Resources.

LAKEHAVEN UTILITY DISTRICT WATER RECLAMATION PROJECT

Mr. GORTON. Mr. President, today I join Senator MURRAY from Washington State in introducing legislation that will authorize the Bureau of Reclamation to develop a water reuse project with Lakehaven Utility District in Federal Way, WA.

The Lakehaven Utility District is one of Washington State's largest water and sewer utilities, providing 10.5 million gallons of water a day to over 100,000 residents in South King County. The utility depends on a groundwater supply system that is replenished by local precipitation. As development in this Seattle suburb has increased, aquifer recharge has diminished. The utility district recognizes it must protect its precious resources and has undertaken several projects to ensure it will have an adequate water supply for future generations.

One of these projects involves extensive treatment of the utilities effluent for reuse. Some of the treated water will be used to irrigate golf courses and other facilities, while the rest of the water will be returned to the aquifer through injection wells. The techniques for water reuse are innovative, yet proven, and have been implemented throughout Nevada and California. Currently, the Lakehaven Utility District discharges 6 million gallons of treated water into Puget Sound every day. This new program will allow the district to reuse these crucial resources while replenishing its precious groundwater supply.

This legislation amends title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Bureau of Reclamation to provide the Lakehaven Utility District the technical and financial assistance necessary to implement its reuse project.

I am pleased to support this project, which I believe is crucial to maintaining wetlands and rivers in Washington State. The Northwest is faced with a salmon crisis that demands every available drop of water remain in our streams and riparian areas. The Lakehaven Utility District water reclamation project will ensure that the South King County community continues to rely on groundwater resources rather than turning to other sources that must be preserved for fish recovery.

By Mr. CLELAND:

S. 2302. A bill to amend the Internal Revenue Code of 1986 to expand the enhanced deduction for corporate donations of computer technology to public libraries and community centers; to the Committee on Finance.

COMMUNITY TECHNOLOGY ASSISTANCE ACT

Mr. CLELAND. Mr. President, there has been a lot of talk recently about the ''digital divide'' and the differences in the availability of information between the technological haves and have nots. With the emerging digital economy becoming a major driving force of our nation's economic well-being, we must ensure that all Americans have the information tools and skills that are critical to full participation in the new economy. Access to such tools is an essential step to ensure that our economy grows strongly and that in the future no one is left behind.

While we know that Americans are more connected to digital tools than ever before, the ''digital divide'' between certain demographic groups and regions of our country continues to persist and in many cases is widening significantly. As a member of the Commerce Committee, Subcommittee on Communications, I am alarmed by these developments. Just consider:

A third of America's economic growth in recent years has come from information technologies, producing 19 million new jobs. Yet, while thirty percent of white Americans are connected to the Internet only 11 or 12 percent of African Americans or Hispanic Americans are on-line. Households with incomes of at least $75,000 are more than 20 times as likely to have access to the Internet as those at the lowest income levels, and more than 9 times as likely to have a computer at home. Additionally, citizens in rural areas, including large parts of my state of Georgia, are less likely to be connected to the Internet than urban users. Regardless of income level, those living in rural areas are lagging behind in computer ownership and Internet access.

A viable alternative for many of these under served individuals is Internet access outside the home and statistics show that computer use at public libraries and community centers is on the rise. First of all, among all Americans, 17 percent use the Internet at some site outside the home. Secondly, minorities are even more likely to use the Internet and pursue online courses and school research at even higher rates. Third, those earning less than $20,000 who use the Internet outside the home are twice as likely to get their access through a public library or community center. Finally, Americans who are not in the labor force, such as retirees or homemakers, are twice as likely to use public libraries for access.

Given the ''digital divide'' among these demographic groups, and the dependence of many Americans on the use of technology outside the home, especially at libraries and community centers, I am introducing today the Community Technology Assistance Act. Currently, the special enhanced tax deduction exists in the case of computer equipment donated to elementary and secondary schools. My bill would extend for five years the special enhanced tax deduction, currently scheduled to expire at the end of this year, and would expand it to include computer donations to libraries and community centers as well as to elementary and secondary schools. Consider the many high profile technology and Internet related companies, such as Microsoft, Intel and AmericaOnline, that have donated computer equipment and web access to schools and universities across America. My bill would make it easier for companies and individuals to invest in their community and jump start efforts to help bridge the ''digital divide'' in rural and low income areas everywhere.

Ensuring access to the fundamental tools of the digital economy is one of the most significant investments our nation can make. Our country's most important resource is its people. Our companies are only as good as their workers. Highly-skilled, well educated workers make for stellar businesses and create superior products. In a society that increasingly relies on computers and the Internet to deliver information and enhance communication, we need to make sure that all Americans have access. Our domestic and global economies will demand it. Ready access to telecommunications tools will help produce the kind of technology-literate work force that will enable the United States to continue to be a leader in the global economy well into the 21st Century and beyond.

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. 2302

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Community Technology Assistance Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) A third of America's economic growth in recent years has come from information technologies, including 19,000,000 new jobs.

(2) Thirty percent of white Americans are connected to the Internet while only 11 or 12 percent of African Americans or Hispanic Americans are online. Households with incomes of at least $75,000 are more than 20 times as likely to have access to the Internet than those at the lowest income levels, and more than 9 times as likely to have a computer at home.

(3) Citizens in rural areas are less likely to be connected to the Internet than urban users. Regardless of income level, those living in rural areas are lagging behind in computer ownership and Internet access.

(4) Unemployed persons who access the Internet outside their homes are nearly 3 times more likely to use the Internet for job searching than the national average. Those Americans who are ''not in the labor force'', such as retirees or homemakers, are twice as likely to use the public libraries for access.

(5) Those earning less than $20,000 who use the Internet outside the home are twice as likely to get their access through a public library or community center than those earning more than $20,000.

(6) Minorities are more likely users of the Internet and pursue online courses and school research at even higher rates outside the home (50.3 percent for Hispanics, 47.0 percent for American Indians/Eskimos/Aleuts, and 46.3 percent for African Americans).

(7) Among all Americans, 17.0 percent use the Internet at some site outside the home.

Many Americans who obtain Internet access outside the home rely on such places as public libraries (8.2 percent) and community centers (0.6 percent).

SEC. 3. ENHANCED DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY TO PUBLIC LIBRARIES AND COMMUNITY CENTERS.

(a) EXPANSION OF COMPUTER TECHNOLOGY DONATIONS TO PUBLIC LIBRARIES AND COMMUNITY CENTERS.—

(1) IN GENERAL.—Paragraph (6) of section 170(e) of the Internal Revenue Code of 1986 (relating to special rule for contributions of computer technology and equipment for elementary or secondary school purposes) is amended by striking ''qualified elementary or secondary educational contribution'' each place it occurs in the headings and text and inserting ''qualified computer contribution''.

(2) EXPANSION OF ELIGIBLE DONEES.—Subclause (II) of section 170(e)(6)(B)(i) of such Code (relating to qualified elementary or secondary educational contribution) is amended by striking ''or'' at the end of subclause (I) and by inserting after subclause (II) the following new subclauses:

''(III) a public library (within the meaning of section 213(2)(A) of the Library Services and Technology Act (20 U.S.C. 9122(2)(A)), as in effect on the date of the enactment of the Community Technology Assistance Act, established and maintained by an entity described in subsection (c)(1), or

''(IV) a nonprofit or governmental community center, including any center within which an after-school or employment training program is operated,''.

(b) CONFORMING AMENDMENTS.—

(1) Section 170(e)(6)((B)(iv) of the Internal Revenue Code of 1986 is amended by striking ''in any grades K-12''.

(2) The heading of paragraph (6) of section 170(e) of such Code is amended by striking ''ELEMENTARY OR SECONDARY SCHOOL PURPOSES'' and inserting ''EDUCATIONAL PURPOSES''.

(c) EXTENSION OF DEDUCTION.—Section 170(e)(6)(F) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''December 31, 2000'' and inserting ''December 31, 2005''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2000.

By Mr. SHELBY:

S. 2304. A bill to amend the Internal Revenue Code of 1986 to phase out the taxation of Social Security benefits; to the Committee on Finance.

OLDER AMERICANS TAX FAIRNESS ACT

Mr. SHELBY. Mr. President, I rise today to introduce the Older Americans Tax Fairness Act. This legislation would eliminate—yes, eliminate—the unfair tax on Social Security benefits in this country.

Last week, this body, the Senate, took a historic step toward giving senior citizens more financial freedom and retirement security by passing legislation to repeal the earnings limit on Social Security benefits. We seized an opportunity to allow seniors to continue to work and contribute their skills and knowledge to the most vibrant economy in recent memory.

While the U.S. economy is currently reporting the lowest unemployment number in years, employers are finding that labor is difficult to come by and they are searching for ways to address this challenge. Increasingly, they are turning to senior citizens to fill the void. However, many seniors are finding that while they may want to work to better their standard of living or have to work to make ends meet, they are being hit by an additional tax burden, one that taxes their Social Security benefits—their retirement security, in other words—such that working, in many cases, is not financially beneficial to them.

When the Social Security program was first established by Congress, Congress did not intend for benefits to be taxed at all. In fact, Social Security benefits were exempt from Federal taxes for half a century. But because of a financial crisis within the program in the eighties and President Clinton's desire to fund new programs in 1993, seniors who earn a modest wage now find that anywhere between 50 and 85 percent of their Social Security benefits are taxed in America. This tax on Social Security benefits is misguided, I believe, and only acts to penalize hard-working and productive senior members of society. As workers, these senior citizens are taxed when they earn their money, as we all know, they are taxed when the Government returns it in the form of Social Security benefits, and if they are smart enough or lucky enough to save it to give it to their children or grandchildren, they will have to pay estate taxes, or a death tax, before anyone sees a penny, in a lot of cases.

Not only is this essentially double taxation to some of our most vulnerable citizens, our seniors, it is harmful to many seniors. Many seniors need to work in order to pay for costly health insurance premiums, prescription drugs, and other expenses which they incur as they grow older. For these seniors, working is not a choice, it is a necessity.

If we eliminate the tax on Social Security benefits in America, most seniors would have more disposable income to pay for many of these necessities of life. But rather than helping them, I believe we hurt them—that is, the seniors—by taxing their Social Security benefits, lowering their standard of living, and decreasing the amount of disposable income they have available to them.

What many fail to recognize is, working seniors continue to contribute to the economy not only in terms of knowledge and added productivity but by paying taxes on their earnings and paying into the Social Security trust fund without ever recognizing an additional benefit.

Clearly, the benefits seniors provide to our economy in terms of investment, knowledge, and skills far outweigh the minimal costs to the Treasury of repealing this unjust tax on Social Security.

This tax on Social Security benefits implies the Federal Government thinks senior citizens have nothing to contribute in the way of effectiveness, efficiency, experience, or knowledge to the workforce. You know and I know this is not true.

Senior citizens are our most valuable resource. They can provide knowledge, insight, and experience to our booming economy. And they do. We should treat them fairly and allow them to continue to earn and to save without imposing a discriminatory ''old age tax'' simply because they want to continue to contribute to society.

Responsible seniors—who plan for their retirement, who save and invest for the future, and who strive to leave something to future generations—are finding that it is just not worth it. At a time when we are trying to encourage savings and investment, it does not make sense to continue to tax Social Security benefits.

I am today encouraging my colleagues to join me in supporting the Older Americans Tax Fairness Act to bring additional fairness and freedom to the lives of millions of our most respected Americans.

Let's repeal the tax on Social Security benefits. Let's make it like it used to be. It is the right thing for the seniors in America.

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. BROWNBACK, and Mr. ROTH):

S. 2306. A bill to increase the efficiency and effectiveness of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

GOVERNMENT FOR THE 21ST CENTURY ACT

Mr. THOMPSON. Mr. President, I am pleased to introduce the Government for the 21st Century Act, a bill to establish a commission to bring the structure and functions of our Government in line with the needs of our Nation in the new century. This bipartisan legislation was the result of work done by the Governmental Affairs Committee last Congress and is virtually identical to S. 2623, 105th Congress. The bill has been carefully crafted to address not just what our Government should look like, but the more fundamental question of what it should do.

