had to file this week, I still think it is the appropriate thing to do to begin this process because we do not know exactly how long it will take to get to a final vote on the China trade issue.

I am still going to do my best to find a way to have the Thompson-Torricelli legislation considered in some manner before we get to the substance of the China trade bill because I think Chinese nuclear weapons proliferation is a very serious matter. We should discuss that and have a vote on it. I think it would be preferable to do it aside from the trade bill itself.

In the end, if we can't get any other way to get at it, these two Senators may exercise their right to offer it to the China PNTR bill. But I am going to continue to try to find a way for that to be offered in another forum. I think Senator DASCHLE indicated he would work with us to try to see if we could find a way to do that. But I do think if we can go ahead and get started—and since there will be resistance to the motion to proceed—then we will file cloture and have a vote on it then on Friday.

NONDISCRIMINATORY TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA—MOTION TO PROCEED

Mr. LOTT. So, Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 575, H.R. 4444, regarding normal trade relations with the People's Republic of China.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. I am sorry there is objection just to proceeding to the bill. But I know that Senator REID is objecting on behalf of others who do not want us to proceed to it. I hope we can get to a vote on Friday; and then when we come back in September this will be an issue we can go to soon rather than later in the month.

CLOTURE MOTION

I move to proceed to the bill. So I make that motion to proceed at this time, and I send a cloture motion to the desk.

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 calendar No. 575, H.R. 4444, a bill to authorize extension of nondiscriminatory treatment (normal trade relations treatment) to the People's Republic of China:

Trent Lott, Pat Roberts, Larry E. Craig, Christopher Bond, Chuck Grassley, Ted Stevens, Connie Mack, Orin Hatch, Frank H. Murkowski, Wayne Allard, Kay Bailey Hutchinson, Don Nickles, Bill Roth, Michael Crapo, Slade Gorton, and Craig Thomas.

Mr. LOTT. Mr. President, this cloture vote will occur on Friday, unless consent can be granted to conduct the vote earlier or we are in a postcloture situation on the Treasury-Postal Service appropriations bill. There is opposition, obviously, to this motion to proceed. But I still think that adequate time can be used for discussion. I know there are a number of Senators who would like to see this vote occur on Thursday instead of Friday. I am willing to accommodate that. But if that cannot be worked out, then we will have the vote on Friday. If we are in a postcloture situation, the vote could be postponed for some time. But I ask unanimous consent that the mandatory quorum be waived.

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

Mr. LOTT. I now withdraw the motion to proceed. I believe I have that right.

The PRESIDING OFFICER. The Senator has that right.

The motion is withdrawn.

Mr. LOTT. In conclusion, while we seek Utopia in dealing with these appropriations bills, the promised land of how we can work together to do the people's business, which we are not doing right now, at least in the case of this bill, I believe we will have broad bipartisan support for the China PNTR bill. I might add, there is going to be some bipartisan opposition, too.

So as we get into the substance of this—which I would rather be getting into rather than having to once again file cloture on a motion to proceed—I think we will have a good debate. I think it is going to serve the Senate well. I think it will serve the American people well. I believe when we do finally get to a vote, it will pass—and probably should. But there are a lot of serious questions still involved in how we are going to deal with China. So I look forward to this discussion.

Mr. President, I yield the floor.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2001—MOTION TO PROCEED—Resumed

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

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 calendar number 704, H.R. 4871, a bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 2001, and for other purposes:

Trent Lott, Ben Nighthorse Campbell, Pat Roberts, Richard G. Lugar, Jesse Helms, Jeff Sessions, Larry E. Craig, Jon Kyl, Craig Thomas, Don Nickles, Strom Thurmond, Michael Crapo, Mitch McConnell, Fred Thompson, Judd Gregg, and Ted Stevens.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of H.R. 4871, an act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2001, and for other purposes, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. THOMAS) is necessarily absent.

Mr. REID. I announce that the Senator from New Jersey (Mr. TORRICELLI) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 97, nays 0, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—97

Abraham	Feingold	Lugar
Akaka	Feinstein	Mack
Allard	Fitzgerald	McCain
Ashcroft	Frist	McConnell
Baucus	Gorton	Mikulski
Bayh	Graham	Moynihan
Bennett	Gramm	Murkowski
Biden	Grams	Murray
Bingaman	Grassley	Nickles
Bond	Gregg	Reed
Boxer	Hagel	Reid
Breaux	Harkin	Robb
Brownback	Hatch	Roberts
Bryan	Helms	Rockefeller
Bunning	Hollings	Roth
Burns	Hutchinson	Santorum
Byrd	Hutchison	Sarbanes
Campbell	Inhofe	Schumer
Chafee, L.	Inouye	Sessions
Cleland	Jeffords	Shelby
Cochran	Johnson	Smith (NH)
Collins	Kennedy	Smith (OR)
Conrad	Kerrey	Snowe
Craig	Kerry	Specter
Crapo	Kohl	Stevens
Daschle	Kyl	Thompson
DeWine	Landrieu	Thurmond
Dodd	Lautenberg	Voinovich
Domenici	Leahy	Warner
Dorgan	Levin	Wellstone
Durbin	Lieberman	Wyden
Edwards	Lincoln	
Enzi	Lott	

NOT VOTING—2

Thomas	Torricelli

The PRESIDING OFFICER. If there are no Senators wishing to vote or change their votes, on this vote, the yeas are 97, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from South Carolina.

(The remarks of Senator THURMOND pertaining to the introduction of S. 2925 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. DORGAN. Mr. President, I take a few moments following this cloture vote to talk about the appropriations bill and a couple of related matters to that bill that are to be brought to the Senate floor. We are completing the last week of the legislative session before the August break. When we come back following the August break, we will have a number of weeks in September and a couple of weeks in October, perhaps, at which time the 106th Congress will be history.

We will have an election in early November, something that the late Congressman Claude Pepper, a wonderful public servant, used to call one of the miracles of democracy. He said: Every even numbered year, our Constitution provides that the American people grab the steering wheel and decide in which direction this country moves. He said it was one of the miracles of democracy. Indeed it is. We are headed toward an election. That will affect the Senate schedule. That means it is likely the Senate will complete its work, the Congress will complete its work, in the 106th Congress by the middle of October.

As we look to that moment, we have a lot of work to do between now and then. We have appropriations bills to complete. After all that, one of the fundamental responsibilities we have is to provide for the funding of things we do together in government. We build our roads together. It doesn't make sense for each family to build their own road to the supermarket. It is called government. We come together and build a system of roads. We come together to build schools and maintain and operate schools in which the American people can send their children. It doesn't make sense for each and every person to build their own school. So we have roads and schools. Then we hire a police force. We hire folks who will serve in the Armed Forces to defend our liberty and freedom.

All of these things we do, and much more, as a part of our governing process. I am proud of much of what we do. Much of what we have accomplished in this country is a result of the ingenuity of people in the private sector, in the market system, competing, the genius of those who are willing to take risks and use ideas to build new products and create new markets; on the other side, in the public sector, the vision that has been exhibited by some who have served this country for many years to do the right things in the public sector, to do together what we should do to provide for our common defense and build our schools, build roads, and do those things that we know also make this a better country.

One of the pieces of legislation we are intending to bring to the floor very soon is the Treasury-Postal appropriations subcommittee bill. That is through the full Appropriations Committee in the Senate. It is legislation that will be, I hope, debated next on the Senate floor. The bill is through the full Appropriations Committee and includes funding for a wide range of things we do in this country.

One of the larger portions of the bill is the funding for the Customs Service. The Customs Service is a very important element. Given the expanding nature of world trade, with the amount of commerce and goods and services moving in and out of our country and across our borders, the Customs Service provides an ever increasing important service to our country.

We fund the Internal Revenue Service which collects the revenue by which we fund most of the government services we have in this country. One of the areas of this legislation is the national youth antidrug media campaign. That campaign in the drug czar's office is now about 3 years old, and the Congress has been working on that diligently, as well.

We have a number of issues in this legislation that are very important, that are timely, and that we need to get to the floor of the Senate to debate and try to make some decisions about them.

Let me comment for a moment about a couple of issues that no doubt will be brought to the Senate floor on this bill. I will talk about why these issues are important and what I think will happen with these issues. In the House of Representatives, when they wrote the legislation dealing with Treasury and general government in that subcommittee, that legislation included some amendments dealing with the subject of Cuba and the sanctions with respect to food and medicine that exist with respect to Cuba.

I want to talk just a bit about that because those provisions are included in the House bill. We will undoubtedly have amendments on that same subject in the Senate bill. There will be a defense of germaneness on those amendments. I will offer one of those amendments. I believe my colleagues Senator DODD, Senator ROBERTS, perhaps Senator BAUCUS, and others will offer similar amendments. I want to describe why this is an important issue and why the Senate should consider these amendments, especially inasmuch as these types of amendments are in the House bill coming over for consideration in conference.

There are some bad actors internationally who run governments in a way that is well outside the norm of international behavior. We understand that. Saddam Hussein is one of those leaders. There are others. We have watched the behavior and the activities of countries such as Cuba, Iraq, Iran, North Korea, and others, and view with alarm some of the things that are happening.

Cuba is a country that is run, with a Communist government, by Fidel Castro. North Korea is a relatively closed society run by a Communist government, a Communist dictator. Iran is a different kind of country, run by a group of folks who seem to operate—at least they have for some while—outside the norms of international behavior, engaged in an attempt to acquire sophisticated missile technology. I suspect they and others on the list would love to acquire nuclear weapons. These are countries that have demonstrated by their behavior, by their actions, that they are operating outside the norms of what we consider acceptable behavior. I am talking now about the international community, the community of nations.

So what do we do? What we do is we say to Saddam Hussein: We are going to impose economic sanctions on your country. These sanctions, in the form of either sanctions or an embargo, are an attempt to choke your economy and cause you economic pain. They cause you to understand when you operate outside the norms of international behavior, when you are attempting to acquire nuclear weapons, chemical weapons, and biological weapons with which you can threaten your neighbors, we care about that and we intend to do something about that. We and other countries have imposed sanctions against the country of Iraq.

We have had an embargo against the country of Cuba for some 40 years. It is a small country 90 miles off the tip of Florida. We have had an embargo for some 40 years against the country of Cuba, preventing goods from being shipped to Cuba, preventing Cuban goods from coming into our country, essentially trying to shut down their economy with that embargo. We have had similar sanctions against North Korea and Iran.

One of the mistakes this country has made—and a very serious mistake—is deciding we will include food and medicine as a part of our economic sanctions. We should not have done that. This country should never have done that. This country is bigger and better than that. We should never use food as a weapon.

We produce food in such abundant quality—the best quality food in the world. We have farmers today who are out driving a tractor in some field somewhere, planting a seed and raising crops with great hope they will be able to make a living on their family farm. We produce such wonderful quality food in such abundance, and then we say to countries whose behavior we don't like: By the way, we are going to slap you with economic sanctions. We are going to put our fist around your economic throat, and included in that, we are going to prevent the movement of food in and out of your country.

I am all for economic sanctions. There is not any reason to make life better for Saddam Hussein. He ought to pay a price for his behavior. But this country is shortsighted to believe that using food as a weapon is an advancement in public policy for us. It is not. First, it hurts our farmers who are prevented from moving food through the international markets. Second, it takes aim at a dictator and ends up

hitting hungry people. That is not the best of what this country has to offer.

So we have a very simple proposition—those of us who care about this issue. We say let's stop using food as a weapon; let us, as Americans, decide we shall never use food as a mechanism to try to punish others. We understand that Saddam Hussein and Fidel Castro have never missed a meal. They have never missed breakfast, they have never missed dinner, never missed supper. They eat well. When we use food as a weapon, it is only poor people, sick people, and hungry people who pay a price; and of course, our farmers here in America also pay a price.

So last year we had a debate about this. My colleague Senator ASHCROFT, I, Senators DODD, ROBERTS, BAUCUS—a range of people—have offered amendments. Last year we had a vote, and 70 Senators said: No, we shall not any longer ever use food as a weapon. Let us lift the sanctions on food and medicine; 70 percent of the Senate said let's stop it.

I cannot speak for all 70, but I will speak for myself to say it is immoral to have a public policy that uses food as a weapon. It is immoral to punish hungry, sick, and poor people around the world because we are angry at dictators. Seventy percent of the Senate said: Let's stop. Let's change the sanctions. We can continue some of the economic sanctions. We are not making a judgment about using economic sanctions to punish dictators or punish countries whose behavior is outside the international norm. We are saying, however, we should not any longer use food or medicine as a weapon or as part of the sanctions.

So 70 percent of the Senate voted. It was on the Senate agricultural appropriations bill, and off we marched to conference. I was one of the conferees. One of the first acts of conference between the House and Senate was my offering an amendment insisting that the Senate retain its position. In other words, we were saying as a group of Senators who were conferees: We insist on our provision, lifting the sanctions on food and medicine.

I offered the amendment in the conference. We had a vote of the Senate conferees, and my amendment carried. Therefore, the Senators at this conference with the House Members said: We insist on the provision. We insist on our policy of removing food and medicine as part of our economic sanctions.

Guess what. A Member of the House moved that the conference adjourn. We adjourned. It was late one morning, and we never, ever returned to conference. Do you know why? Because the House leaders, the House leadership, did not like that provision and they intended to kill it. They knew they could not kill it with their conferees. If there were a vote on it in the conference, they would lose. If there were a vote on it on the floor of the House, they would lose. So the only way they could win was to hijack that conference, adjourn it, never come back into session, and throw the ingredients of that bill into a broader bill, and we never saw the light of day on our policy.

The result is we are back on the floor right now and this country still has in place a policy of using food and medicine as part of our economic sanctions. It is wrong. It is wrong.

Following that conference last year, I had the opportunity to go to Cuba. I have traveled some, in various parts of the world, and have seen that what we produce in such abundance, the world needs so desperately. The winds of hunger blow every minute, every hour, and every day all across this world. So many people die of hunger, malnutrition, and hunger-related causes, and so many of them are children—every single day.

I went to Cuba. What I saw was a country in collapse. It is a beautiful country with wonderful people. The city of Havana is a beautiful city, but in utter collapse. There are gorgeous buildings designed in the 1940s and 1950s by some of the best architects—beautiful architecture, in total disrepair. The city is collapsing. The Cuban economy is in collapse. There is no question about that.

I visited a hospital, and I saw a young boy lying in a coma. His mother was seated by his bedside holding his hand. This was in an intensive care ward of a Cuban hospital. This young boy in intensive care was not hooked up to any wires. There was no fancy gadgetry, no fancy equipment, no beeping that you hear in intensive care—the beeping of equipment—no, none of that. He was lying on his bed with his mother holding his hand.

I asked the doctor, Do you not have equipment with which to monitor this young boy? He had a head injury and was in a coma. He said, Oh, no; they didn't have any of that equipment. They didn't even have any rudimentary equipment with which to make a diagnosis. Intensive care was to lay this boy in a room. They told me they were out of 250 different kinds of medicine in that hospital.

My point is this. The Cuban people do not deserve Fidel Castro—that is for sure. They deserve a free and open country, a free and open economy; they deserve the liberties we have and the freedom we have. But 40 years of an embargo, and especially 40 years preventing the movement of food and medicine back and forth, surely makes no sense.

It has not hurt Mr. Castro. It has hurt the poor people of Cuba and the hungry people of Cuba. It is time to change that policy. A year ago we tried it. Seventy percent of the Senate voted for it, and it has not happened.

This is what we have done this year: I offered an amendment, with Senator GORTON from the State of Washington, on the Agriculture appropriations bill that lifts the sanctions on food and medicine and also let's us do one other thing. It prevents any future President from ever including food and medicine as part of economic sanctions unless they come to the Senate and get a vote and the Senate says: Yes, we ought to do that.

We do two things: We lift the sanctions on food and medicine that exist with those countries that are subject to our economic sanctions, and we prevent future Presidents from imposing sanctions and using food as a weapon. That is in the Agriculture appropriations bill which came to the floor of the Senate. The Senate passed that bill. My amendment is in it. We will go to conference.

The only way we can lose that issue is if the House leaders hijack it once again. There is a member of the leadership of the House, whom I shall not name, who makes it his cause to derail us. He believes we ought to use food as a weapon, especially with respect to Cuba. He believes we ought not change the policy and will do everything he can to stop us.

My colleague in the House who has been working on this passed some legislation that was negotiated with the House leadership, but it turns out the legislation, when one looks at the language, is a step backward, not a step forward.

We will go to conference on the Agriculture appropriations bill with my amendment in it, and I say to those who might pay attention to the Senate record from the House side, if the House leaders expect to hijack this once again this year, they are in for a long session because there is a group of us—Republicans and Democrats—who insist this country change its policy. This policy is wrongheaded and it must change.

Yes, we have some people in the Senate who are still fighting the cold war. We have people in the Senate—not very many, I admit—but we have a few people in the Senate who do not want this changed, but 70 percent of the Senate want this changed. At some point, if they get a full vote in the House and we have a full vote in the Senate, 70 percent of the Congress will say: Let's change this foolish policy. This policy is not the best of this country. This policy is wrong, and we aim to change it.

Now we bring this bill to the floor of the Senate. We had a cloture vote on the motion to proceed today, and the Treasury-Postal bill will come to the floor at some point. As I indicated, in addition to the description of the amendment I offered to the Agriculture appropriations bill on the floor of the Senate dealing with sanctions on Cuba, a couple Members of the House applied some amendments, which were successful, to the Treasury-general government bill which means when our bill comes to the floor of the Senate, it will also attract these amendments. That is fine with me. Having them in two places is better than having them in one place. Perhaps one conference will be successful in changing this policy.

My colleagues in the House added a piece of legislation, for example, dealing with travel in Cuba saying that no funds will be used to enforce the restrictions on travel to Cuba. I prefer to do it a different way. Who is going to believe it makes sense to travel to Cuba if it is still illegal but they just will not enforce it? If we change travel, let's change travel. Let's not say you shall not enforce something that remains illegal. Let's say the travel restrictions are lifted. Period. End of story.

I hope my colleague who intends to offer that amendment in the Senate will consider doing that. We have other amendments as well, and I intend to offer an amendment dealing with food and medicine sanctions on Cuba on the Treasury-Postal bill when it is brought to the floor of the Senate.

There is another issue I wish to talk about briefly that relates in some measure to this bill, but especially to the issue of the Customs Service and our borders and the issue of international trade. I am going to talk in a bit about our trade problem because we have the largest trade deficit in the history of humankind.

There is a lot right with this country. There is a lot going on to give us reason to say thanks and hosanna. We have a wonderful economy. It is producing new jobs and new opportunity. All of the indices are right: unemployment is down; home ownership is up; inflation is way down. All the things one expects to happen in a good economy have been happening.

Some parts of the country are left behind, such as rural areas. We have a farm program that is a debacle, and we cannot get anybody to even hold a hearing to change the farm program, but that is another story.

There are some areas that have not kept pace with the prosperity. We need to continue to fight to write a better farm program and make sure those rural areas share in the full economic prosperity of America.

There is a lot right in this country. This is a good economy. It is producing unprecedented opportunities.

The one set of storm clouds above the horizon, however, is in international trade. We have a huge trade deficit. Our merchandise trade deficit was nearly $350 billion in 1999, and is projected to exceed $400 billion this year. Put another way: We are buying $1 billion more in goods from overseas than we are selling each and every day, 7 days a week.

Some say: Does that matter? Is it important? Gee, our economy is doing well. How on Earth can you make the case we should care about this?

You can live in a suburb someplace and have a wonderful home with a huge Cadillac in the driveway and have all the evidence of affluence, but if it is all borrowed, you are in trouble. On the borrowing side, we have made a lot of progress dealing with Federal budget deficits. In fact, we have eliminated the Federal budget deficits, and good for us, but the deficits on the trade side have continued to mushroom, and we must get a handle on that as well and deal with our trade imbalance.

What causes the trade imbalance, and what relevance does it have to this bill? In this bill, we fund the Customs Service, and the Customs Service evaluates what comes in, what goes out, and they try to assist in the flow of goods moving back and forth across our borders.

The fact is, they have an old, antiquated computer system to take care of all of that and it is melting down. With expanded trade coming in and going out, we need a new system. The Customs Service has proposed a new system to accommodate and facilitate their needs. We need to fund it. It is very important we fund this system. It is called the Automated Commercial Environment or ACE system. We need to keep it operational, and we need to build it and make it work.

In 1 day, the Customs Service processes $8.8 billion in exports and imports. They have to keep track of it all: $8.8 billion in daily exports and imports; and 1.3 million passengers and 350,000 vehicles moving back and forth across our borders. Think of that. This is the agency that has the responsibility of keeping track of all of it—whose vehicle, when did it come in, when did it go out, who is coming in, who is leaving our country, what are the goods coming in, what kind of tariffs exists on those goods, who is sending them, who is receiving them.

All of that is part of what we have to keep track of in terms of movement across our border. The current system that keeps track of all of that is nearly two decades old, and running at near capacity. It is the single most important resource in collecting duties and enforcing Customs laws and regulations.

This system has been experiencing brownouts over the past months that have brought the Customs operation at these border ports, in some cases, to a dead halt.

Over 40 percent of the Customs stations are using work stations that are unreliable, are obsolete operating systems, and are no longer supported by a vendor.

Trade volume has doubled in 10 years. The rate of growth in trade is astronomical. The Customs Service anticipates an increase of over 50 percent in the number of entries by 2005. That means the current system just can't and will not handle it.

So we have a responsibility to do something about that. If anybody wonders whether all this trade is important, and keeping track of it is important, as I said, look at the trade deficit and look at what is happening in this country.

From the standpoint of policy—I was talking about the system that keeps track of it—but from the standpoint of policy, we also have to make significant changes. We will not make them in this bill because this isn't where we do that, but you can't help but look at what is happening in our country and understand that our own trade policy does not work. It just does not work.