Clearly, the time has come to take a comprehensive and fresh look at what the Federal Government does and how it goes about doing it. Despite these good economic times, polls repeatedly show that Americans have little trust or confidence in the Federal Government. They want the Federal Government to work, but they don't think that it does.

Unfortunately, our citizens have ample reason for concern. The Federal Government of today is a cacophony of agencies and programs, many of which are directed at the same problems. Much of what Washington does is inefficient and wasteful. Few would dispute that the government in Washington cannot do effectively all it is now charged with doing. When it comes to specifics, however, changing things is

extremely difficult. Virtually every Federal agency and program has an entrenched constituency to shield it from scrutiny and fend off challenges to the status quo. Hence, the familiar axiom that the closest thing to immortality is a Washington spending program.

Federal agencies and programs have mushroomed over time, evolving in a largely random manner to respond to the real or perceived needs of the moment. Consequently, duplication and fragmentation abound. There is an obvious need to bring some order out of this chaos. As former Comptroller General Charles Bowsher stated in testimony before the Senate Governmental Affairs Committee in 1995:

> The case for reorganizing the Federal government is an easy one to make. Many departments and agencies were created in a different time and in response to problems very different from today's. Many have accumulated responsibilities beyond their original purposes. As new challenges arose or new needs were identified, new programs and responsibilities were added to departments and agencies with insufficient regard to their effects on the overall delivery of services to the public.

The situation has not improved since then. Just last month, the current Comptroller General, David Walker, recited an all too familiar litany of duplication, waste, mismanagement, and other Federal performance problems in testimony before the Senate and House Budget Committees. The GAO ''high-risk list'' of those Federal activities most vulnerable to fraud, waste, and abuse has grown from 14 problem areas in 1990 to 26 problem areas today. Only one high-risk problem has been removed since 1995. Ten of the 14 original high-risk problems are still on the list today—a full decade later. Likewise, inspectors general identify much the same critical performance problems in their agencies year after year. Collectively, these core performance problems cost Federal taxpayers countless billions of dollars each year in outright waste. They also exact an incalculable toll on the ability of agencies to carry out their missions and serve the needs of our citizens.

Of course, meaningful reform of the Federal Government will not come from simply reshuffling current organizational boxes and redistributing current programs. We need to conduct a fundamental review of what Washington does and why. Our Founding Fathers envisioned a government of defined and limited powers. Imagine their dismay if they knew the size and scope of the Federal government today. We need to return to the limited but effective government that the Founders intended. This means divesting the Federal Government of functions it is not well suited to perform. However, it also means ensuring that the Federal Government does a better job of performing those core constitutional functions for which our citizens must rely on it.

The commission established in the legislation we are introducing today is a major step in that direction. It will take a hard look at Federal departments, agencies and programs and ask such questions as:

How can we restructure agencies and programs to improve the implementation of their statutory missions, eliminate activities not essential to their statutory missions, and reduce duplication of activities?

How can we improve management to maximize productivity, effectiveness and accountability of performance results?

What criteria should we use in determining whether a Federal activity should be privatized?

Which departments or agencies should be eliminated because their functions are obsolete, redundant, or could be better performed by state and local governments or the private sector?

Obviously, these questions involve subjective policy decisions. However, policy decisions should be the product of honest and open debate that stems from objective and fact-based analysis. I am convinced that this analysis can best be provided by an independent, nonpartisan commission that is removed from the normal pressures of Washington.

The commission will have many information sources available to it. The first cycle of implementation of the Government Performance and Results Act of 1993 will be complete by the end of this month when agencies submit their first performance reports. The plans and reports that agencies have submitted under the Results Act, while far from perfect, should provide a more comprehensive framework for reviewing Federal missions and performance than we have had before.

I am pleased that Senators LIEBERMAN and VOINOVICH are joining me in introducing the bill today, and I thank them for the time and staff they have devoted to the effort. I look forward to working with them on this important legislation.

I ask unanimous consent that the Government for the 21st Century Act, along with a brief summary and section-by-section analysis, be printed in the RECORD.

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

S. 2306

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

SECTION 1. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the ''Government for the 21st Century Act''.

(b) PURPOSE.—

(1) IN GENERAL.—The purpose of this Act is to reduce the cost and increase the effectiveness of the Federal Government by reorganizing departments and agencies, consolidating redundant activities, streamlining operations, and decentralizing service delivery in a manner that promotes economy, efficiency, and accountability in Government programs. This Act is intended to result in a Federal Government that—

(A) utilizes a smaller and more effective workforce;

(B) motivates its workforce by providing a better organizational environment; and

(C) ensures greater access and accountability to the public in policy formulation and service delivery.

(2) SPECIFIC GOALS.—This Act is intended to achieve the following goals for improvements in the performance of the Federal Government by October 1, 2004:

(A) A restructuring of the cabinet and subcabinet level agencies.

(B) A substantial reduction in the costs of administering Government programs.

(C) A dramatic and noticeable improvement in the timely and courteous delivery of services to the public.

(D) Responsiveness and customer-service levels comparable to those achieved in the private sector.

SEC. 2. DEFINITIONS.

For purposes of this Act, the term—

(1) ''agency'' includes all Federal departments, independent agencies, Government-sponsored enterprises, and Government corporations; and

(2) ''private sector'' means any business, partnership, association, corporation, educational institution, nonprofit organization, or individuals.

SEC. 3. THE COMMISSION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Commission on Government Restructuring and Reform (hereafter in this Act referred to as the ''Commission'').

(b) DUTIES.—The Commission shall examine and make recommendations to reform and restructure the organization and operations of the executive branch of the Federal Government to improve economy, efficiency, effectiveness, consistency, and accountability in Government programs and services, and shall include and be limited to proposals to—

(1) consolidate or reorganize programs, departments, and agencies in order to—

(A) improve the effective implementation of their statutory missions;

(B) eliminate activities not essential to the effective implementation of statutory missions;

(C) reduce the duplication of activities among agencies; or

(D) reduce layers of organizational hierarchy and personnel where appropriate to improve the effective implementation of statutory missions and increase accountability for performance;

(2) improve and strengthen management capacity in departments and agencies (including central management agencies) to maximize productivity, effectiveness, and accountability;

(3) propose criteria for use by the President and Congress in evaluating proposals to establish, or to assign a function to, an executive entity, including a Government corporation or Government-sponsored enterprise;

(4) define the missions, roles, and responsibilities of any new, reorganized, or consolidated department or agency proposed by the Commission;

(5) eliminate the departments or agencies whose missions and functions have been determined to be—

(A) obsolete, redundant, or complete; or

(B) more effectively performed by other units of government (including other Federal departments and agencies and State and local governments) or by the private sector; and

(6) establish criteria for use by the President and Congress in evaluating proposals to privatize, or to contract with the private

sector for the performance of, functions currently administered by the Federal Government.

(c) LIMITATIONS ON COMMISSION RECOMMENDATIONS.—The Commission's recommendations or proposals under this Act may not provide for or have the effect of—

(1) continuing an agency beyond the period authorized by law for its existence;

(2) continuing a function beyond the period authorized by law for its existence;

(3) authorizing an agency to exercise a function which is not already being performed by any agency;

(4) eliminating the enforcement functions of an agency, except such functions may be transferred to another executive department or independent agency; or

(5) adding, deleting, or changing any rule of either House of Congress.

(d) APPOINTMENT.—

(1) MEMBERS.—The Commissioners shall be appointed for the life of the Commission and shall be composed of nine members of whom—

(A) three shall be appointed by the President of the United States;

(B) two shall be appointed by the Speaker of the House of Representatives;

(C) one shall be appointed by the minority Leader of the House of Representatives;

(D) two shall be appointed by the majority Leader of the Senate; and

(E) one shall be appointed by the minority Leader of the Senate.

(2) CONSULTATION REQUIRED.—The President, the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate shall consult among themselves prior to the appointment of the members of the Commission in order to achieve, to the maximum extent possible, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission under subsection (b).

(3) CHAIRMAN.—At the time the President nominates individuals for appointment to the Commission the President shall designate one such individual who shall serve as Chairman of the Commission.

(4) MEMBERSHIP.—A member of the Commission may be any citizen of the United States who is not an elected or appointed Federal public official, a Federal career civil servant, or a congressional employee.

(5) CONFLICT OF INTERESTS.—For purposes of the provisions of chapter 11 of part I of title 18, United States Code, a member of the Commission (to whom such provisions would not otherwise apply except for this paragraph) shall be a special Government employee.

(6) DATE OF APPOINTMENTS.—All members of the Commission shall be appointed within 90 days after the date of enactment of this Act.

(e) TERMS.—Each member shall serve until the termination of the Commission.

(f) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as was the original appointment.

(g) MEETINGS.—The Commission shall meet as necessary to carry out its responsibilities. The Commission may conduct meetings outside the District of Columbia when necessary.

(h) PAY AND TRAVEL EXPENSES.—

(1) PAY.—

(A) CHAIRMAN.—Except for an individual who is chairman of the Commission and is otherwise a Federal officer or employee, the chairman shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including traveltime) during which the chairman is engaged in the performance of duties vested in the Commission.

(B) MEMBERS.—Except for the chairman who shall be paid as provided under subparagraph (A), each member of the Commission who is not a Federal officer or employee shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the performance of duties vested in the Commission.

(2) TRAVEL.—Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(i) DIRECTOR.—

(1) APPOINTMENT.—The Chairman of the Commission shall appoint a Director of the Commission without regard to section 5311(b) of title 5, United States Code.

(2) PAY.—The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(j) STAFF.—

(1) APPOINTMENT.—The Director may, with the approval of the Commission, appoint and fix the pay of employees of the Commission without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and any Commission employee may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that a Commission employee may not receive pay in excess of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) DETAIL.—

(A) DETAILS FROM AGENCIES.—Upon request of the Director, the head of any Federal department or agency may detail any of the personnel of the department or agency to the Commission to assist the Commission in carrying out its duties under this Act.

(B) DETAILS FROM CONGRESS.—Upon request of the Director, a Member of Congress or an officer who is the head of an office of the Senate or House of Representatives may detail an employee of the office or committee of which such Member or officer is the head to the Commission to assist the Commission in carrying out its duties under this Act.

(C) REIMBURSEMENT.—Any Federal Government employee may be detailed to the Commission with or without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(k) SUPPORT.—

(1) SUPPORT SERVICES.—The Office of Management and Budget shall provide support services to the Commission.

(2) ASSISTANCE.—The Comptroller General of the United States may provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(l) OTHER AUTHORITY.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code. The Commission shall give public notice of any such contract before entering into such contract.

(m) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The Commission shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(n) FUNDING.—There are authorized to be appropriated to the Commission $2,500,000 for fiscal year 2000, and $5,000,000 for each of fiscal years 2001 through 2003 to enable the Commission to carry out its duties under this Act.

(o) TERMINATION.—The Commission shall terminate no later than September 30, 2003.

SEC. 4. PROCEDURES FOR MAKING RECOMMENDATIONS.

(a) PRESIDENTIAL RECOMMENDATIONS.—No later than July 1, 2001, the President may submit to the Commission a report making recommendations consistent with the criteria under section 3 (b) and (c). Such a report shall contain a single legislative proposal (including legislation proposed to be enacted) to implement those recommendations for which legislation is necessary or appropriate.

(b) IN GENERAL.—No later than December 1, 2002, the Commission shall prepare and submit a single preliminary report to the President and Congress, which shall include—

(1) a description of the Commission's findings and recommendations, taking into account any recommendations submitted by the President to the Commission under subsection (a); and

(2) reasons for such recommendations.

(c) COMMISSION VOTES.—No legislative proposal or preliminary or final report (including a final report after disapproval) may be submitted by the Commission to the President and Congress without the affirmative vote of at least 6 members.

(d) DEPARTMENT AND AGENCY COOPERATION.—All Federal departments, agencies, and divisions and employees of all departments, agencies, and divisions shall cooperate fully with all requests for information from the Commission and shall respond to any such requests for information expeditiously, or no later than 15 calendar days or such other time agreed upon by the requesting and requested parties.

SEC. 5. PROCEDURE FOR IMPLEMENTATION OF REPORTS.