We have a huge and growing trade deficit with China—growing rapidly—of nearly $70 billion a year. We have a large abiding trade deficit with Japan that has gone on forever—$50 to $70 billion a year.

This Congress, without my vote—because I voted against it—passed something called NAFTA, the North American Free Trade Agreement. It was billed as a nirvana. What a wonderful thing, we were told, if we can do a trade agreement with Mexico and Canada. What a great hemispheric trade agreement, and how wonderful it would be for our country.

In fact, a couple of economists teamed together and said: If you just pass NAFTA, you will get 300,000 new jobs in the United States. The problem is, there is never accountability for economists. Economists say anything, any time, to anybody, and nobody ever goes back to check.

The field of economics is psychology pumped up with helium and portrayed as a profession. I say that having taught economics a couple years in college, but I have overcome that to do other things.

But economists told us, if we pass NAFTA, it will be a wonderful thing for our country. Well, this Congress passed NAFTA. I didn't vote for it. Guess what. We had a trade surplus with Mexico. We have now turned a trade surplus with Mexico into a significant deficit with the country of Mexico.

They said, by the way, if we pass NAFTA, the products that will come in from Mexico will be products produced by low-skilled labor. Not true. The products that are coming in from Mexico are the product of higher-skilled labor, principally automobiles, automobile parts, and electronics. Those are the three largest imports into the United States from Mexico.

So the economists were wrong. I would love to have them come back and parade around, and say: I said NAFTA would work, but I apologize. We had a trade surplus with Mexico. Now it is a fairly large deficit. We had a trade deficit with Canada, and we doubled the deficit. I want one person to stand up in the Senate and say: This is real progress. Doubling the deficit with Canada, and turning a surplus into a deficit with Mexico—hooray for us. That is real progress. I want just one inebriated soul to tell me here in Washington, DC, that this makes sense. Of course it does not make sense.

It did not work. So we have trade policy challenges dealing with Mexico, Canada, and NAFTA. We have policy differences dealing with our big trade deficit with China. We are going to have other struggles and challenges

dealing with the recurring deficit that goes on forever with Japan.

It might be useful—I know people get tired of me talking about this—but it might be useful to describe our diminished expectations in this county and why we are in such trouble on trade.

About 10 years ago—we have always had a struggle with Japan—we were having, at that time, an agreement negotiated on the issue of American beef going to Japan. We were not getting enough beef into Japan. At that point, it cost about $30 a pound to buy a T-bone steak in Tokyo. Why? Because there was not enough beef. So you keep the supply low, the demand and price go up, and a T-bone steak costs a lot of money in Tokyo.

We wanted to get American beef into Japan. After all, we buy all their cars, VCRs and television sets. Maybe they should buy American beef. So we sent our best negotiators, and they negotiated. Our negotiators were hard nosed. It only took them a couple of days to lose. They sat at the table, and they negotiated and negotiated. And guess what they negotiated? They had a press conference and said: We have a victory. We have a beef agreement with Japan. What a wonderful deal. You would have thought they had just won the Olympics because they celebrated. And everybody said: Gosh, what a great deal.

Here is the agreement. You get more American beef into Japan. Yes, you do. And we did.

Ten or 11 years after the beef agreement with Japan, the tariff on American steak or American ground beef or American beef going to Japan today is 40 percent on a pound of beef. Can you imagine that? What would people think if you told them: In the United States, we only have a 40 percent tariff on your product coming into our country? They would say: What kind of nonsense is that? That is not free trade. Yet we celebrated the fact that we had an agreement with Japan that takes us to a 50 percent tariff, which is reduced over time, but snaps back up if we get more beef into Japan. We celebrated that.

This is the goofiest set of priorities I have ever heard. We ought to learn to negotiate trade agreements that are in this country's interests.

I have threatened, from time to time, to introduce a piece of legislation in Congress that says: When our trade negotiators go to negotiate, they must wear a jersey that says ''USA,'' just so that they can look down, from time to time, and see who they are negotiating for. ''I am from the United States. I have the United States's best interests at heart. When we negotiate with you, Japan, China, Mexico, Canada, or others, we insist on fair trade.''

Yes, our producers will compete. We are not afraid of competition. But we are not going to compete with one hand tied behind our back. Our negotiators negotiated GATT with Europe, and they said to the Europeans: You know what—my colleague, Senator CONRAD, talks about this a lot—we will have a deal with you. You can have 6, 8, or 10 times greater subsidies on your sales of grain to other countries than we will have. And we will have a deal where we will agree to limit our support payments to family farmers to a fraction of what yours are. So once we have done that, we have tied both of our hands behind our back, and then said let's go ahead and compete.

That is what our negotiators have done virtually every time they have negotiated a trade agreement. They did it in GATT to family farmers and did it with Japan to our ranchers. I should say, our ranchers were pleased with the agreement with Japan. I would say to them: How can you be pleased? How can you call that success? It is because they have such low expectations in our trade negotiations. We give away everything. We expect little, get almost nothing, and then we are so pleased.

When you have roughly $1 billion a day in the merchandise trade imbalance, it is time to wonder whether your policy is working. When you have a $1-billion-a-day deficit—every single day—in merchandise trade, it is time to ask whether this is a policy that works. The answer is no.

I think it would behoove this Congress to say: Good for all the wonderful things that are happening in this country. Everybody deserves a little credit for all of that. Good for all the good things happening in our economy. But it is important for all of us to look at the storm clouds as well, and evaluate what is wrong, and try to fix that. If we did that, it would behoove us to bring to the floor of the Senate a debate and full discussion about America's trade policy.

Every time I come and talk about this issue, there is someone watching or someone listening, or somebody later will say: That guy sounds like a protectionist. There is this caricature: You are either for free trade or you are some isolationist, xenophobic stooge. You are either for free trade or you don't get it. You either see the horizon or you are nearsighted. That is the way it all works.

Even the largest newspapers do that. Try to get an op-ed piece in the Washington Post on trade issues. If you happen to believe we ought to stand up for our economic interests in trade, you can't do it.

It is not my intention to say this country should not be a leader in expanding trade. This country ought to be a leader in promoting an expanded free and fair opportunity for international trade. This country ought to be a leader. We ought to expect that other countries would be involved in saying the things that we fought for for 75 to 100 years. This country will be part of the discussions about trade.

We had people dying in the streets in this country, fighting for the right to organize in labor unions, fighting for the right to create labor unions. We had people die on the streets of America.

Some will say: We can avoid all that, having labor unions, having to worry about dumping chemicals into the water and the air, having to have a safe workplace, having to be prohibited from hiring kids; we can avoid all of that. We have debated it for 75 or 100 years in this country. We have made a lot of progress. We can avoid it all by moving our plant to some other Third World country where they don't have those inconveniences, where you can hire 12-year-old kids and work them 12 hours a day and pay them 12 cents an hour and everybody calls it free trade.

This country has a responsibility also to lead on the issues of what are the fair rules for international trade—not protectionism, what are the fair rules for trade that establish fair competition. That is something this country has a responsibility to be involved with as well.

Talking about trade in the context of the Customs Service and our responsibility to keep track of what is happening around the world, it is true that my frustration from time to time boils over on the issue. I come to the floor and talk about it without much effect because there are not sufficient votes in the Senate to require a very robust debate on trade policy. It is coming. We ought to make it happen.

If I can digress—because I have the time this morning, and I don't see anyone else waiting to speak—I want to mention something that happened some years ago that made a profound impact on me. I mentioned a moment ago that we struggled in this country to establish the right to form labor unions and establish collective bargaining. There are plenty of countries where, if you try to form labor unions, try to get workers together to see if they can't get a better deal, they can be thrown in jail. As I said, we had people who died in the streets in this country fighting for that opportunity. We now understand the consequences of that. We have labor unions, and we have management and labor, collective bargaining. It is a better country because of that. There are some areas of the world where we don't have the opportunity to do that. People who try to demonstrate for those rights are thrown in jail.

Let me describe something that happened in Congress a long while ago related to that point. We had a fellow who spoke to a joint session of Congress. Normally, a speaker to a joint session of Congress is a President. The pageantry is quite wonderful when there is a joint session. It is normally in the House Chamber because that is the larger Chamber. The Senators come in and are seated in the House Chamber, Cabinet officials come in, the Supreme Court comes in. The American people see this. That is when the network television cameras come on.

Then the Doorkeeper says: Mr. Speaker, the President of the United

States. And the President marches in and gives a State of the Union speech.

We occasionally have other speakers who are invited to give an address to a joint session of Congress. On rare occasions, it has been a head of state. Many will remember other circumstances: General Douglas MacArthur coming back from Korea, when he was relieved of his command by President Truman, was invited to address a joint session of Congress; Winston Churchill addressed a joint session of Congress.

One day about 10 or 12 years ago, I was a Member of the U.S. House, it was a joint session of Congress. In the back of the room, the Doorkeeper announced the visitor. The Doorkeeper said: Mr. Speaker, Lech Walesa from Poland. And this fellow walked in, a rather short man with a mustache. He had red cheeks and probably a few extra pounds, an ordinary looking fellow who walked into the Chamber of the House, walked up to the microphone. The joint session stood and applauded and didn't stop. This applause continued to create waves, and it went on for some minutes. Then this man began to speak. Most of us, of course, knew the history. But in a very powerful way this ordinary man told an extraordinary tale.

He said 10 years before, he was in a shipyard in Gdansk, Poland on a Saturday leading a strike for workers to be able to chart their own destiny, leading a strike for a free labor movement in Poland against a Communist government. On that day, he had already been fired from his job as an electrician at a shipyard for his activities to fight for a free labor movement in Poland. The Communist government had him fired from his shipyard. So this unemployed electrician, on a Saturday morning, was leading a strike, leading a parade inside this shipyard for a free labor movement. He was grabbed by some Communist thugs and beaten and beaten badly. As they beat him, they took him to the edge of the shipyard, hoisted him up and unceremoniously dumped him over the barbed-wire fence outside the shipyard face down in the dirt. He lay there bleeding, wondering what to do next.

Of course, we know what he did next. Ten years later, he was introduced to a joint session of Congress as the President of the country of Poland. This man went to the microphone and said the following to us: We didn't have any guns; the Communists had all the guns. We didn't have any bullets; the Communists had all the bullets. We were armed only with an idea.

What he did next that Saturday morning, from lying on the ground bleeding from the beating he had received from the Communist agents of that Government of Poland, the history books record. He pulled himself back up and climbed back over the fence and climbed back into the shipyard.

This unemployed electrician showed up in the Chamber of the U.S. House to speak to a joint session of Congress 10 years later as the President of his country—not a diplomat, not a politician, not an intellectual, not a scholar, an unemployed electrician who showed up in this country 10 years later as the President of his country.

He said: We didn't break a windowpane in Poland. We didn't have guns. We didn't have bullets. We were armed with an idea and that idea simply was that free people ought to be free to choose their own destiny.

I have never forgotten that moment, understanding the power of ideas and understanding that common people can do uncommon things. Ordinary people can do extraordinary things. Wondering where did Lech Walesa get the courage to pull himself up that Saturday morning in a shipyard in Gdansk, an unemployed electrician, believing so strongly in the need to provoke change in this Communist country that this man and his followers toppled a Communist government and lit the fuse, caused a spark that lit the fuse that began to topple Communist governments all through Eastern Europe. That is the power of an idea.

What are the ideas that exist in this country that will make a better America and create a better future? We know from our history that in two centuries, a series of ideas by some remarkable men and women have created the best country in the world. It is the freest. I know there are a lot of blemishes, but there is no country that has freedoms like ours. There is no country that has accomplished what we have accomplished in every area. Find an area where we have had difficulty, we have confronted it. We have had difficult times, but we have solved the issues. We survived a civil war. We survived a great depression. When you think of what this country has done, it is quite remarkable.

We stand today at the edge of a new century, the year 2000, with a lot of challenges in front of us. Some say we are just sort of content to be where we are and to kind of nick around the edges. No person, no country, no organization ever does well by resting.

There are challenges in front of us. We have talked about some of them. Some of them will be in this legislation when we bring it to the floor. Some will be in other legislation. I was on the floor yesterday and Senator DURBIN, who is on the floor at the moment, talked about the challenge of making our health care system work; the challenge of passing a Patients' Bill of Rights, and one that is a real Patients' Bill of Rights; the challenge of putting a prescription drug benefit in the Medicare program. Those are ideas—ideas with power and resonance, ideas which ought to relate to the public policy this Congress embraces. I talked, a little bit ago, about trade policy, the idea that we need to change trade policy to make it a policy that is effective for our country, to reduce the trade deficits and continue to expand markets, and to have fair rules of trade.

There are so many things we need to do. Yesterday, I showed some of the challenges that we ought to address now in the coming weeks. For instance, gun safety. This is a wonderful country, but when you read the newspapers and read of the killings, and then you understand that we have a right to own weapons—and nobody is changing that right; it is a constitutional right. But we have said it makes sense for us to keep guns out of the hands of convicted felons. How do we do that?

We have a computer base with the names of felons on it. When you want to buy a gun, your name has to be run against the computer base. At the gun store, they run your name to find out if you are a convicted felon. If you are, you don't get a gun. But guess what. You can go to a gun show on a Saturday someplace and buy a gun or a weapon, and nobody is going to run your name through an instant check.

We say let's close that loophole. Are those who don't want to close it saying they don't want to keep guns out of their hands? I hope not. So join us in fixing this problem. That is an idea. That has some power. How many Americans will that save? How many children will it save by keeping the gun out of the hands of a convicted felon? We are not talking about law-abiding citizens. We are not going to disadvantage them. Let's keep guns out of the hands of convicted felons. Close the gun show loophole. It is a simple idea; yet one we can't get through the Congress because people are blocking the door on this issue.

The Patients' Bill of Rights: We talked about that yesterday. We talked about putting a drug benefit in the Medicare program. We talked about school modernization. I will conclude by talking for a moment about school modernization.

Our future is education. I have told my colleagues many times about walking into the late-Congressman Claude Pepper's office and seeing two pictures, both autographed, behind his chair. One was a picture of Orville and Wilbur Wright making the first airplane flight. It was autographed by Orville Wright, saying, ''To Congressman Pepper, with deep admiration, Orville Wright.''

Then, the first person to stand on the Moon, Neil Armstrong, gave him an autographed picture. I thought to myself, this is really something. Here is a living American who has an autographed picture of the first person to leave the ground in powered flight, and also the person who flew all the way to the Moon. What was the in between? What was the difference between just leaving the ground and arriving on the Moon? Education, schools, learning; it is our future—allowing every young boy and girl in this country to become the very best they can be; universal education, saying that every young boy or girl, no matter what their background or circumstances are, can walk through a schoolroom door and be

whatever they want to be in life, universal opportunity in education.

In the middle part of this past century, those who came back fighting for liberty in the Second World War, fighting for freedom, built schools all across our country as they went to school on the GI bill, got married, and had children. They built schools all across America. Now those schools, in many cases, are 45, 50 years old and in desperate need of repair and renovation. This country, as good as it is, can send our kids to the schoolroom doors of the best schools in the world. And we should. That ought to be our policy. So before this Congress ends, let's embrace our ideas and policies of saying let's modernize our schools, renovate our schools, and connect our schools to the Internet. Let's reduce the size of classes and make sure every student has the opportunity to go through a schoolroom door that we as parents are proud of. Let's make sure we keep the finest teachers, the best teachers in our classrooms and pay them a fair wage. These are ideas that we have that we can't get through this Congress. It doesn't make any sense to me.

So we are prepared to bring the Treasury-general government appropriations bill to the floor. In that legislation there will be several of the ideas I have talked about, and other appropriations bills, and other pieces of legislation. We will continue to pound away at this Congress to say: Accept some of these ideas. Accept some progress. Join us. This isn't partisan. Our kids and our schools don't represent a partisan issue. Keeping guns out of the hands of felons surely can't be a Republican or Democratic issue. Surely, every American should embrace that goal. Putting the prescription drug benefit in the Medicare program so senior citizens who have reached their declining income years have the opportunity and can afford to buy life-saving drugs surely can't be a Republican or Democratic approach. There can't be differences here in terms of goals. So let's resolve to join together to meet these goals, to do our work and embrace ideas—yes, big ideas—that recognize, yes, this country is doing very well in a lot of areas, but we are at the first stage of a new century, and we need to embrace new ideas to advance this country's interests and prepare for this country's future. Nowhere is that preparation more necessary than with our children and our schools.

Mr. President, I have spoken at some length. I know others on the floor have comments about these and other issues.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I understand that we are running out the clock on a motion to bring to the floor the Treasury-Postal appropriations bill. So I think my comments are pertinent to that bill and to the situation in which we find ourselves.

Mr. President, about 14 months ago, those of us in this Chamber passed a juvenile justice bill. Prior to its passage, many of us on this side of the aisle came together to say if we want to really achieve some limited improvements in targeted gun measures, what should they be? We decided on a few, and the Republican side had a few. So some targeted measures were added to that bill.

One of them was that guns should not be sold without trigger locks. That was made from our side of the aisle. One from the Republican side of the aisle was that children should not be permitted to buy assault weapons—a no-brainer. That was accepted by this body. A third vote was to close the gun show loophole which enabled the two youngsters from Columbine, 16 years old, to go to a gun show and buy two assault weapons with no questions asked. The final one was one I offered on the floor, which was to plug a hole in the assault weapons legislation.

Under the assault weapons legislation, it is illegal to manufacture, possess, sell, or to transfer a large-capacity ammunition feeding device in this country. So, in other words, nobody can manufacture one domestically in this country now. The loophole is that they can come in, if manufactured in foreign countries, and be sold. So since the passage of the original assault weapons legislation, about 18 million large-capacity ammunition feeding devices have come into the country. But just in the last 14 months, since the passage of the juvenile justice bill, 6.3 million of these clips have come into this country, many of them 250 rounds, but most 30 rounds.

What is the use of these clips? You can't hunt with them. You can't carry a clip with more than 10 bullets in virtually any State if you are going to hunt. You don't use them for self-protection. The street price of them has dropped. You can buy them, no questions asked, over the Internet for $7, $8, $9. The only reason for them is to turn a weapon into a major killing machine. They are used by drive-by shooters, by the gangs, and by the grievance killer who has a grievance and wants to walk into his place of business and kill a large number of people. Well, this body passed that, and the other body actually passed it by unanimous consent. So those are measures that have held up a whole huge juvenile justice bill for that period of time.

So in 14 months, we have gone nowhere in achieving safety regulations, prudent targeted gun regulations to protect people.

A million women—now 240 new organizations—in the Million Mom March, went to the streets of their cities and to the Capitol on Mother's Day to say they wanted prudent gun regulations. But what has happened since then is we have actually back slipped. The backsliding is taking place right in this very bill which time is running on.

An amendment was put in the bill that says this:

> None of the funds made available in this Act may be used to implement a preference for the acquisition of a firearm or ammunition based on whether the manufacturer or vendor of the firearm or ammunition is a party of an agreement with a department, agency, or instrumentality of the United States regarding codes of conduct, operating practices, or product design specifically related to the business of importing, manufacturing, or dealing in firearms or ammunition under chapter 44 of title 18, United States Code.

This amendment is essentially meant to prohibit the U.S. Government from giving any preference to any responsible gun manufacturer. I believe this measure is simply the worst possible public policy. I would rather not have a Treasury-Postal appropriations bill that has this kind of disincentive to good conduct in a manufacturer of weapons in this country.

When this bill comes to the floor, the first amendment from our side will be the amendment to strip this verbiage from the bill.

I am pleased to say I am joined in cosponsoring this by the Senator from Illinois, Mr. DURBIN, and the Senator from New Jersey, Mr. LAUTENBERG.

First, it is important to point out that no such preferences have been given. The thrust of this provision is based on a hypothetical. But it is based to be a deterrent. It is based to send a message. The message is to every manufacturer of weapons that there can be no reward in government if you manufacture safe guns. If you put trigger locks, if you have good, safe marketing practices, if you manufacture guns and see they are sold and distributed in a way to keep them out of the hands of children, people who are mentally deficient, or criminals—that is the thrust of this amendment—to reduce the gun industry to its lowest possible common denominator all across the United States of America, that is the worst possible public policy. Members on both sides of this aisle should stand together and refute it.

At least one company, Smith & Wesson, has agreed to adopt certain reasonable, responsible marketing practices. While this agreement was made under the threat of litigation, it is important to note that no dealer has to comply, and no measures have been forced on Smith & Wesson. Smith & Wesson has decided to take a responsible path to produce responsible policy, and for that this body would slap them on the hand.

As a result of their effort, Smith & Wesson has allegedly been targeted by others in the gun industry that are unhappy with the agreement who say you can't march ahead of us; you can't do something right; we all want to be able to do something wrong. There has been talk of boycotts and anticompetitive behavior. In fact, I recently joined a number of my colleagues in writing to the Federal Trade Commission, asking them to look into these allegations.

Given the determination of the National Rifle Association and its allies

to stop any and all reasonable control of the flow of guns to criminals and children, I believe it would be dreadful to prevent the administration from encouraging agreements such as this one.

Let me be clear. No one is saying that law enforcement should buy inferior weapons simply because the manufacturer has agreed to act responsibly. The fact is, Smith & Wesson produces very good weapons. I have certainly never been one to argue that we should leave law enforcement without adequate weaponry. But where technology and safety of guns are similar, it makes eminent sense to give preference to the manufacturer that has agreed to certain commonsense standards.

I wish to take a few moments and go over a few of the details in the Smith & Wesson settlement document. This is what it looks like.

First, under the agreement, all handguns and pistols will be shipped from Smith & Wesson with child-safety devices. Again, the juvenile justice bill would have made this provision unnecessary. But, again, that bill has gone nowhere.

What would that do?