(a) PRELIMINARY REPORT AND REVIEW PROCEDURE.—Any preliminary report submitted to the President and Congress under section 4(b) shall be made immediately available to the public. During the 60-day period beginning on the date on which the preliminary report is submitted, the Commission shall announce and hold public hearings for the purpose of receiving comments on the reports.

(b) FINAL REPORT.—No later than 6 months after the conclusion of the period for public hearing under subsection (a), the Commission shall prepare and submit a final report to the President. Such report shall be made available to the public on the date of submission to the President. Such report shall include—

(1) a description of the Commission's findings and recommendations, including a description of changes made to the report as a result of public comment on the preliminary report;

(2) reasons for such recommendations; and

(3) a single legislative proposal (including legislation proposed to be enacted) to implement those recommendations for which legislation is necessary or appropriate.

(c) EXTENSION OF FINAL REPORT.—By affirmative vote pursuant to section 4(c), the Commission may extend the deadline under subsection (b) by a period not to exceed 90 days.

(d) REVIEW BY THE PRESIDENT.—

(1) IN GENERAL.—

(A) PRESIDENTIAL ACTION.—No later than 30 calendar days after receipt of a final report under subsection (b), the President shall approve or disapprove the report.

(B) PRESIDENTIAL INACTION.—

(i) IN GENERAL.—If the President does not approve or disapprove the final report within 30 calendar days in accordance with subparagraph (A), Congress shall consider the report in accordance with clause (ii).

(ii) SUBMISSION.—Subject to clause (i), the Commission shall submit the final report, without further modification, to Congress on the date occurring 31 calendar days after the date on which the Commission submitted the final report to the President under subsection (b).

(2) APPROVAL.—If the report is approved, the President shall submit the report to Congress for legislative action under section 6.

(3) DISAPPROVAL.—If the President disapproves a final report, the President shall report specific issues and objections, including the reasons for any changes recommended in the report, to the Commission and Congress.

(4) FINAL REPORT AFTER DISAPPROVAL.—The Commission shall consider any issues or objections raised by the President and may modify the report based on such issues and objections. No later than 30 calendar days after receipt of the President's disapproval under paragraph (3), the Commission shall submit the final report (as modified if modified) to the President and to Congress.

SEC. 6. CONGRESSIONAL CONSIDERATION OF REFORM PROPOSALS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''implementation bill'' means only a bill which is introduced as provided under subsection (b), and contains the proposed legislation included in the final report submitted to the Congress under section 5(d)(1)(B), (2), or (4), without modification; and

(2) the term ''calendar day'' means a calendar day other than one on which either House is not in session because of an adjournment of more than three days to a date certain.

(b) INTRODUCTION, REFERRAL, AND REPORT OR DISCHARGE.—

(1) INTRODUCTION.—On the first calendar day on which both Houses are in session, on or immediately following the date on which a final report is submitted to the Congress under section 5(d)(1)(B), (2), or (4), a single implementation bill shall be introduced (by request)—

(A) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate; and

(B) in the House of Representatives by the Majority Leader of the House of Representatives, for himself and the Minority Leader of the House of Representatives, or by Members of the House of Representatives designated by the Majority Leader and Minority Leader of the House of Representatives.

(2) REFERRAL.—The implementation bills introduced under paragraph (1) shall be referred to the appropriate committee of jurisdiction in the Senate and the appropriate committee of jurisdiction in the House of Representatives. A committee to which an implementation bill is referred under this paragraph may report such bill to the respective House with amendments proposed to be adopted. No such amendment may be proposed unless such proposed amendment is relevant to such bill.

(3) REPORT OR DISCHARGE.—If a committee to which an implementation bill is referred has not reported such bill by the end of the 30th calendar day after the date of the introduction of such bill, such committee shall be immediately discharged from further consideration of such bill, and upon being reported or discharged from the committee, such bill shall be placed on the appropriate calendar.

(c) SENATE CONSIDERATION.—

(1) IN GENERAL.—On or after the fifth calendar day after the date on which an implementation bill is placed on the Senate calendar under subsection (b)(3), it is in order (even if a previous motion to the same effect has been disagreed to) for any Senator to make a motion to proceed to the consideration of the implementation bill. The motion is not debatable. All points of order against the implementation bill (and against consideration of the implementation bill) other than points of order under Senate Rule 15, 16, or for failure to comply with requirements of this section are waived. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion to proceed is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the implementation bill is agreed to, the Senate shall immediately proceed to consideration of the implementation bill.

(2) DEBATE.—In the Senate, no amendment which is not relevant to the bill shall be in order. A motion to postpone is not in order. A motion to recommit the implementation bill is not in order. A motion to reconsider the vote by which the implementation bill is agreed to or disagreed to is not in order.

(3) APPEALS FROM CHAIR.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to an implementation bill shall be decided without debate.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—At any time on or after the fifth calendar day after the date on which each committee of the House of Representatives to which an implementation bill is referred has reported that bill, or has been discharged under subsection (b)(3) from further consideration of that bill, the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of that bill. All points of order against the bill, the consideration of the bill, and provisions of the bill shall be waived, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed 10 hours, to be equally divided and controlled by the Majority Leader and the Minority Leader, the bill shall be considered for amendment by title under the five-minute rule and each title shall be considered as having been read.

(2) AMENDMENTS.—Each amendment shall be considered as having been read, shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, and shall be debatable for not to exceed 30 minutes, equally divided and controlled by the proponent and a Member opposed thereto, except that the time for consideration, including debate and disposition, of all amendments to the bill shall not exceed 20 hours.

(3) FINAL PASSAGE.—At the conclusion of the consideration of the bill, the Committee shall rise and report the bill to the House with such amendments as may have been agreed to, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

(e) CONFERENCE.—

(1) APPOINTMENT OF CONFEREES.—In the Senate, a motion to elect or to authorize the appointment of conferees by the presiding officer shall not be debatable.

(2) CONFERENCE REPORT.—No later than 20 calendar days after the appointment of conferees, the conferees shall report to their respective Houses.

(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of an implementation bill described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 7. IMPLEMENTATION.

(a) RESPONSIBILITY FOR IMPLEMENTATION.—The Director of the Office of Management and Budget shall have primary responsibility for implementation of the Commission's report and the Act enacted under section 6 (unless such Act provides otherwise). The Director of the Office of Management and Budget shall notify and provide direction to heads of affected departments, agencies, and programs. The head of an affected department, agency, or program shall be responsible for implementation and shall proceed with the recommendations contained in the report as provided under subsection (b).

(b) DEPARTMENTS AND AGENCIES.—After the enactment of an Act under section 6, each affected Federal department and agency as a part of its annual budget request shall transmit to the appropriate committees of Congress its schedule for implementation of the provisions of the Act for each fiscal year. In addition, the report shall contain an estimate of the total expenditures required and the cost savings to be achieved by each action, along with the Secretary's assessment of the effect of the action. The report shall also include a report of any activities that have been eliminated, consolidated, or transferred to other departments or agencies.

(c) GAO OVERSIGHT.—The Comptroller General shall periodically report to Congress and the President regarding the accomplishment, the costs, the timetable, and the effectiveness of the implementation of any Act enacted under section 6.

SEC. 8. DISTRIBUTION OF ASSETS.

Any proceeds from the sale of assets of any department or agency resulting from the enactment of an Act under section 6 shall be—

(1) applied to reduce the Federal deficit; and

(2) deposited in the Treasury and treated as general receipts.

GOVERNMENT FOR THE 21ST CENTURY ACT—BRIEF SUMMARY

This legislation will reduce the cost and increase the effectiveness of the Federal government. It achieves this by establishing a commission to submit to Congress and the President a plan to bring the structure and operations of the Federal government in line with the needs of Americans in the new century.

Duties of the Commission: The Commission is authorized under this legislation to propose the reorganization of Federal departments and agencies, the elimination of activities not essential to fulfilling agency missions, the streamlining of government operations, and the consolidation of redundant activities.

The Commission would not be authorized to continue any agency or function beyond its current life, authorize functions not performed already by the Federal government, eliminate enforcement functions, or change the rules of Congress.

Composition of the Commission: The Commission would consist of 9 members appointed by the President and the Congressional leadership of both parties.

How the Commission works: The process established in this legislation is bipartisan, allows input by the President, and is fully open and public.

The Commission report: By July 1, 2001, the President may submit his recommendations to the Commission. By December 1, 2002, the Commission shall submit to the President and Congress a preliminary report containing recommendations on restructuring the Federal Government. After a public comment period, the Commission shall prepare a final report and submit it to the President for review and comment.

Presidential review and comment: The President has 30 days to approve or disapprove the Commission's report. The Commission decides whether or not to modify its report based on the President's comments, and shall issue a final report to Congress.

Congressional consideration: The final report shall be introduced in both Houses by request and referred to the appropriate committee(s). After 30 days, the bills may be considered by the full House and Senate and are subject to amendment.

Implementation: Once legislation effecting the Commission's recommendations is enacted, the Office of Management and Budget shall be responsible for implementing it. The General Accounting Office shall report to Congress on the progress of implementation.

GOVERNMENT FOR THE 21ST CENTURY ACT—SECTION-BY-SECTION ANALYSIS

SECITON 1. SHORT TITLE AND PURPOSE

This act may be cited as the ''Government for the 21st Century Act.'' Its purpose is to reduce the cost and increase the effectiveness of the Executive Branch. It achieves this by creating a commission to propose to Congress and the President a plan to reorganize departments and agencies, consolidate redundant activities, streamline operations, and decentralize service delivery in a manner that promotes economy, efficiency, and accountability in government programs.

SECTION 2. DEFINITIONS

This section defines ''agency'' to include all Federal departments, independent agencies, government-sponsored enterprises and government corporations, and defines ''private sector'' as any business, partnership, association, corporation, educational institution, nonprofit organization, or individual.

SECTION 3. THE COMMISSION

This section establishes a commission, known as the Commission on Government Restructuring and Reform, to make recommendations to reform and restructure the Executive Branch. The Commission shall make proposals to consolidate, reorganize or eliminate Executive Branch agencies and programs in order to improve effectiveness, efficiency, consistency and accountability in government. The Commission shall also recommend criteria by which to determine which functions of government should be privatized. The Commission may not propose to continue agencies or functions beyond their current legal authorization, nor may the Commission propose to eliminate enforcement functions entirely or change the rules of either House of Congress.

The Commission shall be composed of 9 members appointed as follows: Three by the President, two by the Majority Leader of the Senate, two by the Speaker of the House of Representatives, and one each by the Minority Leaders of the Senate and House.

The Commission shall be managed by a Director and shall have a staff, which may include detailees. The Office of Management and Budget shall provide support services and the Comptroller General may provide assistance to the Commission.

This section authorizes $2.5 million to be appropriated in fiscal year 2000 and $5 million each for fiscal years 2001 through 2003 for the Commission to carry out its duties. It also provides that the Commission shall terminate no later than September 30, 2003.

SECTION 4. PROCEDURES FOR MAKING RECOMMENDATIONS

By July 1, 2001, the President may submit his recommendations on government reorganization to the Commission. The President's recommendations must be consistent with the duties and limitations given to the Commission in formulating its recommendations and must be transmitted to the Commission as a single legislative proposal.

By December 1, 2002, the commission shall prepare and submit a single preliminary report to the President and Congress. That report must include a description of the Commission's findings and recommendations and the reasons for such recommendations. The proposal must be approved by at lest 6 members of the Commission.

This section also provides that all Federal departments and agencies must cooperate fully with requests for information from the Commission.

SECTION 5. PROCEDURES FOR IMPLEMENTATION OF REPORTS

This section provides that any preliminary report submitted to the President and the Congress under section 4 be made available immediately to the public. During the 60-day period after the submission of the preliminary report, the Commission shall hold public hearings to receive comments on the report.

Six months after the conclusion of the period for public comments, the Commission shall submit a final report to the President. this report shall be made a available to the public and shall include a description of the Commission's findings and recommendations, the reasons for such recommendations, and a single legislative proposal to implement the recommendations.

The President shall then approve or disapprove the report within 30 days. If he fails to act after 30 days, the report is immediately submitted to Congress. If the President approves the report, he then shall submit the report to Congress for legislative action under section 6.