In Memphis, TN, not too long ago, a 5-year-old took a weapon off of his grandfather's dresser. It was loaded. He took it to kindergarten to kill the kindergarten teacher because that youngster had been given a ''time out'' the day before. The gun was discovered because a bullet dropped out of his backpack—a 5-year-old child toting in his backpack a loaded pistol with no safety lock to kill the teacher because he had been given a ''time out'' the day before. With the safety lock, the gun would have been inoperable to that child.

Another child in Michigan, a 6-year-old, has an argument with a child, brings a gun to school, and actually kills another 6-year-old.

These may not be everyday events. But they would be prevented from happening if guns were made with smart technology and, prior to that, with safety locks.

Also in the agreement, every handgun would be designed with a second hidden serial number. Why that? Because it prevents criminals from easily eradicating a serial number to impede tracing. How can we not support that?

New Smith & Wesson models will be no longer able to accept any large-capacity magazine. What is important about that? That immediately limits the kill power of that weapon. The weapon can still be used for defense. But the drums of 250 or 75 rounds with clips of 30 rounds, which are there for one reason—to kill large numbers of people—would not be accepted into that gun.

Within 2 years, every Smith & Wesson model would have a built-in, on-board locking system by which the firearm could only be operated with the key, or combination, or other mechanism unique to that gun.

Two percent of Smith & Wesson's firearms revenue would be devoted to developing smart gun technology for all future gun models. What a good thing to have happen.

Next, within a year of the agreement, each firearm would be designed so it could not be readily operated by a child under the age of six. This might include increasing the trigger-pull resistance, designing the gun so a small hand could not operate it, or perhaps requiring a sequence of actions to fire the gun that could not be easily accomplished by a 5-year-old. Who believes the Federal Government should not encourage manufacturers to make weapons so five- and six-year-olds cannot fire them?

The agreement includes safety in manufacturing tests, such as minimum barrel length and firing tests to ensure that misfires, explosions, and cracks such as those found in Saturday night specials do not occur. A drop test is also included.

I remember very well a major robbery in San Francisco where a police officer with a semiautomatic handgun went into the robbery, pulled out his weapon, and the clip dropped out. He was shot and killed. And I remember another incident where the gun was dropped and fired accidentally.

Another provision: each pistol would have a clearly visible chamber load indicator, so that the user can see whether there is a round in the chamber.

No new pistol design would be able to accept large-capacity ammunition clips.

The packaging of new guns will include a safety warning regarding the list of unsafe storage and use. What a good thing, a gun manufacturer that will put a warning with the gun that says to the prospective gun owner: Understand this is a lethal weapon. Here is how to keep it safely. Put it in a cabinet which is secure and locked. Keep the ammunition separate from the gun.

And we are going to prevent anyone who provides this from gaining any kind of preference? We give preference with merit pay. There are all kinds of preferences in Federal law. Yet we are to deny this to anybody who does the right thing and manufactures safe guns, smart guns, better guns.

Under the agreement, any dealer wishing to sell Smith & Wesson firearms would comply with a series of commonsense measures. Let me state what they are. Any dealer wishing to sell Smith & Wesson firearms first agrees not to sell at any gun show unless all the sellers in the gun show provide background checks. What a responsible thing to do. Again, this provision would be unnecessary if Congress had simply passed the juvenile justice bill and sent it to the President for his signature because all sellers at all gun shows would already be performing background checks. That bill is stalled in conference, and this provision of the agreement is a small step in the right direction.

Again, under the agreement, any dealer wishing to sell Smith & Wesson firearms must carry insurance against liability for damage to property or injury to persons resulting in firearm sales. The same thing would apply if you had a swimming pool. You would have some liability insurance if a neighbor fell into the pool and drowned. This isn't asking too much.

Any dealer wishing to sell Smith & Wesson firearms must maintain an up-to-date and accurate set of records and must keep track of all inventory at all times.

Any dealer wishing to sell Smith & Wesson firearms must agree to keep all firearms within the dealership safe from loss or theft, including locking display cases and keeping guns safely locked during off hours.

Ammunition must be stored separate from firearms.

Any dealer wishing to sell Smith & Wesson must stop selling large-capacity ammunition feeding devices and assault weapons.

This gun company has set itself in the vanguard of reform in the gun industry, and the Treasury-Postal bill coming before the Senate penalizes them for doing so. What kind of public policy is that? It simply says we are going to try, by law, to lower safety, regulation, careful record keeping, and all the things that are positive to the lowest possible denominator. We are not going to commend anybody who does the right thing. We are going to see they are not given preference. We are going to provide a disincentive to gun companies that want to do the right thing.

More than any other piece of legislation I have seen, this shows the disingenuousness of those who say they are for some targeted gun regulations. This speaks to what this is all about, that there should remain one, and one industry only, without regulation, without any kinds of standards, and that is the gun industry.

I think there is no better time to join this debate than in the upcoming Treasury-Postal bill. The amendment to strip this language from Treasury-Postal will be the first item of business of this side.

Mr. President, I will make this agreement available to anyone from either side of this aisle who wants to inspect it.

Mr. President, Senator KENNEDY is a cosponsor of the amendment. I thank him, as well.

I yield the floor.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Delaware.

Mr. BIDEN. Mr. President, the Senate will soon be considering the Treasury and general government appropriations bill. This is one of the important funding bills we will have to pass this year to keep the Government open and running.

In addition to the Department of the Treasury, this is the bill that provides moneys for the operation of the White House, the Executive Office of the President, and it also provides funds

for the construction of new courthouses, reflecting the priorities of the administrative offices of the courts. It is this third branch of our Government that I will take a few minutes to talk about.

In 1994, the Senate and the House passed the Violence Against Women Act which President Clinton then signed into law. As the author of that legislation, securing its passage had been my highest priority for three sessions of Congress. The cause of eliminating violence against women remains my highest priority. I have watched the progress of the implementation of my Violence Against Women Act. In that act we included a provision giving anyone who had been the victim of a crime of violence motivated by gender the right to bring a lawsuit seeking damages from the assailant.

On May 15 of this year, in a case called United States v. Morrison, the Supreme Court struck down this provision. The Court said that addressing the problems of violence against women in this way was beyond the constitutional authority of the elected representatives of the United States. Flat out, they said it was an unconstitutional act we engaged in.

In ruling it was beyond the constitutional authority of the Congress, the Court said that it does not matter how great an effect such acts of violence have on interstate commerce. They said gender-based violence could be crippling large segments of our national economy, but, nonetheless, even if that were proven—according to the Court—the Congress is powerless to enact a law to deter such active violence because although we have acted this way under the commerce clause of the Constitution before, the Court ruled violence in and of itself is not commerce.

I believe this is a constitutionally wrong decision. It is true that it does not strike a fatal blow against the struggle to end violence against women in this country. The other parts of the Violence Against Women Act are unaffected by this decision. I am pleased to report that these other provisions, together with changing attitudes in this country, are beginning to make a difference in this struggle in the lives of women who have been victimized.

I have introduced a bill with, now, I think over 60 cosponsors, to enhance the provisions of my Violence Against Women Act so that we can continue to make progress. Nonetheless, the decision in Morrison is a wrongheaded decision. It is not just an isolated error. No, it is part of a growing body of decisions in which this Supreme Court is seizing the power to make important social decisions that, under our constitutional system of government, are properly made by elected representatives who answer to the people, unlike the Court.

I said at the time that the case came down, striking down the provisions of the Violence Against Women Act, that the decision does more damage to our constitutional jurisprudence than it does to the fight against gender-based violence. Since I said that, a number of people have asked me to explain what I mean by that. Today, since we have the time, I am beginning a series of speeches to do just that by placing the Morrison decision in a larger context of what an increasingly out-of-touch Supreme Court has been doing in recent years.

I plan on making two additional speeches on this subject over the next several weeks and months. It is crucial, in my view, that the American people understand the larger pattern of the Supreme Court's recent decisions and, to me, the disturbing direction in which the Supreme Court is moving because the consequences of these cases may well impact upon the ability of American citizens to ask their elected representatives in Congress to help them solve national problems that have national impact.

Many of the Court's decisions are written in the name of protecting prerogatives of the State governments and speak in the time honored language of federalism and States rights. But as my grandmother would say, they have stood federalism on its head. Make no mistake, what is at issue here is the question of power, who wants it, who has it, and who controls it—basically, whether power will be exercised by an insulated judiciary or by the elected representatives of the people.

In our separation of powers doctrine, upon which our Government rests, that power is being wrestled by the Court from the elected representatives, for in every case in which the Court has struck down a Federal statute, it has invalidated a statute that the people of the United States have wanted. As a matter of fact, in many of the cases of statutes that have been struck down, the numerous attorneys general of the various States have sided with the Federal Government in briefs filed with the Court, saying that they supported the decision taken by the Congress and the President.

Let's give the emerging pattern of Supreme Court decisions a name. In a speech I gave before the New Hampshire Supreme Court last year, I referred to this pattern as an emerging pattern of an imperial judiciary. I meant to describe the judiciary that is making decisions and seizing power in areas in which the judgment of elected branches of government ought to be the controlling judgment, not the Court's. With increasing frequency, the Supreme Court is taking over the role of government for itself.

The imperial judging might also be called a kind of judicial activism. ''Judicial activism'' is an overworked expression, one that has often been used by conservatives to criticize liberal judges. Under this Supreme Court, however, the shoe is plainly on the other foot. It is now conservative judges who are supplanting the judgment of the people's representatives and substituting their own for that of the Congress and the President.

This is not just JOE BIDEN talking. The Violence Against Women Act case came to the Supreme Court through the Fourth Circuit Court of Appeals, where Judge J. Harvie Wilkinson is the chief judge. Judge Wilkinson has been on many so-called short lists for possible Supreme Court nominees of Governor Bush and is a well recognized conservative. In the opinion he wrote, agreeing that the civil rights remedy in the Violence Against Women Act was unconstitutional, Judge Wilkinson praised the result as an example of ''this century's third and final era of judicial activism.''

He, Judge Wilkinson, acknowledges that the decision represents the ''third and,'' he says, ''final era of judicial activism.'' And he said he hoped this new activism would be enduring presence in our Federal courts.

That was in Brzonkala v. VPI, 169 F.3d 820, 892–893.

Or consider Judge Douglas Ginsburg of the Court of Appeals for the District of Columbia, another well recognized conservative. Judge Ginsburg has quite explicitly criticized the interpretation of the Constitution that has prevailed through the better part of this entire century and, indeed, throughout most of our country's history, an interpretation which correctly recognizes the broad capacity and competence of the people to govern themselves through their elected officials, not through the court system.

According to Judge Ginsburg, the correct interpretation of the Constitution produces results that severely restrict the power of elected government. He calls the Constitution ''the Constitution in Exile.'' Under that Constitution, the one that he thinks controls, unelected Federal judges would wield enormous power to second-guess legislative bodies on both the State and the Federal levels.

When Judge Ginsburg wrote about these ideas in a magazine article in 1995, he was eagerly awaiting signs that the Supreme Court would begin to embrace his notion of a Constitution in exile. Five short years later, much has changed. As Linda Greenhouse recently put it in a New York Times column, Judge Ginsburg's hopes:

> . . . sound decidedly less out of context today than they did even 5 years ago, just before the court began issuing a series of decisions reviving a limited vision of federal power.

By taking a closer look at these series of decisions referred to in the New York Times, the pattern I have been referring to will become quite evident.

The first clear step toward an imperial judiciary was taken in the case called Lopez v. United States, which invalidated a Federal law making it a crime to possess a gun in a school zone. The Supreme Court held that it was not obvious ''to the naked eye'' that the nationwide problem of school violence has a substantial effect on the

national economy and interstate commerce, the predicate we have to show to have jurisdiction under the commerce clause to pass such a law.

In our desire to respond quickly to the epidemic of school violence, which we all talk about here on the floor, we in the Congress did not make findings—that is, we did not have hearings that said ''we find that the following actions have the following impact on commerce''—we did not make findings to relate school violence to interstate commerce. Subsequently, however, we did make such findings and pointed to the voluminous evidence that was before the Congress at the time we passed Senator KOHL's Gun-Free School Zone Act.

Nonetheless, the Court, this new imperial judiciary, ignored our findings and the raft of supporting evidence, and drew its own conclusions. They concluded—the Court concluded—that the threat of school violence to national commerce is not substantial enough to justify a legislative response on the part of those of us elected to the Congress.

The Lopez case startled many people. Numerous law schools sponsored conferences to discuss the meaning of this case. Constitutional scholars debated how great a departure this case signaled from the settled approach to congressional power that has been taken over the 20th century, at least the last two-thirds of the 20th century, by all previous Supreme Courts.

Immediately after the decision, no consensus emerged. Many scholars plausibly concluded that Lopez was, as one put it, just an ''island in the stream,'' a decision that breaks the flow of the river of cases before it, but which will have no lasting effect of any significance on those that follow it.

How wrong he was. It now turns out that if Lopez is an island, it is one the size of Australia. The Court soon followed Lopez by striking down the Religious Freedom and Restoration Act that Senator HATCH and I had worked so hard to craft and the Senate and House passed and the President signed.

In Boerne v. Flores—that is the name of the case that struck down the Religious Freedom Act we passed—the Congress of the United States enacted the Religious Freedom Act in response to an earlier Supreme Court decision.

In 1990, the Court ruled in Employment Decision v. Smith that the constitutional freedom of religion is not offended by a State law that significantly burdens the ability of members of that religion to practice their religion, so long as that law applies across the board, without singling out religious practices of any one denomination in any way.

For example, under the Smith decision, a dry county which prohibits the consumption of all alcohol could prohibit a church from using sacramental wine when they give communion, as they do in my church; I am a Roman Catholic; and they do so in other churches as well.

Smith broke with the prior line of decisions holding that such laws needed to make reasonable accommodations for religion unless the Government had a very good reason for applying the law when it offended someone's sincere religious practices to do so. In other words, unless the Government had an overwhelming reason why in a Catholic Church they could not serve, when they give communion, a sip of wine with the host, prior decisions said you cannot pass a law to stop that.

The overwhelming majority of both Houses of Congress thought the Smith decision was incorrect as a matter of constitutional interpretation and as a matter of policy. We concluded that because section 5 of the 14th amendment authorized the Congress to protect fundamental civil liberties by appropriate legislation, we could enact a statute providing greater protection than the Smith decision did to accepted religious practices.

After extensive hearings under the leadership of Senator HATCH and Senator KENNEDY, the so-called RFRA, Religious Freedom and Restoration Act, was drafted to require that the application of neutral laws had to make reasonable accommodation to bona fide religious objections.

The Supreme Court struck down our effort to extend reasonable protections to religious practices. It held that the 14th amendment does not authorize the Congress to confer civil rights by statute or to give judicially recognized rights a greater scope than the Court has set forth.

In the Court's view, the power of section 5 of the 14th amendment gives the Congress the power to ''enforce'' the rights established in that amendment, but it only amounts to a power to provide remedies for the violations of the rights that the Court has recognized—not the Congress, the Court has recognized—not to protect any broader conception of civil rights than the Court has already recognized.

In the Flores case, it was another sign that we are on the road to judicial imperialism. Recognizing the implications of the decision, the Republican majority on the Judiciary Committee's Subcommittee on the Constitution in the House held a hearing on the Court's refusal to defer to Congress' factual findings and the policy determinations it based on those findings.

Judicial deference to congressional findings and congressional authority to enforce civil rights are obviously important questions standing alone, but the Supreme Court raised the stakes even higher in two decisions relating to what we call State sovereign immunity. In those cases, Seminole Tribe of Florida v. Florida and Alden v. Maine, the Court declared the Congress may not use its commerce clause powers to abrogate State sovereign immunity.

What this means, translated, is that when Congress acts under its broad power to improve the national economy, a power granted to it by the Constitution, the Congress, in the Court's view, cannot authorize an individual to sue a State even if they are suing over a purely commercial transaction with that State. For example, as the Court held in the Alden case, an employee of a State now cannot sue his or her employer for failing to comply with the Fair Labor Standards Act just because the employer happens to be a State.

If it is a business person, a corporation, and they violate the Fair Labor Standards Act, which we passed to protect all people who work, they can be held accountable under that act. The Supreme Court came along and said: But, Congress, you can't pass a law that holds a State accountable.

The Seminole Tribe and Alden cases highlight the importance of the issue of congressional power under the 14th amendment because the Court continues to recognize that Congress can authorize individuals to sue States if our legislation is authorized by the 14th amendment rather than by the commerce clause.

By limiting Congress' 14th amendment powers, therefore, the Boerne decision, which is the Religious Freedom Act decision, draws into question our capacity to meaningfully protect civil rights at all whenever remedies directly against a State are being considered.

Viewed in its historical context, this is a remarkable development in and of itself. The text of the 14th amendment was drafted immediately after the Civil War, and it grants powers to only one branch of the Government, the only one named in the amendment: the Congress, not the Court. Specifically, the amendment sought to grant the Congress ample power to enforce civil rights against the States. That is what the Civil War was about. That is why the Civil War amendments were passed: to put it in stone. Developments in these recent cases I have cited are in profound tension with the sentiments and concerns of the drafters of the 14th amendment.

Still, after that case, some might continue to say it is not clear where the Court was really headed. It was possible to say in the Flores case that it was simply articulating the standard governing the nature of Congress' power; namely, that it was purely remedial and not substantive.

Because the legislative record was designed to support an exercise of substantive power, that record did not so clearly support the exercise of the remedial power.

On this reading, the Court did not second-guess the congressional findings. It just saw them as answering the wrong question. Subsequent events, however, have confirmed that the Subcommittee on the Constitution had a right to be worried about Boerne because Boerne was much more ominous than that.

In one of the last cases decided in the 1998 term, the Court laid down yet another marker, perhaps the most bold

decision yet in the trend of the Court usurping democratic authority.

In that decision, the Court held unconstitutional a Federal statute, the Patent and Plant Variety Protection Remedy Clarification Act. That act provided a remedy for patent holders against any State that infringes on the patent holder's patent. That was in Florida Prepaid Postsecondary Education Expense Board v. College Savings Bank.

Before enacting this remedial legislation, the Congress had developed a specific legislative record detailing specific cases where States had infringed a federally conferred patent and evidence suggested the possibility of a future increase in the frequency of State infringements of patents held by individuals.

Unlike Lopez, the Patent Protection Act did not lack findings or legislative record. Unlike Boerne, the legislative record demonstrated that the statute was remedial and not substantive. Nonetheless, the Supreme Court decided, independently, that the facts before the Congress, as it, the Court, interpreted them, provided, in the Court's words, ''little support'' for the need for a remedy.

Get this: We, up here, concluded, on the record, that States have, in fact, infringed upon the patents held by individuals. We laid out why we thought—Democrat and Republican, House, Senate, and President—we should protect individuals from that and why we thought the problem would get worse. We set that out in the record when we passed the legislation.

But the Supreme Court comes along and says: We don't think there is a problem. Who are they to determine whether or not there is a problem? It is theirs to determine whether our action is constitutional, not whether or not there is a problem. But they said they found little support for our concern—the concern of 535 elected Members of the Congress and the President of the United States.

The Court was not substituting a constitutional principle here. The Court was substituting its own policy views for those of this body that described the problem of State infringement on Federal patents as being of national import. They concluded it is not that big of a deal.

We need to be clear about what the Court did in the patent remedy case. For a long time, it has been accepted constitutional law that once a piece of legislation has been found to be designed to cover a subject over which the Constitution gives the Congress the power to act—let me say that again—this has been accepted constitutional theory and law that once a piece of legislation has been found to be designed by the Congress to cover a subject over which the Congress has constitutional authority, that it then becomes wholly within the sphere of Congress to decide whether any particular action is wise or is prudent.

This has been constitutional law going all the way back as far as M'Culloch v. Maryland, written by the then-Chief Justice John Marshall, in 1819. There Chief Justice Marshall wrote that the ''government which has the right to act, and has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means [by which to act].''

In the patent remedy case, the Court quite clearly usurped the constitutional authority of Congress to select the means it thinks appropriate to remedy a problem that is admittedly within the authority of Congress to address.

In the patent remedy case, the Court did not hold that Congress has exercised a power in an area outside its constitutional authority. Instead, it disagreed with our substantive judgment as to whether the Federal remedy was warranted.

In short, the Court struck down the remedy just because it did not think the remedy was a good idea. Who are they to make that judgment? Talk about judicial activism. The cases I have reviewed today—Lopez, Boerne, Seminole Tribe, Alden, and Florida Prepaid—bring us up to this term just completed by the Supreme Court.

In the next series of speeches, I will show how the trend of judicial imperialism continued, and was extended by several cases decided this past year, including the Violence Against Women Act, which I began with today.

The bottom line here is, in the opinion of many scholars and observers of the Court, we are witnessing the emergence of what I referred to a year ago as the ''imperial judiciary.'' I just discussed five cases leading up to the just completed term.

Now I would like to discuss two significant decisions of this term. I will also begin the task of trying to place these decisions in a broader framework of the Constitution's allocation of responsibility between the elected branches of Government and the judiciary. It is a framework that this ''imperial judiciary'' is disregarding.

Last December, the Court focused its sight on the Age Discrimination in Employment Act. That is the act that protects Americans against discrimination based on age and is amply justified under our Constitution. Not only does it protect the basic civil rights of equal protection and nondiscriminatory treatment—with bipartisan support, I might add—it also promotes the national economy, by ensuring that the labor pool is not artificially limited by mandatory requirements to retire.

So the Congress had ample constitutional authority to enact the Age Discrimination Act. And the Court did not deny that. Nonetheless, the Court, this last term, gutted the enforcement of the act as the act applied to all State government employees.

Building on its earlier decisions in the Seminole Tribe and Alden cases, which I discussed a moment ago, the Court ruled that the Constitution prevents us from authorizing State employees to sue their employers for violation of the Federal Age Discrimination Act. The Court also said, however, that the Constitution does not prevent the Congress from applying the law to the States.