If he disapproves the final report, the President shall report specific issues and objections, including the reasons for any changes recommended in the report, to the Commission and Congress. For 30 days after the President disapproves a report, the Commission may consider any issues and objections raised by the President and may modify the report with respect to these issues and objections. After 30 days, the Commission must submit its final report (as modified if modified) to the President and Congress.

SECTION 6. CONGRESSIONAL CONSIDERATION OF REFORM PROPOSALS

After a final report is submitted to the Congress, single implementation bill shall be introduced by request in the House and Senate by the Majority and Minority Leaders in each chamber or their designees.

This section stipulates that the implementation bill be referred to the appropriate committee of jurisdiction in the House and Senate. Each committee must report the bill to its respective House chamber within 30 days, with relevant amendments proposed to be adopted. If a committee fails to report such a bill within 30 days, that committee is immediately discharged from further consideration and the bill is placed on the appropriate calendar.

Section 6(c) outlines procedures for Senate floor consideration of legislation implementing the Commission's recommendations. On or after the fifth calendar day after the date on which the implementation bill is placed on the Senate calendar, any Senator may make a privileged motion to consider the implementation bill. Only relevant amendments shall be in order, and motions to postpone, recommit, or reconsider the vote by which the bill is agreed to are not in order.

Section 6(d) outlines procedures for House floor consideration of legislation implementing the Commission's recommendations. General debate on the implementation bill is limited to 10 hours equally divided, and controlled by the Majority and Minority Leaders. Amendments shall be considered by title under the five minute rule, and shall be debatable for 30 minutes equally divided. Debate on all amendments shall not exceed 20 hours.

This section further states that within 20 calendar days, conferees shall report to their respective House.

SECTION 7. IMPLEMENTATION

The Office of Management and Budget shall have primary responsibility for implementing the Commission's report and any legislation that is enacted, unless otherwise specified in the implementation bill.

Federal departments and agencies are required to include a schedule for implementation of the provisions of the implementation legislation as a part of their annual budget request.

GAO is given oversight responsibility and is required to report to the Congress and the President regarding the accomplishments, costs, timetable, and effectiveness of the implementation process.

SECTION 8. DISTRIBUTION OF ASSETS

Any proceeds from the sale of assets of any department or agency resulting from the implementation legislation shall be deposited in the treasury and treated as general receipts.

Mr. LIEBERMAN. Mr. President, I am pleased to join with Senators THOMPSON, VOINOVICH, BROWNBACK and ROTH today to introduce the Government for the 21st Century Act. This bill provides an opportunity to address the challenges our government will face in the new millennium. Our country is undergoing rapid changes—changes brought about by technological advancements, by our expanding and increasingly global economy, and by the new and more diverse threats to our nation and our world. It is essential for our government to be prepared to respond effectively to these challenges.

We should take the opportunity now to rethink the structure of our government to be sure it can meet the needs of our citizens in the years to come. The Commission that will be established under this bill will have a critical task—to study the current shape of our government and to make recommendations about how we can improve its efficiency and effectiveness, streamline its operations, and eliminate unnecessary duplication.

I view the bill we are introducing today as a discussion draft. Our goal is to hear from a wide range of experts on government and management. I look

forward to reviewing new ideas that will enhance the value of the Commission's work. For example, I intend to recommend that the Commission focuses on the enormous potential benefit of ''E-government.'' The Commission should consider how government can be restructured to promote the innovative use of information technology. American citizens increasingly expect services and information to be provided electronically through Internet-based technology. While the federal government is working to take advantage of the opportunities technology presents to do its job better, more needs to be done to fully integrate these capabilities and to offer services and information to Americans in a more accessible and cost-effective way.

I look forward to working with Senators THOMPSON, BROWNBACK, ROTH and VOINOVICH on this important legislation.

By Mr. DORGAN (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. JOHNSON, and Mr. HARKIN):

S. 2307. A bill to amend the Communications Act of 1934 to encourage broadband deployment to rural America, and for other purposes; to the Committee on Commerce, Science, and Transportation.

RURAL BROADBAND ENHANCEMENT ACT

Mr. DORGAN. Mr. President, today I am, along with Senator DASCHLE, Senator BAUCUS and Senator JOHNSON, introducing the Rural Broadband Enhancement Act to deploy broadband technology to rural America. As the demand for high speed Internet access grows, numerous companies are responding in areas of dense population. While urban America is quickly gaining high speed access, rural America is—once again—being left behind. Ensuring that all Americans have the technological capability is essential in this digital age. It is not only an issue of fairness, but it is also an issue of economic survival.

To remedy the gap between urban and rural America, this legislation gives new authority to the Rural Utilities Service to make low interest loans to companies that are deploying broadband technology to rural America. Loans are made on a company neutral and a technology neutral basis so that companies that want to serve these areas can do so by employing technology that is best suited to a particular area. Without this program, market forces will pass by much of America, and that is unacceptable.

This issue is not a new one. When we were faced with electrifying all of the country, we enacted the Rural Electrification Act. When telephone service was only being provided to well-populated communities, we expanded the Rural Electrification Act and created the Rural Utilities Service to oversee rural telephone deployment. The equitable deployment of broadband services is only the next step in keeping America connected, and our legislation would ensure that.

If we fail to act, rural America will be left behind once again. As the economy moves further and further towards online transactions and communications, rural America must be able to participate. Historically, our economy has been defined by geography, and we in Congress were powerless to do anything about it. Where there were ports, towns and businesses got their start. Where there were railroad tracks, towns and businesses grew up around them. The highway system brought the same evolution.

But the Internet is changing all of that. No longer must economic growth be defined by geographic fiat. Telecommunications industries and policymakers are proclaiming, ''Distance is dead!'' But, that's not quite right: Distance will be dead, as long as Congress ensures that broadband services are available to all parts of America, urban and rural.

I look forward to working with Senator DASCHLE, Senator BAUCUS, Senator JOHNSON and my other colleagues in the Senate to pass this legislation and give rural America a fair chance to survive.

By Mr. MOYNIHAN (for himself, Mr. GRAHAM, and Mrs. FEINSTEIN):

S. 2308. A bill to amend title XIX of the Social Security Act to assure preservation of safety net hospitals through maintenance of the Medicaid disproportionate share hospital program; to the Committee on Finance.

THE MEDICAID SAFETY NET HOSPITAL ACT OF 2000

Mr. MOYNIHAN. Mr. President, today, I join with my colleagues, Senators GRAHAM and FEINSTEIN, in introducing legislation to ensure that our safety net hospitals continue to be able to care for the poor and the uninsured.

The Medicaid Disproportionate Share Hospital (DSH) program provides vital funding to safety net hospitals that primarily serve Medicaid and uninsured patients. The Balanced Budget Act of 1997 placed declining state-specified ceilings on federal Medicaid DSH spending from 1998–2002. In 2003, the limits will begin to be adjusted upwards for inflation. The Medicaid Safety Net Hospital Act of 2000 would freeze the state-specific caps at this year's limits (thereby preventing further declines in the limits) and adjust them for inflation beginning in 2002.

It is essential to provide much-needed support to our safety net hospitals. The number of uninsured in the United States increases every year, in part because of declining Medicaid enrollment as a result of welfare reform. There are now 44 million Americans without health insurance who have no choice but to turn to the emergency rooms of safety net hospitals for care. Yet, even as demands on safety net hospitals increase, DSH spending per State is being further reduced. The Medicaid Safety Net Hospital Act of 2000 would maintain significant savings achieved by prior reductions but would protect safety net hospitals from further DSH cuts. As a result, hospitals would have access to the financing they need for achieving their social mission.

Mr. President, Congress should act now to preserve the financial ability of our safety net hospitals to provide health care to the poor and uninsured/

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2308

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicaid Safety Net Hospital Act of 2000''.

SEC. 2. FREEZING MEDICAID DSH ALLOTMENTS FOR FISCAL YEAR 2001 AT LEVELS FOR FISCAL YEAR 2000.

Section 1923(f) of the Social Security Act (42 U.S.C. 1396r–4(f)) is amended—

(1) in paragraph (2)—

(A) in the heading, by striking ''2002'' and inserting ''2001'';

(B) in the matter preceding the table, by striking ''2002'' and inserting ''2001 (and the DSH allotment for a State for fiscal year 2001 is the same as the DSH allotment for the State for fiscal year 2000, as determined under the following table)''; and

(C) by striking the columns in the table relating to FY 01 and FY 02 (fiscal years 2001 and 2002); and

(2) in paragraph (3)—

(A) in the heading, by striking ''2003'' and inserting ''2002''; and

(B) in subparagraph (A), by striking ''2003'' and inserting ''2002''.

Mrs. FEINSTEIN. Mr. President, I rise today in support of the Medicaid Safety Net Hospital Act of 2000, a bill that would freeze Medicaid Disproportionate Share Hospital (DSH) payments to hospitals at their 2000 level for Fiscal Year 2001 and 2002. I hope the Senate can act promptly on this bill.

The number of people in our nation who have no medical insurance has hit some 44 million. This is tragic. More than 100,000 people join the ranks of the uninsured monthly. We cannot continue to reduce payments to hospitals that provide care for the uninsured. We cannot balance the budget on the backs of poor people who show up at emergency rooms with no insurance or on the backs of the hospitals that tend to them.

California bears a disproportionate burden of uncompensated care. Twenty-four percent of our population is uninsured. Nationwide, the rate is 17 percent. Currently, over 7 million Californians are uninsured. During the past few months, I have met with many California health care leaders. They fear that the Medicaid cuts contained in the Balanced Budget Act of 1997 have undermined the financial stability of California's health care system, which many believe to be on the verge of collapse.

As a result of Medicaid reductions in the Balanced Budget Act of 1997, California's Medicaid Disproportionate

Share Hospital program could lose more than $280 million by 2002. Federal Medicaid DSH payments to California have declined by more than $116 million in the past two years and are slated to be cut by an additional $164 million—17 percent—over the next two years.

Without this bill, for example, by Fiscal Year 2002 Los Angeles County-University of Southern California Medical Center will lose $13.5 million. San Francisco General will lose $5.2 million. Fresno Community Hospital will lose $10.5 million. Over 132 California hospitals, representing rural and urban communities, depend on Medicaid DSH payments. Under this bill, millions of dollars will be restored to California public hospitals.

Public hospitals carry a disproportionate share of caring for the poor and uninsured. Forty percent of all California uninsured hospital patients were treated at public hospitals in 1998, up from 32 percent in 1993. The uninsured as a share of all discharges from public hospitals grew from 22 percent in 1993 to 29 percent in 1998. While overall public hospital discharges declined from 1993 to 1999 by 15 percent, discharges for uninsured patients increased by 11 percent. Large numbers of uninsured add huge uncompensated costs to our public hospitals.

The uninsured often choose public hospitals and frequently wait until their illnesses or injuries require emergency treatment. This makes their care even more costly. California's emergency rooms are strained to the breaking point. Last week at a California State Senate hearing, Dr. Dan Abbott, an emergency room physician at St. Jude Hospital in Fullerton, California said: ''We feel that emergency care in California is overwhelmed, it's underfunded and at times, frankly, it is out-and-out dangerous.'' Statewide, 19 emergency rooms have closed since 1997 despite an increase in the number of uninsured requiring care. The burden to provide care is put on those hospitals who have managed to remain open, and many of those hospitals are currently facing financial problems of their own.

California's health care system, in the words of a November 15th Wall Street Journal article, is a ''chaotic and discombobulated environment.'' It is stretched to the limit:

Thirty-seven California hospitals have closed since 1996, and up to 15 percent more may close by 2005.

Earlier this month, Scripps Memorial Hospital East County closed its doors due in part to reimbursement problems.

Eighty-six California hospitals operated in the red in 1999.

Academic medical centers, which incur added costs unique to their mission, are facing margins reduced to zero and below.

Sixty-two percent of California hospitals are now losing money. Due to the large number of Medicare and Medicaid patients, sixty-nine percent of California's rural hospitals lost money in 1998, according to the California Healthcare Association.

Hospitals have laid off staff, limited hours of operation, and discontinued services.