Now, you have to listen to this carefully. In a thoroughly bizarre manner, in my view, the Supreme Court has now held that the Constitution allows the Age Discrimination Act to apply to State employers, but it denies the employees the right to sue the State employers when their rights under the Federal law are violated. We learned in law school that a right without a remedy can hardly be called a right.

As a result of this case, called Kimel v. Florida Board of Regents, over 27,000 State employees in my State of Delaware are left without an effective judicial remedy for a violation of a Federal law that protects them against age discrimination. Across the Nation, nearly 5 million State employees no longer have the full protection of Federal law.

Recall that in the Boerne decision—the case that invalidated the Religious Freedom Restoration Act, which I discussed a moment ago—the Court had begun the process of undermining the ability of the Congress under section 5 of the 14th amendment to enact legislation protecting civil rights. In Kimel, they continued that process.

In Kimel, the Court held that Congress' 14th amendment power to enforce civil rights refers only to the enforcement of those rights that the Court itself has declared and not to rights that exist by virtue of valid statutes. Because the Court decided that the Age Discrimination Act goes beyond the general protection the Constitution provides when it says that all citizens are entitled to ''equal protection under the law,'' the Court ruled that the right to sue an employer for violations of the act was not ''appropriate'' and so ruled the act unconstitutional.

After Kimel, the pattern of the imperial judiciary now emerges with some clarity. First, the Court has repudiated over 175 years of nearly unanimous agreement that Congress, not the Court, will decide what constitutes ''necessary and proper'' legislation under any of its, Congress', enumerated powers. Then in a parallel maneuver, the Court has announced that it, not the Congress, will decide what constitutes ''appropriate'' remedial legislation to enforce civil rights and civil liberties.

Let me return for a moment to the Violence Against Women Act, which I began earlier in my speech. Prior to the enactment of the Violence Against Women Act, I held extensive hearings in the Judiciary Committee when I was chairman, compiling voluminous evidence on the pattern of violence against women in America. The massive legislative record Congress generated over a 4-year period of those

hearings supported Congress' explicit findings that gender-motivated violence does substantially and directly affect interstate commerce. How? By preventing a discrete group of Americans, i.e., women, from participating fully in the day-to-day commerce of this country. These are the types of findings, I might add, that were absent when the Congress first enacted the Gun-Free School Zone Act, struck down in the Lopez case.

Let me remind you that Congress, when we enacted the civil rights provision invalidated in Morrison, found:

[C]rimes of violence motivated by gender have a substantial adverse impact upon interstate commerce by deterring potential victims of violence from traveling interstate, from engaging in employment in interstate business, from transacting with businesses and in places involved in interstate commerce. Crimes of violence motivated by gender have a substantial adverse effect on interstate commerce by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products . . .

I cannot emphasize enough the seriousness of the toll that we found gender-motivated violence exacts on interstate commerce. Such violence denies women an equal opportunity to compete in the job market, imposing a heavy burden on our national economy.

Witness after witness at the hearing testified that as a result of rape, sexual assault, or domestic abuse, she was fired from, forced to quit, or abandoned her job. As a result of such interference with the ability of women to work, domestic violence was estimated to cost employers billions of dollars annually because of absenteeism in the workplace. Indeed, estimates suggested that we spend between $5 and $10 billion a year on health care, criminal justice, and other social costs merely and totally as a consequence of violence against women in America.

In response to this important national problem, one to which we found the States did not or could not adequately respond, Congress enacted my Violence Against Women Act in 1994, which included provisions authorizing women to sue their attackers in Federal court. This statute reflected the legislative branch's judgment that State laws and practices had failed to provide equal and adequate protection to women victimized by domestic violence and sexual assault and that the lawsuit would provide an adequate means of remedying these deficiencies. This was no knee-jerk response to a problem. Congress specifically found that State and Federal laws failed to ''adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests'' and that:

. . . existing bias and discrimination in the criminal justice system often deprives victims of crimes of violence motivated by gender of equal protection of the laws and the redress to which they are entitled.

The funny thing about these explicit congressional findings and this mountain of data, as Justice Souter in his dissent called it, showing the effects of violence against women on interstate commerce—the funny thing about this is that the Supreme Court acknowledged all of it. They said: We don't challenge that.

This is the new height in their imperial judicial thinking. That is right. The Court acknowledged all of the findings of my committee. In Morrison, the Supreme Court recognized that in contrast to the lack of findings in the legislation on the Gun-Free School Zone case, Lopez, that the civil rights provisions of the Violence Against Women Act were supported by ''numerous factual findings'' about the impact of gender-motivated violence on interstate commerce.

But the Court also acknowledged the failure of the States to address this problem—they acknowledged the States had not addressed it before we did—noting that the assertion that there was a pervasive bias in State justice systems against victims of gender-motivated violence was supported by a ''voluminous congressional record.'' They acknowledged that there was this great impact on interstate commerce. They acknowledged—because I had my staff, over 4 years, survey the laws and the outcomes in all 50 States—that many State courts had a bias against women.

So they acknowledged both those predicates.

Instead of according the deference typically given to congressional factual findings, supported by, as they said, a voluminous record, and without even the pretense of applying what we lawyers call the ''traditional rational basis test''—that is, if the Congress has a rational basis upon which to make its finding, then we are not going to second-guess it; that is what we mean by ''rational basis''—the Court simply thought it knew better.

This marks the first occasion in more than 60 years that the Supreme Court has rejected explicit factual findings by Congress that a given activity substantially affects interstate commerce. The Court justified this abandonment of deference to Congress by declaring that whether a particular activity substantially affects interstate commerce ''is ultimately a judicial rather than a legislative question.''

You got this? For the first time in 60 years, since back in the days of the Lochner era, the Supreme Court has come along and said they acknowledge that the Congress has these voluminous findings that interstate commerce is affected and the States aren't doing anything to deal with this national problem of violence against women; they are not doing sufficiently enough.

There is a bias in their courts. We acknowledge that. But they said, notwithstanding that, the question of whether a specific activity substantially affects interstate commerce ''is ultimately a judicial rather than a legislative question.'' Hang on, here we go back to 1925.

As Justice Souter said in his dissent, this has it exactly backwards, for ''the fact of such a substantial effect is not an issue for the courts in the first instance, but for the Congress, whose institutional capacity for gathering evidence and taking testimony far exceeds ours.''

In short, in a decision that reads more like one written in 1930 than in 2000, the Court held that the judicial, not the legislative, branch of the Government was better suited to making these decisions on behalf of the American people—a conclusion that certainly would have surprised Chief Justice Marshall, the author of the seminal commerce clause decision in Gibbons v. Ogden in the early 1800s.

The judgments that the Congress made in enacting the Violence Against Women Act were, in my view, the correct ones. Even if you disagree with me, though, they were the Congress' judgments to make, not the Court's judgments to make.

When it struck down the Violence Against Women Act, the Court left little doubt that it was acting outside its proper judicial role. They said that the commerce clause did not justify the statute because the act of inflicting violence on women is not a ''commercial'' act. It said that section 5 of the 14th amendment also did not justify this act because creating a cause of action against the private perpetrators of violence is not an ''appropriate'' remedy for the denial of equal protection that occurs when State law enforcement fails vigorously to enforce laws that ought to protect women against such violence.

Over the course of this speech today, I have discussed seven significant decisions since 1995: Lopez, the gun-free school zones case; Boerne against Flores, the Religious Freedom Restoration Act case; Seminole Tribe and Alden, the two decisions prohibiting us from creating judicial enforceable economic rights for State employees; Florida Prepaid, the patent remedy case; Kimel, the Age Discrimination Act case; and finally, Morrison, the Violence Against Women Act case.

None of them deal fatal blows to our ability to address these significant national problems, but they each, in varying degrees, make it much more difficult for us to be able to do so.

There are two even more important points to make about these cases.

First, together, these cases are establishing a pattern of decisions founded on constitutional error—an error that allocates far too much authority to the Federal courts and thereby denies to the elected branches of the Federal Government the legitimate authority vested in it by the Constitution to address national problems.

Second, this is a trend that is fully capable of growing until it does deal telling blows to our ability to address significant national problems. This is not only my assessment; it is shared, for example, by Justice John Paul Stevens, who was appointed to the Court

by Gerald Ford. Dissenting in the Kimel case, Justice Stevens has written that ''the kind of judicial activism manifested in [these cases] represents such a radical departure from the proper role of this Court that it should be opposed whenever the opportunity arises.''

That is not JOE BIDEN speaking; that is a sitting member of the Supreme Court appointed by a Republican President.

It is also shared by Justice David Souter, who was appointed by President Bush. Dissenting in the Lopez case, Justice Souter has written that ''it seems fair to ask whether the step taken by the Court today does anything but portend a return to the untenable jurisprudence from which the Court extricated itself almost 60 years ago.'' He was referring to the Lochner era.

It is shared by Justice Breyer, a Clinton appointee. Dissenting in College Savings Bank v. Florida Prepaid, Justice Breyer has written that the Court's decisions on State sovereign immunity ''threaten the Nation's ability to enact economic legislation needed for the future in much the way Lochner v. New York threatened the Nation's ability to enact social legislation over 90 years ago.''

Significantly, this imperialist trend can continue to grow and flower in two different places. The Supreme Court itself can continue to write more and more aggressive decisions, cutting deeper and deeper into the people's capacity to govern themselves effectively at a national level.

In the short term, perhaps the odds are that this will not occur. Many of the decisions in this pattern have been decided by votes of five Justices to four Justices, and it may be that one or more of the conservative majority has gone about as far as he or she is prepared to go at this time.

In the longer term, however, we can quite reasonably expect two or three appointments to the Court in the next 4 to 8 years, and if those appointments result in replacing moderate conservatives on the Court with activist conservatives, we have every reason to expect that this trend I have outlined for the last 45 minutes would gain momentum.

It can also bloom in the lower courts. This may, to some extent, be by design of the Justices who are taking the lead in the Court today. Certainly, many people have remarked on the proclivity of Justice Scalia to author opinions containing sweeping language that creates new ambiguities in the law and which then often provide a hook on which lower court judges can hang their judicial activism.

Already, opinions have been written by lower court judges overturning the Superfund legislation, challenging the constitutionality of the Endangered Species Act, calling into doubt Federal protection of wetlands, and eviscerating the False Claims Act, among others. Not all of these judicial exercises can be corrected by the Supreme Court, even if it were inclined to do so, because the Court decides only 80 or so cases a year from the entire Federal system.

In concluding, I wish to describe in the most basic terms why the imperialist course upon which the Court has embarked constitutes a danger to our established system of government.

In case after case, the Court has strayed from its job of interpreting the Constitution and has instead begun to second guess the Congress about the wisdom or necessity of enacted laws. Its opinions declare straightforwardly its new approach: The Court determines whether legislation is ''appropriate,'' or whether it is proportional to the problem we have validly sought to address, or whether there is enough reason for us to enact legislation that all agree is within our constitutionally defined legislative power.

If in the Court's view legislation is not appropriate, or proportional, or grounded in a sufficient sense of urgency, it is unconstitutional—even though the subject matter is within Congress' power, and even though Congress made extensive findings to support the measure.