California physician groups are failing at the rate of one a week, with 115 bankruptcies or closures since 1996.

In short, restoring Medicaid cuts is crucial to stabilizing California's health delivery system.

Circumstances have changed since 1997 when we passed the Balanced Budget Act. We have eliminated the federal deficit. Because we have a robust economy, lower inflation, higher GDP growth and lower unemployment, we also have lowered Medicaid spending growth more than anticipated. This climate provides us an opportunity to revisit the reductions contained in the Balanced Budget Act of 1997 and to strengthen the stability of health care services, a system that in my State is on the verge of unraveling.

We need to pass this bill. Without it, we could have a more severe health care crisis on our hands, especially in California. I urge my colleagues to join me in passing this bill.

By Mr. DASCHLE:

S. 2309. A bill to establish a commission to assess the performance of the civil works function of the Secretary of the Army; to the Committee on Environment and Public Works.

CORPS OF ENGINEERS CIVIL WORKS INDEPENDENT INVESTIGATION AND REVIEW ACT

Mr. DASCHLE. Mr. President, over the last couple of months the Washington Post has published a number of very troubling articles about the operations of the U.S. Army Corps of Engineers.

These stories expose the existence of independent agendas within the Corps. They suggest cost-benefit analyses rigged to justify billion dollar projects; disregard for environmental laws, and a pattern of catering to special interests.

The actions described in the Post articles raise serious questions about the accountability of the Corps. And they present a compelling case for a thorough review of the agency's operations and management.

And it is not only the Post articles that cause me to believe this.

The Corps' current effort to update the Missouri River Master Control Manual—the policy document that governs the Corps' management of the river from Montana to Missouri—illustrates not only that the Corps can be indifferent to the environment. Too often, it actually erects institutional barriers that make achieving certain critical ecological goals difficult or impossible.

This ought to be a concern to all Americans. It is a deep concern to South Dakotans. The Missouri runs down the center of our state and is a major source of income, recreation and pride for us.

More than 40 years ago, the Corps built dams up and down the Missouri River in order to harness hydroelectric power. In return, it promised to manage the river wisely and efficiently.

That promise has not been kept.

Silt has built up, choking the river in several spots.

In recent years, studies have been done to determine how to restore the river to health. An overwhelming amount of scientific and technical data all point to the same conclusion.

The flow of the river should more closely mimic nature. Flows should be higher in the spring, and lower in the summer—just as they are in nature.

Yet the Corps proposes to continue doing largely what it has been doing all these years—knowing the consequences, knowing exactly what the practices have produced now for the last 50-plus years.

The agency's refusal to change will further jeopardize endangered species. And, it will continue to erode the recreational value of the river, which is 12 times more important to the economy than its navigational value.

Why does the Corps insist—despite all the evidence—on this course?

It does it to protect the barge industry—a $7 million-a-year industry that American taxpayers already spend $8 million a year to support. $8 million. That's how much American taxpayers pay each year for channel maintenance, to accommodate the barge industry.

The Washington Post suggests that the Corps handling of the Missouri River Master Manual is not an isolated case.

The Post articles contain allegations by a Corps whistleblower who says that a study of proposed upper-Mississippi lock expansions was rigged to provide an economic justification for that billion-dollar project.

In response to these allegations, the Corps' own Office of Special Counsel concluded that the agency—quote—''probably broke laws and engaged in a gross waste of funds.''

In my own dealings with the Corps of Engineers, I too have experienced the institutional problems recorded so starkly in the Post series.

In South Dakota, where the Corps operates four hydroelectric dams, we have fought for more than 40 years to force the agency to meet its responsibilities under the 1958 Fish and Wildlife Coordination Act and mitigate the loss of wildlife habitat resulting from the construction of those dams.

For 40 years, the Corps has failed to meet those responsibilities.

That is why I have worked closely with the Governor of my state, Bill Janklow, and with many other South Dakotans, to come up with a plan to transfer of Corps lands back to the state of South Dakota and two Indian tribes.

Unfortunately, instead of attempting to work with us, the Corps is fighting us.

The litany of excuses, scare tactics and misinformation the Corps employed to try to defeat our proposal is outrageous. It appears Corps officials are not nearly as concerned with preserving the river as they are with preserving their own bureaucracy.

After the legislation was enacted, the Chief of the Engineers, General Joseph Ballard continued to resist its implementation. In fact, my own experiences with the Corps, and the experiences of other members, repeatedly demonstrates General Ballard's unwillingness to follow civilian direction and ensure the faithful implementation of the law.

When considered in the context of the litany of problems that have come to light in the Post series, Congress has no choice but to consider seriously moving the responsibilities of the Corps from the Army and placing them within the Department of the Interior. Too much power now is concentrated in the hands of the Chief of the Engineers, and that power too often has been abused.

General Ballard's lack of responsiveness to the law, to meeting environmental objectives and to civilian direction, has serious consequences for individual projects.

Beyond that, it raises very troubling questions about the lack of meaningful civilian control over this federal agency.

In a democracy, institutions of government must be held accountable. That is the job of Congress—to hold them responsible.

The existence of separate agendas within the Corps bureaucracy cannot be tolerated if our democracy is to succeed in representing the will of the people. Its elected representatives and the civil servants appointed by them must maintain control of the apparatus of government.

Moreover, contempt for environmental laws and self-serving economic analyses simply cannot be tolerated if Congress is to make well-informed decisions regarding the authorization of expensive projects, and if the American taxpayer is to be assured that federal monies are being spent wisely.

The Corps of Engineers provides a valuable national service. It constructs and manages needed projects throughout the country.

The size and scope of the biannual Water Resources Development Act is clear evidence of the importance of the Corps' civil works mission.

Because the Corps' work is so critical, it is essential that steps be taken immediately to determine the extent of the problems within the agency—and to design meaningful and lasting reforms to correct them.

Our nation needs a civil works program we can depend on. We need a Corps of Engineers that conducts credible analysis.

We need a Corps that balances economic development and environmental protection as required by its mandate—not one that ignores environmental laws as it chooses.

History does not offer much room for confidence that the Army Corps of Engineers can meet these standards under its current management structure. Therefore, I am introducing legislation today to establish an independent Corps of Engineers Investigation and Review Commission.

The commission will take a hard and systemic look at the agency and make recommendations to Congress on needed reforms.

It will examine a number of issues, including:

The effectiveness of civilian control in the Corps, particularly the effectiveness of the relationship between uniformed officers and the Assistant Secretary for civil works with regard to responsiveness, lines of authority, and coordination;

The Corps' compliance with environmental laws—including the Fish and Wildlife Coordination Act, the Endangered Species Act and NEPA—in the design and operation of projects;

The quality and objectivity of the agency's scientific and economic analysis;

The extent to which the Corps coordinates and cooperates with other state and federal agencies in designing and implementing projects;

The appropriateness of the agency's size, budget and personnel; and

Whether the civil works program should be transferred from the Corps to a civilian agency, and whether certain responsibilities should be privatized.

Mr. President, I urge my colleagues to review this legislation.

It is my hope that all those who care about the integrity of the Army Corps of Engineers and its mission will support this effort to identify and implement whatever reforms are necessary to rebuild public support for its work.

I ask unanimous consent that the full text of the legislation be printed in the CONGRESSIONAL RECORD.

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

S. 2309

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Corps of Engineers Civil Works Independent Investigation and Review Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Corps of Engineers Civil Works Independent Investigation and Review Commission established under section 3(a).

(2) SESSION DAY.—The term ''session day'' means a day on which both Houses of Congress are in session.

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the President shall establish a commission to be known as the ''Corps of Engineers Civil Works Independent Investigation and Review Commission''.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of not to exceed 18 members, and shall include—

(A) individuals appointed by the President to represent—

(i) the Department of the Army;

(ii) the Department of the Interior;

(iii) the Department of Justice;

(iv) environmental interests;

(v) hydropower interests;

(vi) flood control interests;

(vii) recreational interests;

(viii) navigation interests;

(ix) the Council on Environmental Quality; and

(x) such other affected interests as are determined by the President to be appropriate; and

(B) 6 governors from States representing different regions of the United States, as determined by the President.

(2) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 180 days after the date of enactment of this Act.

(c) TERM; VACANCIES.—

(1) TERM.—A member shall be appointed for the life of the Commission.

(2) VACANCIES.—A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—

(1) IN GENERAL.—The President shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(2) NO CORPS REPRESENTATIVE.—The Chairperson and the Vice Chairperson shall not be representatives of the Department of the Army (including the Corps of Engineers).

SEC. 4. INVESTIGATION OF CORPS OF ENGINEERS.

Not later than 2 years after the date of enactment of this Act, the Commission shall complete an investigation and submit to Congress a report on the Corps of Engineers, with emphasis on—

(1) the effectiveness of civilian control over the civil works functions of the Corps of Engineers, particularly the effectiveness of the relationship between uniformed officers and the office of the Assistant Secretary of the Army for Civil Works with respect to—

(A) responsiveness;

(B) lines of authority; and

(C) coordination;

(2) compliance through the civil works functions of the Corps of Engineers with environmental laws in the design and operation of projects, including—

(A) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(3) the quality and objectivity of scientific, environmental, and economic analyses by the Corps of Engineers, including the use of independent reviewers of analyses performed by the Corps;

(4) the extent of coordination and cooperation by the Corps of Engineers with other Federal and State agencies in designing and implementing projects;

(5) whether the size of the Corps of Engineers is appropriate, including the size of the budget and personnel of the Corps;

(6) whether the management structure of the Corps of Engineers should be changed, and, if so, how the management structure should be changed;

(7) whether any of the civil works functions of the Corps of Engineers should be transferred from the Department of the Army to a civilian agency or should be privatized;

(8) whether any segments of the inland water system should be closed;

(9) whether any planning regulations of the Corps of Engineers should be revised to give equal consideration to economic and environmental goals of a project;

(10) whether any currently-authorized projects should be deauthorized;

(11) whether all studies conducted by the Corps of Engineers should be subject to independent review; and

(12) the extent to which the benefits of proposed projects—

(A) exceed the costs of the projects; or

(B) accrue to private interests.

SEC. 5. POWERS.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from a Federal department or agency such information as the Commission considers necessary to carry out this Act.

(2) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the head of the department or agency shall provide the information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or personal property.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) NON-FEDERAL EMPLOYEES.—A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(2) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(b) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(2) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(3) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

(1) IN GENERAL.—An employee of the Federal Government may be detailed to the Commission without reimbursement.

(2) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $10,000,000 for each of fiscal years 2001 through 2003, to remain available until expended.

SEC. 8. TERMINATION OF COMMISSION.

The Commission shall terminate on the date on which the Commission submits the report to Congress under section 4(a).

By Mr. COVERDELL (for himself, Mr. LEAHY, Mr. HELMS, and Mr. DEWINE):

S.J. Res. 43. A joint resolution expressing the sense of Congress that the President of the United States should encourage free and fair elections and respect for democracy in Peru; read the first time.

SUPPORT FOR ELECTIONS AND DEMOCRACY IN PERU

Mr. COVERDELL. Mr. President, I rise today to introduce a joint resolution urging free and fair elections and respect for democratic principles in Peru. I join with my colleagues, Senator LEAHY, Senator HELMS, and Senator DEWINE to express concern about the transparency and fairness of the current electoral campaign in Peru.

Several independent election monitors have issued distressing reports on the conditions surrounding the upcoming April 9 elections in Peru. A Carter Center/National Democratic Institute delegation has concluded that conditions for a free election campaign have not been established. Their report states that ''the electoral environment in Peru is characterized by polarization, anxiety and uncertainties . . . Irreparable damage to the integrity of the electoral process has already been done.'' The Organization of American States (OAS) has come to similar conclusions. An OAS special rapporteur recently concluded that ''Peru lacks that necessary conditions to guarantee the complete exercise of the right to express political ideas that oppose or criticize the government.''

These reports, and others, detail the Peruvian Government's control of key official electoral agencies, systematic restrictions on freedom of the press, manipulation of the judicial process to stifle independent news outlets, and harassment or intimidation of opposition politicians—all with the aim of limiting the ability of opposition candidates to campaign freely. Such reports raise serious concerns about the openness in which the electoral campaign is being conducted and whether free and fair elections will actually occur.

Mr. President, this is a disturbing, though not necessarily surprising, trend for a government that already has an inconsistent record on democracy and the rule of law. Despite his many accomplishments, President Fujimori has often demonstrated little respect for democratic principles—his infamous ''auto-coup'', or dissolution of Congress, and his current bid for a third Presidential term being the best examples. In addition, the current crackdown on independent media highlights Peru's dismal record on press freedom under Fujimori. Freedom House rates only two countries in the Hemisphere, Peru and Cuba, as having a press that is ''not free.'' According to Freedom House, since 1992 media outlets have been pressured into self-censorship or exile by a government campaign of intimidation, abductions, death threats, arbitrary detention, and physical mistreatment. The case of Baruch Ivcher is a good example. In September 1997, a government-controlled court stripped Ivcher of his media business and his Peruvian citizenship after the station ran reports linking the military to torture and corruption. In 1998, Ivcher was sentenced in absentia to 12 years imprisonment.

The continued intimidation of journalists, and the lack of truly independent judicial and legislative branches threaten democracy and the rule of law in Peru. Indeed, Peru, could be said to be undergoing a ''slow-motion coup.'' Though not under attack in a violent or conspicuous manner, democracy and the rule of law in Peru are increasingly in question.

Mr. President, if one considers the incredible spread of democracy around the world over the last century, and in particular over the last twenty years, such a development is indeed disturbing. Consider the following: according to Freedom House, of the 192 sovereign states in existence today, 119 of them are considered true democracies. In 1950, just 22 countries were democracies, meaning that nearly 100 nations have made the transition over this half century. Nowhere was there a more dramatic change than in our own back yard. In 1981, 18 of the 33 nations in the hemisphere were under some

form of authoritarian rule. By the beginning of the 1990's, all but one—Castro's Cuba—had freely elected heads of state.

Despite these gains, freedom in the hemisphere remains fragile and uncertain—Peru being just one example. After 7 years of neglect by the current administration, some of the hard-fought victories for freedom in Latin America are weakened and in jeopardy. There is no doubt that if the elections are not deemed to be free and fair, it will represent a major setback for the people of Peru and for democracy in the hemisphere.

Mr. President, we must recommit ourselves to nurturing and protecting the gains of freedom around the world, but with great attention on our own hemisphere. A message must be sent to President Fujimori that if democratic processes are not respected, their economic and diplomatic relations will suffer. This message should be unanimous from every nation in the region, and not just from the United States. A breach of democracy, especially in this hemisphere, must not be allowed to stand.

I ask unanimous consent that a copy of the joint resolution be printed in the RECORD.

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

S.J. RES. 43

Whereas presidential and congressional elections are scheduled to occur in Peru on April 9, 2000;

Whereas independent election monitors have expressed grave doubts about the fairness of the electoral process due to the Peruvian Government's control of key official electoral agencies, systematic restrictions on freedom of the press, manipulation of the judicial processes to stifle independent reporting on radio, television, and newspaper outlets, and harassment and intimidation of opposition politicians, which have greatly limited the ability of opposing candidates to campaign freely; and

Whereas the absence of free and fair elections in Peru would constitute a major setback for the Peruvian people and for democracy in the hemisphere, could result in instability in Peru, and could jeopardize United States antinarcotics objectives in Peru and the region: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress Assembled, That it is the sense of Congress that the President of the United States should promptly convey to the President of Peru that if the April 9, 2000 elections are not deemed by the international community to have been free and fair, the United States will modify its political and economic relations with Peru, including its support for international financial institution loans to Peru, and will work with other democracies in this hemisphere and elsewhere toward a restoration of democracy in Peru.

Mr. LEAHY. Mr. President, today I am joining Senators COVERDELL, DEWINE and HELMS in introducing a Joint Resolution regarding the presidential and congressional elections in Peru, which are scheduled for April 9. I want to thank the other sponsors for their leadership and concern for these issues.

These elections have generated a great deal of attention and anticipation, and they have also focused a spotlight on President Fujimori, who is running for an unprecedented third term. He is doing so after firing three of the country's Supreme Court judges, who had determined that a third term was barred by Peru's Constitution.

President Fujimori has often been praised for what he has accomplished since he first took office in 1990. He success in defeating the brutal Sendero Luminoso insurgency, combating cocaine trafficking, and curbing soaring inflation has brought stability and greater economic opportunities.

These are important achievements. Unfortunately, they have often been accomplished through the strong arm tactics of a president who has shown a disturbing willingness to run roughshod over democratic principles and institutions.

In the run up to the April 9th election, President Fujimori's and his supporter's disrespect for democratic procedures and the conditions necessary for free and fair elections has rarely been so blatant.

Journalists and independent election observer groups cite the Peruvian Government's control of key official electoral agencies, systematic restrictions on freedom of the press, manipulation of the judicial process, alleged falsification of electoral petitions and harassment and intimidation of opposition politicians as just a few of the problems plaguing this process.

In February, the National Democratic Institute and the Carter Center concluded that ''extraordinary, immediate and comprehensive measures'' were necessary if the Peruvian elections are to meet international standards. Those measures have not been taken, and NDI and the Carter Center recently reported that ''irreparable damage to the integrity of the election process has already been done.'' The Clinton administration, to its credit, has expressed grave concerns about the transparent attempts by President Fujimori and his supporters to manipulate the election process.

Mr. President, the results of the Peruvian elections will not be known until the final ballot is counted. But one thing is already clear. If the elections are not deemed to have been free and fair, it will be a major setback for the Peruvian people and for democracy in the hemisphere. And if that happens, the United States must react strongly. We will have no choice but to modify our economic and political relations with Peru, and work to restore democracy to that country.

That is the message of this resolution, and I urge other Senators to support it so we can send as strong a message as possible to President Fujimori and the Peruvian people.

Mr. President, I also want to take this opportunity to mention another matter that has caused me and other Members of Congress great concern. The Peruvian Government recently brought to the United States a former Peruvian Army intelligence officer who was responsible for torturing a woman who was left permanently paralyzed as a result. He was convicted in Peru, but released after a military tribunal reversed his conviction. For reasons that I have yet to get a suitable answer to, the U.S. Embassy granted him a visa to come to the United States to testify at a hearing before the Inter-American Human Rights Commission. That was bad enough. But the fact that the Peruvian Government saw fit to include such a person in its official delegation to appear as a witness in a human rights forum says a great deal about that government, and it should be condemned.

Finally, I want to express my personal concern about Lori Berenson, who was convicted by a Peruvian military court and sentenced to life in prison. The United States Government, other governments, Amnesty International and other independent human rights groups, have all concluded that she was denied due process. I and others have called for her release or trial by a civilian court in accordance with international standards. Innocent or guilty, every person deserves a fair trial, and I would hope that a country that professes to respect human rights would recognize the obvious—that Ms. Berenson's conviction was a miscarriage of justice.

ADDITIONAL COSPONSORS

S. 514

At the request of Mr. COCHRAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 514, a bill to improve the National Writing Project.

S. 577

At the request of Mr. GRAMS, his name was added as a cosponsor of S. 577, a bill to provide for injunctive relief in Federal district court to enforce State laws relating to the interstate transportation of intoxicating liquor.

S. 656

At the request of Mr. REED, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 656, a bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

S. 764

At the request of Mr. THURMOND, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 764, a bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes.

S. 1020

At the request of Mr. GRASSLEY, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of S. 1020, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration

process relating to motor vehicle franchise contracts.

S. 1133

At the request of Mr. GRAMS, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from Missouri (Mr. ASHCROFT) were added as cosponsors of S. 1133, a bill to amend the Poultry Products Inspection Act to cover birds of the order Ratitae that are raised for use as human food.

S. 1159

At the request of Mr. STEVENS, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 1159, a bill to provide grants and contracts to local educational agencies to initiate, expand, and improve physical education programs for all kindergarten through 12th grade students.

S. 1237

At the request of Mr. HUTCHINSON, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 1237, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation.

S. 1805

At the request of Mr. KENNEDY, the names of the Senator from Illinois (Mr. DURBIN), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1805, a bill to restore food stamp benefits for aliens, to provide States with flexibility in administering the food stamp vehicle allowance, to index the excess shelter expense deduction to inflation, to authorize additional appropriations to purchase and make available additional commodities under the emergency food assistance program , and for other purposes.

S. 1855

At the request of Mr. MURKOWSKI, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1855, a bill to establish age limitations for airmen.

S. 1874

At the request of Mr. GRAHAM, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 1874, a bill to improve academic and social outcomes for youth and reduce both juvenile crime and the risk that youth will become victims of crime by providing productive activities conducted by law enforcement personnel during non-school hours.

S. 1946

At the request of Mr. INHOFE, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 1946, a bill to amend the National Environmental Education Act to redesignate that Act as the ''John H. Chafee Environmental Education Act,'' to establish the John H. Chafee Memorial Fellowship Program, to extend the programs under that Act, and for other purposes.

S. 2018

At the request of Mrs. HUTCHISON, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2018, a bill to amend title XVIII of the Social Security Act to revise the update factor used in making payments to PPS hospitals under the medicare program.

S. 2058

At the request of Mr. GRAHAM, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2058, a bill to extend filing deadlines for applications for adjustment of status of certain Cuban, Nicaraguan, and Haitian nationals.

S. 2068

At the request of Mr. GREGG, the names of the Senator from Wyoming (Mr. THOMAS) and the Senator from Arizona (Mr. KYL) were added as cosponsors of S. 2068, a bill to prohibit the Federal Communications Commission from establishing rules authorizing the operation of new, low power FM radio stations.

S. 2070

At the request of Mr. FITZGERALD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2070, a bill to improve safety standards for child restraints in motor vehicles.

S. 2225

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2225, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. CON. RES. 69

At the request of Ms. SNOWE, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. Con. Res. 69, a concurrent resolution requesting that the United States Postal Service issue a commemorative postal stamp honoring the 200th anniversary of the naval shipyard system.

S. CON. RES. 84

At the request of Mr. WARNER, the names of the Senator from Virginia (Mr. ROBB), the Senator from Massachusetts (Mr. KERRY), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Delaware (Mr. ROTH), and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. Con. Res. 84, a concurrent resolution expressing the sense of Congress regarding the naming of aircraft carrier CVN–77, the last vessel of the historic ''*Nimitz*'' class of aircraft carriers, as the U.S.S. *Lexington*.

SENATE CONCURRENT RESOLUTION 99—CONGRATULATING THE PEOPLE OF TAIWAN FOR THE SUCCESSFUL CONCLUSION OF PRESIDENTIAL ELECTIONS ON MARCH 18, 2000, AND REAFFIRMING UNITED STATES POLICY TOWARD TAIWAN AND THE PEOPLE'S REPUBLIC OF CHINA

Mr. LOTT submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 99

Whereas section 2(c) of the Taiwan Relations Act (Public Law 96–8) states ''[t]he preservation and enhancement of the human rights of all the people on Taiwan'' to be an objective of the United States;

Whereas Taiwan has become a multiparty democracy in which all citizens have the right to participate freely in the political process;

Whereas the people of Taiwan have, by their vigorous participation in electoral campaigns and public debate, strengthened the foundations of a free and democratic way of life;

Whereas Taiwan successfully conducted a presidential election on March 18, 2000;

Whereas President Lee Teng-hui of Taiwan has actively supported the consolidation of democratic institutions and processes in Taiwan since 1988 when he became President;

Whereas this election represents the first such transition of national office from one elected leader to another in the history of Chinese societies;

Whereas the continued democratic development of Taiwan is a matter of fundamental importance to the advancement of United States interests in East Asia and is supported by the United States Congress and the American people;

Whereas a stable and peaceful security environment in East Asia is essential to the furtherance of democratic developments in Taiwan and other countries, as well as to the protection of human rights throughout the region;

Whereas since 1972 United States policy toward the People's Republic of China has been predicated upon, as stated in section 2(b)(3) of the Taiwan Relations Act, ''the expectation that the future of Taiwan will be determined by peaceful means'';

Whereas section 2(b)(6) of the Taiwan Relations Act further pledges ''to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people of Taiwan'';

Whereas on June 9, 1998, the House of Representatives voted unanimously to adopt House Concurrent Resolution 270 that called upon the President of the United States to seek ''a public renunciation by the People's Republic of China of any use of force, or threat to use force, against democratic Taiwan'';

Whereas the People's Republic of China has consistently refused to renounce the use of force against Taiwan;

Whereas the State Council, an official organ at the highest level of the Government of the People's Republic of China, issued a ''white paper'' on February 21, 2000, which threatened ''to adopt all drastic measures possible, including the use of force'', if Taiwan indefinitely delays entering into negotiations with the People's Republic of China on the issue of reunification; and

Whereas the February 21, 2000, statement by the State Council significantly escalates tensions across the Taiwan Straits and sets

forth a new condition that has not heretofore been stated regarding the conditions that would prompt the People's Republic of China to use force against Taiwan: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the people of Taiwan are to be congratulated for the successful conclusion of presidential elections on March 18, 2000, and for their continuing efforts in developing and sustaining a free, democratic society which respects human rights and embraces free markets;

(2) President Lee Teng-hui of Taiwan is to be congratulated for his significant contributions to freedom and democracy on Taiwan;

(3) President-elect Chen Shui-bian and Vice President-elect Annette Hsiu-lien Lu of Taiwan are to be congratulated for their victory, and they have the strong support and best wishes of the Congress and the American people for a successful administration;

(4) it is the sense of Congress that the People's Republic of China should refrain from making provocative threats against Taiwan and should instead undertake steps that would lead to a substantive dialogue, including a renunciation of the use of force against Taiwan and progress toward democracy, the rule of law, and protection of human and religious rights in the People's Republic of China; and

(5) the provisions of the Taiwan Relations Act (Public Law 96–8) are hereby affirmed as the statutory standard by which United States policy toward Taiwan shall be determined.

SENATE RESOLUTION 278—COMMENDING ERNEST BURGESS, M.D. FOR HIS SERVICE TO THE NATION AND INTERNATIONAL COMMUNITY

Mr. KERREY submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 278

Whereas Dr. Ernest Burgess has practiced medicine for over 50 years;

Whereas Dr. Burgess has been a pioneer in the field of prosthetic medicine, spearheading ground breaking advances in hip replacement surgery and new techniques in amputation surgery;

Whereas in 1964, recognizing his work in prosthetic medicine, the United States Veterans' Administration chose Dr. Burgess to establish Prosthetic Research Study, a leading center for post operative amputee treatment;

Whereas Dr. Burgess was the recipient of the 1985 United States Veterans' Administration Olin E. League Award and honored as the United States Veterans' Administration Distinguished Physician;

Whereas Dr. Burgess' work on behalf of disabled veterans has allowed thousands of veterans to lead full and healthy lives;

Whereas Dr. Burgess is internationally recognized for his humanitarian work;

Whereas Dr. Burgess established the Prosthetics Outreach Foundation, which since 1988, has enabled over 10,000 children and adults in the developing world to receive quality prostheses;

Whereas Dr. Burgess' life long commitment to humanitarian causes led him to establish a demonstration clinic in Vietnam to provide free limbs to thousands of amputees;

Whereas Dr. Burgess has received numerous professional and educational distinctions recognizing his efforts on behalf of those in need of care; and

Whereas Dr. Burgess' exceptional service and his unfailing dedication to improving the lives of thousands of individuals merit high esteem and admiration: Now, therefore, be it

Resolved, That the United States Senate commends Ernest Burgess, M.D. for a life devoted to providing care and service to his fellow man.

Mr. KERREY. Mr. President, I rise today to honor Dr. Ernest M. Burgess, a man who has dedicated his life to cleansing sickness from the lives of countless people.

When my grandchildren study the events that shaped the development of the twentieth century, the American Century as some call it, they will be learning of the life of Dr. Burgess. I often speak of the admirable sacrifices and tremendous foresight of this generation of Americans: a generation who, more than any before it, left an indelible imprint on the course of human history. Dr. Burgess, like thousands of his contemporaries, was an ordinary citizen who lived an extraordinary life of service and accomplishment.

Born eleven years into the new century, Ernie was raised in the character of the rural American West. Influenced by a remarkable aunt who practiced medicine at a time when most women couldn't vote, he became attracted to serving and caring for the sick. Upon completion of his medical degree and residency at Columbia and Cornell Universities, Dr. Burgess served his country in the U.S. Army from 1943 to 1946.

Mr. President, one of the bitterest effects of war visits those who suffer debilitating wounds and then live a life forever altered. As an orthopedic surgeon involved in ground breaking advancements in prosthetic surgery, Dr. Burgess has allowed thousands of amputees the opportunity to return to activities unimaginable at the time of the injury. He is a pioneer in the field of prosthetic research and responsible for the establishment of Prosthetics Research Study (PRS), which is one of the leading centers in the world for post-operative care. Through a career that spans six decades, Dr. Burgess has used his medical gifts to improve the health of his fellow humans.

As a veteran and amputee, I live with the daily reminder of the costs of war. Because of the work of Dr. Burgess, I and thousands of veterans have a more powerful reminder of our service: one where our lives are complete and rewarding.

Through his work with the Prosthetic Research Study, Dr. Burgess pioneered new surgical techniques that allow amputees to move with more comfort and mobility. The development of lightweight and responsive materials have permitted thousands of amputees the freedom to participate in physical activities from skiing to basketball. On a personal note, my passion for running and my ability to ski and play golf and walk these halls could not be a reality without the advances spearheaded by the PRS and Dr. Burgess.

Throughout his career, Dr. Burgess has continued to be at the forefront of improving prosthetic techniques. A teacher and author of surgical and rehabilitation texts, he tirelessly emphasizes constructive surgery for amputees. As he often states, ''the way the surgery is performed will affect the rest of his life.'' Dr. Burgess takes this philosophy to heart and I admire his continued pursuit of improving medical care.

The effects of war are inflicted mainly on the innocent and young. After American participation in Vietnam ended we slowly realized the breadth of the war's destruction on so many Vietnamese. The existence of thousands of injured civilians highlighted the larger world problem of poor medical treatment in many parts of the world—parts that are also the most war-torn. In 1988, at the prompting of United States Vietnam Veterans who had visited Vietnam, Dr. Burgess and others worked to establish the Prosthetics Outreach Center (POC). This clinic has provided thousands of Vietnamese with free limbs and allowed them to rediscover the completeness of their lives.

Mr. President, as the men and women of America's greatest generation, enter a new century, I remain in awe of their continuing achievements. The remarkable career of Dr. Burgess epitomizes the commitment to improving peoples lives through dedicated effort. I am proud to be able to submit this Resolution recognizing a great man and paying tribute to his attainments and his goals. Thank you, Dr. Burgess, and I know my colleagues join me in recognition of your accomplishments.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place Wednesday, April 5, 2000, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this oversight hearing is to receive testimony on the proposed 5-year strategic plan of the U.S. Forest Service in compliance with Government Results and Performance Act.

Those who wish 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 Mark Rey at (202) 224–6170.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the hearing originally scheduled for Thursday, April 6, 2000, at 2:30 p.m., before the Subcommittee on National Parks,

Historic Preservation, and Recreation of the Committee on Energy and Natural Resources, a hearing to receive testimony on the incinerator component at the proposed Advanced Waste Treatment Facility at the Idaho National Engineering and Environmental Laboratory and its potential impact on the adjacent Yellowstone and Grand Teton National Parks, has been cancelled.

For further information, please contact Jim O'Toole or Kevin Cark of the committee staff at (202) 224–6969.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, March 28, for purposes of conducting a joint committee hearing with the Committee on Foreign Relations, which is scheduled to begin at 3:00 p.m. The title of this oversight hearing is ''America at Risk: U.S. Dependency on Foreign Oil.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 28, 2000, at 2:30 p.m., to hold a hearing.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Children and Families, be authorized to meet for a hearing on ''Keeping Children Safe from Internet Predators'' during the session of the Senate on Tuesday, March 28, 2000, at 9:30 a.m.

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

COMMITTEE ON SMALL BUSINESS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate on Tuesday, March 28, 2000, beginning at 9:30 a.m., in room 562 of the Dirksen Senate Office Building to hold a hearing entitled ''Swindling Small Businesses: Toner-Phoner Schemes and Other Office Supply Scams.''

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Governmental Affairs Committee be authorized to meet during the session of the Senate on Tuesday, March 28, 2000, at 9:30 a.m., for a hearing entitled ''Oversight of HCFA's Settlement Policies: Did HCFA Give Favored Providers Sweetheart Deals?''

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

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, AND NUCLEAR SAFETY

Mr. HATCH. Mr. President. I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, and Nuclear Safety be authorized to meet during the session of the Senate on Tuesday, March 28, 9:30 a.m., to conduct a hearing to receive testimony regarding the Administration's budget for the EPA Clean Air programs and the Army Corps of Engineers Wetlands budget.

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

SUBCOMMITTEE ON COMMUNICATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Senate Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on Tuesday, March 28, 2000, at 9:30 a.m., on broadband deployment in rural areas.

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

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM AND GOVERNMENT INFORMATION

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Technology, Terrorism and Government Information be authorized to meet to conduct a hearing on Tuesday, March 28, 2000, at 10 a.m., in SD–226.

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

MEASURE READ FOR THE FIRST TIME—S.J. RES. 43

Mr. LOTT. Mr. President, there is a joint resolution at the desk which was introduced earlier by Senator COVERDELL and others, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The senior assistant bill clerk read as follows:

A joint resolution (S.J. Res. 43) expressing the sense of the Congress that the President of the United States should encourage free and fair elections and respect for democracy in Peru.

Mr. LOTT. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

CONGRATULATING THE PEOPLE OF TAIWAN AND REAFFIRMING U.S. POLICY

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 99, submitted earlier today by me.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 99) congratulating the people of Taiwan for the successful conclusion of Presidential elections on March 18, 2000, and reaffirming United States policy toward Taiwan and the People's Republic of China.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BIDEN. Mr. President, on March 18 the people of Taiwan went to the polls and chose their next president through a free and fair multiparty election. The winner of a close three-way race, Chen Shui-bian of the Democratic Progressive Party, will be inaugurated in May.

I had the pleasure of meeting with Mr. Chen in Washington in 1997 when he was the mayor of Taipei. I was impressed by his political smarts and his commitment to building a more democratic and prosperous Taiwan.

I also found him to be genuinely committed to improving relations with the mainland.

I believe that Taiwan's election provides a fresh opportunity for the people of Taiwan and the people of China to reach out and resolve their differences peacefully through dialog on the basis of mutual respect.

I hope that leaders on both sides of the Strait will seize this opportunity and begin to lay the foundation of trust, goodwill, and understanding which must precede true reconciliation.

The inauguration of Chen will end the virtual monopoly of power the Nationalist Party has exercised for most of the past 50 years. This peaceful transition of power at the top of Taiwan's political system will mark the maturation of their democracy, and it is an event worthy of our profound respect and hearty congratulations.

It was only 13 years ago that Taiwan lifted martial law and ushered in a new period of open political discourse and expanded civil liberty. Prior to that, Taiwan's leaders did not tolerate dissent and moved swiftly and sometimes ruthlessly to silence their critics.

Taiwan's president-elect knows this well, because he got his start in politics as a young crusading lawyer working to promote transparency, freedom of speech, and freedom of assembly.

Taiwan's emergence as a genuine multiparty democracy is a significant development in the long history of China. It is all the more remarkable given the fact that China's leaders in Beijing have done their level best to intimidate Taiwan's voters and prevent them from exercising this fundamental right.

I cannot help but wonder how average Chinese on the mainland must view Taiwan's remarkable transformation. On the one hand, the people of China have a deep devotion to national unity and apparently are prepared to use force against Taiwan if it were to declare its independence.

As Zhang Yunling of the Chinese Academy of Social Sciences in Beijing explained to New York Times correspondent Elisabeth Rosenthal on March 20, ''China was divided when it was weak, and now that it is getting strong again, people's nationalist feeling rises and they feel strongly it is time to reunite the country.''

On the other hand, the people of China are beginning to form their own impressions of Taiwan, no longer content only to listen to the government's official propaganda demonizing the island. Some even admit publicly to a certain grudging admiration for Taiwan's accomplishments and hope their own government will do nothing to precipitate a crisis.

As one 22-year-old Beijing University physics major told Rosenthal, ''I think both sides will have to make adjustments to their policies. After all Taiwan is democratic now, and the people have exercised their right to choose a president.''

Let me read the words of that university student again, ''. . . the people have exercised their right to choose a president.''

In America, we take democratic transitions of power for granted. But in China, and until recently on Taiwan, it was a revolutionary concept. And yet that is precisely what the people of Taiwan did on March 18. They changed their leadership through a peaceful, orderly, democratic process. They did so, by all accounts, because they were frustrated with corruption, cronyism, campaign finance abuses, and bureaucratic inefficiency.

These are all faults that China's communist government has in spades. And with Internet use exploding in China, and with cross-straits commercial ties now in the tens of billions of dollars, there is no way that the people of China will not discover what is happening on Taiwan.

And they may become inspired not only by the island's prosperity, but also by its peaceful democratic revolution. I predict they will begin to ask themselves, ''How come we don't enjoy the same standard of living and the same political rights here on the mainland?''

Taiwan's people are responsible for the island's miraculous transformation from authoritarian rule and poverty to democracy and prosperity. They deserve all of the credit. But the people of the United States have reason to feel a little bit of pride as well.

If Taiwan wins the Oscar for Best Actor, then we at least get a nomination for Best Supporting Actor. The United States commitment to Taiwan's security under the terms of the Taiwan Relations Act helped create the stable environment in which Taiwan has thrived.

The other critical component of cross-Strait stability has been our adherence to a ''One-China'' policy, in which we maintain that disputes between the two sides of the Taiwan Strait must be settled peacefully, and that the future relationship between the People's Republic of China and Taiwan must be determined in accordance with the wishes of the people of China and the people of Taiwan.

Maintaining a peaceful, stable environment in the Taiwan Strait has fostered economic growth throughout East Asia. It has also aided the emergence of democratic societies in the Philippines, Thailand, South Korea, Indonesia, and Taiwan.

In the past decade, more people have come under democratic rule in East Asia than were liberated in Europe by the end of the cold war and the collapse of the Soviet Union. This remarkable accomplishment would not have been possible without United States leadership.

Given all that Taiwan has accomplished in such a short span, I look forward to the future with renewed hope that someday all people of China will enjoy the rights and standard of living enjoyed by those fortunate few who live on Taiwan.

Mr. LOTT. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 99) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 99

Whereas section 2(c) of the Taiwan Relations Act (Public Law 96–8) states ''[t]he preservation and enhancement of the human rights of all the people on Taiwan'' to be an objective of the United States;

Whereas Taiwan has become a multiparty democracy in which all citizens have the right to participate freely in the political process;

Whereas the people of Taiwan have, by their vigorous participation in electoral campaigns and public debate, strengthened the foundations of a free and democratic way of life;

Whereas Taiwan successfully conducted a presidential election on March 18, 2000;

Whereas President Lee Teng-hui of Taiwan has actively supported the consolidation of democratic institutions and processes in Taiwan since 1988 when he became President;

Whereas this election represents the first such transition of national office from one elected leader to another in the history of Chinese societies;

Whereas the continued democratic development of Taiwan is a matter of fundamental importance to the advancement of United States interests in East Asia and is supported by the United States Congress and the American people;

Whereas a stable and peaceful security environment in East Asia is essential to the furtherance of democratic developments in Taiwan and other countries, as well as to the protection of human rights throughout the region;

Whereas since 1972 United States policy toward the People's Republic of China has been predicated upon, as stated in section 2(b)(3) of the Taiwan Relations Act, ''the expectation that the future of Taiwan will be determined by peaceful means'';

Whereas section 2(b)(6) of the Taiwan Relations Act further pledges ''to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people of Taiwan'';

Whereas on June 9, 1998, the House of Representatives voted unanimously to adopt House Concurrent Resolution 270 that called upon the President of the United States to seek ''a public renunciation by the People's Republic of China of any use of force, or threat to use force, against democratic Taiwan'';

Whereas the People's Republic of China has consistently refused to renounce the use of force against Taiwan;

Whereas the State Council, an official organ at the highest level of the Government of the People's Republic of China, issued a ''white paper'' on February 21, 2000, which threatened ''to adopt all drastic measures possible, including the use of force'', if Taiwan indefinitely delays entering into negotiations with the People's Republic of China on the issue of reunification; and

Whereas the February 21, 2000, statement by the State Council significantly escalates tensions across the Taiwan Straits and sets forth a new condition that has not heretofore been stated regarding the conditions that would prompt the People's Republic of China to use force against Taiwan: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the people of Taiwan are to be congratulated for the successful conclusion of presidential elections on March 18, 2000, and for their continuing efforts in developing and sustaining a free, democratic society which respects human rights and embraces free markets;

(2) President Lee Teng-hui of Taiwan is to be congratulated for his significant contributions to freedom and democracy on Taiwan;

(3) President-elect Chen Shui-bian and Vice President-elect Annette Hsiu-lien Lu of Taiwan are to be congratulated for their victory, and they have the strong support and best wishes of the Congress and the American people for a successful administration;

(4) it is the sense of Congress that the People's Republic of China should refrain from making provocative threats against Taiwan and should instead undertake steps that would lead to a substantive dialogue, including a renunciation of the use of force against Taiwan and progress toward democracy, the rule of law, and protection of human and religious rights in the People's Republic of China; and

(5) the provisions of the Taiwan Relations Act (Public Law 96–8) are hereby affirmed as the statutory standard by which United States policy toward Taiwan shall be determined.

UNANIMOUS-CONSENT REQUEST—S. 2285

Mr. LOTT. Mr. President, I have a unanimous-consent request which I have communicated to Senator DASCHLE. He is here to respond. Before I propound it, I will say this does have to do with the issue of gasoline taxes, and it is an effort to get a process started so we can have a discussion and debate about votes on this issue.

I ask unanimous consent that the Senate now turn to Calendar No. 473, S.

2285, regarding gas taxes, and that following the reporting of the bill, there be 4 hours equally divided for debate under control of the two leaders or their designees. I further ask unanimous consent that no amendments or motions be in order and, following the use or yielding back of time, the bill be advanced to third reading and passage occur, all without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, reserving the right to object, first, this bill has never been in committee. It has not had the opportunity afforded most legislation to be considered, have hearings, have people come forth and talk about the implications of eliminating the gas tax. Normally bills go through committee, and then they come to the floor. That is No. 1.

No. 2, what kind of a debate would one have when no amendments are made available? I cannot imagine that on an issue of this import we would want to accelerate the debate, accelerate the consideration, and prevent Senators from offering amendments and other ideas.

For those reasons, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, I regret the objection from the minority leader, but I understand. This agreement would allow the Senate to pass and send a message to all Americans that we are trying to do what we can in the short term to alleviate the rising gas prices all Americans are paying at the pumps.

I would not suggest for a moment that this is the long-term solution, and I should emphasize, this legislation would allow for the suspension of the 4.3-cents-a-gallon gas tax for the remainder of the year, with a trigger device that says that if the average price nationwide reaches $2, then there will be a gas tax holiday for the remainder of the year for the full 18.4 cents a gallon.

It is pretty simple and straightforward. There would be time for debate, but I understand.

We will get the process started, and we will see how it develops in terms of the debate and what votes will occur in order for us to start this process, which looks like we will have to go through a motion to proceed to invoke cloture on the bill and then there will be subsequent votes.

In order for this to be considered in a timely fashion, which could take as long as a week or two, I thought we needed to get it started.

MOTION TO PROCEED—S. 2285

CLOTURE MOTION

Mr. LOTT. Mr. President, I now move to proceed to Calendar No. 473 and send a cloture motion to the desk on the motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to the Gas Tax Repeal Act, S. 2285:

Trent Lott, Frank H. Murkowski, Paul Coverdell, Conrad Burns, Larry E. Craig, Mike Crapo, Judd Gregg, Orrin Hatch, Rod Grams, Susan Collins, Robert F. Bennett, Chuck Grassley, Mike Inhofe, Don Nickles, Sam Brownback, and Richard G. Lugar.

Mr. LOTT. Mr. President, this cloture vote will occur then on Thursday. I will work with the Democratic leader to set this vote, hopefully following the passage of the satellite loan guarantee bill, which I know the Senate is anxious to get completed. It was part of an agreement last year that we entered into with regard to the satellite bill that there was a need for a loan program to make sure that it actually worked, and so this bill will be on the floor. I am sure there are going to be some amendments that will be offered on that, but we would like to complete that and then go to this subsequent vote on Thursday. We will work through the timing of it. In the meantime, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

Mr. LOTT. I now withdraw the motion.

The PRESIDING OFFICER. The motion is withdrawn.

LEADER'S LECTURE SERIES—BOB DOLE

Mr. LOTT. Mr. President, I note that at 6 o'clock tonight, we will be hearing the sixth presentation in the Leader's Lecture Series. Our presenter tonight is our beloved former minority and majority leader, Bob Dole. I encourage all Senators to attend. I know there will be family and friends and guests of Senator Dole. Hopefully, we will be available on C–SPAN so the American people will be interested in hearing from this patriot and one of America's favorite sons.

ORDERS FOR WEDNESDAY, MARCH 29, 2000

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Wednesday, March 29. I further ask unanimous consent that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume debate on S.J. Res. 14, the flag desecration bill for up to 30 minutes equally divided between the chairman and the ranking member.

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

PROGRAM

Mr. LOTT. So then at 9:30, we will resume consideration of the resolution. We will have 30 minutes of debate, and the cloture vote will occur on the resolution. Senators can expect the first vote at 10 a.m. on Wednesday. Following that vote, notwithstanding rule XXII, I ask unanimous consent that the Senate begin a period of morning business until 12:30 p.m. with Senators speaking for up to 5 minutes each with the following exceptions: Senator BROWNBACK, or his designee, the first 30 minutes; to be followed by Senator COVERDELL, or his designee, for 30 minutes; and Senator DURBIN, or his designee, for 60 minutes.

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

Mr. LOTT. If the cloture motion is agreed to, a final passage vote on the resolution is expected to occur during the day tomorrow, probably in the afternoon session, obviously. As a reminder, cloture was filed on the gas tax legislation, and pursuant to rule XXII, that vote will occur on Thursday at a time to be announced later after consultation between the two leaders.

The Senate will also begin consideration of the loan guarantees legislation as per the unanimous consent agreement.

ORDER FOR ADJOURNMENT

Mr. LOTT. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order following the remarks of the Democratic leader, Senator DASCHLE.

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

LEGISLATIVE MATTERS

Mr. DASCHLE. Mr. President, I come to the floor to talk briefly about a matter that we have been especially concerned about in recent months, and that has to do with the Corps of Engineers.

Prior to that, I rise to express my disappointment that we were not able to get to the electronic signature bill conference report today. I thought we had worked out all of the problems. Now, as I understand it, there are some problems on the Republican side. I hope it won't be held up too much longer. We need to get on with that legislation, and we have been trying to move this bill to conference now for some time. We had worked out our concerns with regard to representation, and I was certain we would be able to finish that work today. But given the problems there now appear to be on the Republican side, I am hopeful we can resolve those no later than tomorrow.

I am reminded, again, as we file cloture, that the motion to invoke cloture is a motion to end debate. I am always amused by that phrase, ''end debate.'' How do you end debate that you haven't even started? That is what we are being asked to do on Thursday, end debate on a tax bill that didn't go to the committee, on a tax bill that hasn't had one hearing.

How is it that we would limit Senators' rights to offer amendments when those considerations are paramount as we consider a tax bill—a gas tax bill?

So we are very concerned about why it is we need to move rapidly to this legislation if it is this important, if it is this much a part of finding ways in which to provide relief. You would think that, consistent with past practice and consistent with the recognition of the importance of the issue, it at least would have been given a hearing or some consideration in committee. That has not happened.

(The remarks of Mr. DASCHLE pertaining to the introduction of S. 2309 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 5:46 p.m., adjourned until Wednesday, March 29, 2000, at 9:30 a.m.