More significant than the invalidation of any specific piece of legislation, this approach annexes to the judiciary vast tracts of what are properly understood as the legislative powers. If allowed to take root, this expanded version of judicial power will undermine the project of the American people, and that project is self-government, as set forth in the Constitution.

To understand the alarm that Justice Stevens, Justice Souter, and others have sounded about the Court's pattern of activism, we must understand the way the Constitution structures the Federal Government and the reasons behind that structure. We must also understand the history and the practice that have made the Constitution's blueprint a reality and provide a scale to measure when the balance of power has gone dangerously awry. These considerations amply support Justice Stevens's assessment of ''a radical departure from the proper role of this Court.''

The Constitution (supplemented by the Declaration of Independence) sets forth the great aspirations and objects of our nation. It does not, however, achieve them. That is the great project of American politics and government: to achieve the country envisioned in those founding documents. The way to meet our aspirations and establish our national identity and our character as a people is through the process of self-government.

The Declaration of Independence proclaims our fundamental commitment to liberty and equality. These commitments are by no means self-executing. The history of our nation is in no small part the history of a people struggling to comprehend these commitments and to put these high ideals into practice.

The Constitution itself was concerned with a more complex function. Whereas the Declaration explained the reasons for splitting from Great Britain, the Constitution was concerned with explaining why the former colonies should remain united as a single nation. It was also concerned with the task of providing a government that could fulfill the promise and purposes of union.

The Framers who arrived in Philadelphia to debate and draft the Constitution were no longer immediately animated by an overbearing and oppressive government. In fact, our first national government, under the Articles of Confederation, was the precise opposite.

The emergency that brought the leading citizens of the North American continent together in Philadelphia that Summer of 1787 was the inability of the national government to act in any effective way. These framers saw the vast potential of the new nation with its unparalleled natural and human resources.

They saw as well the danger posed by foreign powers and domestic unrest. They realized too that the Confederation could never act credibly to exploit the nation's potential or to quell domestic and foreign hostilities. As Alexander Hamilton put it, ''[w]e may indeed with propriety be said to have reached almost the last stage of national humiliation. There is scarcely anything that can wound the pride or degrade the character of an independent nation which we do not experience.''

Hamilton urged that the nation ratify the Constitution and throw off the ability of the states to constrain the national government: ''Here, my countrymen, impelled by every motive that ought to influence an enlightened people, let us make a firm stand for our safety, our tranquility, our dignity, our reputation. Let us at last break the fatal charm which has too long seduced us from the paths of felicity and prosperity.''

Indeed, Hamilton may have been understating the degree of the crisis. Gouverneur Morris, a leading delegate from Pennsylvania, warned that ''This country must be united. If persuasion does not unite it, the sword will . . . The scenes of horror attending civil commotion cannot be described . . . The stronger party will then make [traitors] of the weaker; and the Gallows & Halter will finish the word of the sword.''

The words of the Constitution's preamble are not idle rhetoric. The founding generation ratified the Constitution in order to establish a government that could decisively and effectively act to ''provide for the common defense, promote the general welfare, and secure the blessings of liberty.'' This is a fundamental constitutional value that must always be brought to bear when construing the Constitution.

Yet, it is precisely this constitutional value that the Supreme Court

has lost sight of. Consider, for example, Justice Kennedy's statement in the case striking down the Line Item Veto Act. ''A nation cannot plunder its own treasury without putting its Constitution and its survival in peril.

The statute before us then is of first importance, for it seems undeniable the Act will tend to restrain persistent excessive spending.'' Who is he to make that judgment? Yet, Justice Kennedy viewed this as completely irrelevant to the statute's constitutionality. He concurred that the Line Item Veto Act violates separation of powers even though there was no obvious textual basis for this conclusion and no apparent threat to any person's liberty.

Justice Kennedy is right about one thing. His statement is premised on the view that the Court is not particularly well-suited to make policy or political judgments. This is accurate and no mere happenstance. The Constitution itself structures the judiciary and the political branches differently by design.

The Judiciary is made independent of political forces. Judges hold life tenure and salaries that cannot be reduced. The purpose of the entire structure of the judiciary is to leave judges free to apply the technical skills of the legal profession to construe and develop the law, within the confines of what can be fairly deemed legal reasoning.

Outside this realm is the realm of policy. Here Congress and the President enjoy the superior place, again by constitutional design. The political branches are tied closely to the people, most obviously through popular elections.

Between elections, the political branches are properly subject to the public in a host of ways. Moreover, the political branches have wide-ranging access to information through hearings, through studies we commission, and through the statistics and data we routinely gather.

This proximity to the people and to information makes Congress the most suitable repository of the legislative power; that is, the power to deliberate as agents of the public and to determine what laws and structures will best ''promote the general welfare.''

It is much easier to describe the distinction between the judicial and the legislative power in the abstract than it is to apply in practice. That is why so much of our constitutional history has been devoted to developing doctrines and traditions that keep the judiciary within its proper sphere.

After much upheaval, the mid-twentieth century yielded a stable and harmonious approach to questions relating to the scope of Congress's powers: these questions are largely for the political branches and the political process to resolve—not the courts.

To be sure, the Court has a role in policing the outer boundaries of this power, but it is to be extremely deferential to the specific judgment of Congress that a given statute is a necessary and proper exercise of its constitutional powers. When the Court fails to defer, as it had during several periods prior to the New Deal, it inevitably finds itself making judgments that are far outside the sphere of the judicial power.

This is the point of Justice Stevens' warning. The Court is departing from its proper role in scope of power cases. What was initially uncertain, even after Lopez and Boerne, is now inescapable: This imperial Court, in case after case, is freely imposing its own view of what constitutes sound public policy. This violates a basic theory of government so carefully set forth in our Constitution. In theory, therefore, there is ample reason to expect that the Supreme Court's recent imperialism will undermine the fundamental value animating the Constitution, and that is the ability of the American people to govern themselves effectively and democratically.

I yield the floor.

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

Mr. LEVIN. Mr. President, I yield to the Senator from Missouri up to 7 minutes for a statement he wishes to make, and I ask unanimous consent I be allowed to do that without losing my right to the floor.

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

The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Senator from Michigan for his kindness to me. I certainly am not the one to object to that unanimous consent. I appreciate that very much.

I express my unequivocal support, and I rise to do so for the many efforts that we are making in this Congress to reform U.S. policy on embargoes of food and medicine. Now is the time to reevaluate the policies we have engaged in in the past that are perpetuating losses to America.

Food embargoes can be summed up as a big loss: a loss to the U.S. economy, a loss of jobs, a loss of markets. For example, embargoed countries buy 14 percent of the world's total rice, 10 percent of the world's total wheat purchases, and the list goes on.

When we lose those markets for America, we should have a very good reason. There should be some benefit if we are going to give up access to 14 percent of the world's rice import market, 10 percent of the world's wheat market, for soybean farmers, cattlemen, hog farmers, poultry producers, cotton, and corn farmers.

The nation of Cuba, for example, imports about 22 million pounds of pork a year. Someone says that is important to the livestock farmers. Feed that pig corn before exporting it, so it is important to the grain farmers, as well.

The embargo causes a loss in America's foreign policy. Often we think we will inflict some sort of pressure or injury on another country and, instead of hurting them, we help them. I don't think there was any more dramatic case of that than the Soviet grain embargo with 17 million tons of grain and those contracts were canceled. Instead of hurting the Soviet Union, they replaced the contracts in the world marketplace at a $250 million benefit to the Soviet Union. Instead of hurting the former Soviet Union, we helped the former Soviet Union. That particular weapon was dangerous. Using food and medicine as an embargo is dangerous because that weapon backfires. Instead of hurting our opponent, we helped our opponent.

Who did we hurt? We hurt the American farm agricultural community. We hurt the food processing community. We need to make a commitment to ourselves that we need to reform this area of embargoing food and medicine resources.

The provision the Senator from Kansas and I and others will likely offer today simply reaffirms what we have been trying to do for some time; that is, to get real reform of humanitarian sanctions. I will cosponsor Senator ROBERTS' and Senator BAUCUS' amendment. I support it fully. However, the amendment should not be necessary. Twice we have passed sanctions reform for food and medicine in the Senate. Why is it necessary to do this a third time? My clear preference is to pass sanctions reform for all countries, not only for Cuba. We should reform the sanctions regime for all countries, not only Cuba, and we should ensure that future sanctions will not be imposed arbitrarily.

Last year, the Senate accepted overwhelmingly, by a vote of 70–28, accepted an amendment that I and many of my colleagues offered. That amendment lifts food and medicine sanctions across the board, not only applying the lifting of the sanctions to Cuba.

When we went to the House-Senate conference, the democratic process was derailed. We were not voted down. The conference was shut down because the votes were there to affect what the Senate had clearly voted in favor of. That is, the reformulation of our policy in regard to food and medicine embargoes. The conference was shut down by a select few individuals in the Congress who were outside of the conference committee.

This reform proposal was then adopted by the Senate Foreign Relations Committee. I am pleased the Senate Foreign Relations Committee has embraced the concept, which the Senate voted 70–28 in favor of, in spite of the fact this was shot down when the committee was shut down in the conference last year.

Once again, this provision passed the Senate this year. Senators DORGAN and GORTON offered it as an amendment in the agricultural appropriations markup, and it was accepted overwhelmingly.

Once again, we are faced with a House-Senate conference. It would be very troublesome to me if the democratic process is not allowed to work,

especially after we have seen the will of Congress and the American people. That will is clearly expressed as a will to reform and embrace the reform of sanctions imposed by the President. It has passed the Senate Foreign Affairs Committee, and it has passed the Senate twice. Some version of this effort has now passed the House of Representatives and is broadly supported all across America.

I hold in my hand a list of about 50 organizations, dozens and dozens and dozens of organizations, including the American Farm Bureau, the National Farmers Union, the U.S. Chamber of Commerce, Gulf Ports of the Americas Association, the AFL–CIO. That is a pretty broad set of groups that want to reform this practice of embargoes.

I ask unanimous consent to have this list printed in the RECORD.

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

GROUPS AND INDIVIDUALS SUPPORTING THE AMENDMENT:

Missouri Farm Bureau, and numerous other Missouri farm organizations, The American Farm Bureau, The National Farmers Union, American Soybean Association, U.S. Rice Producers Association, Wheat Export Trade Education Committee, National Association of Wheat Growers, U.S. Wheat Associates, National Grain Sorghum Producers, Cargill.

ConAgra, Riceland, U.S. Chamber of Commerce, Grocery Manufacturers of America, Gulf Ports of the Americas Association, The AFL–CIO, Washington Office of Latin America, Resource Center of the Americas, The U.S.-Cuba Foundation, Cuban American Alliance Education Fund.

Association for Fair Trade with Cuba, The U.S.-Cuba Friendshipment/Bay Area, Americans for Humanitarian Trade with Cuba, Cuban Committee for Democracy, U.S.A./Cuba InfoMed, USCuBA Trade Association, Cuban Committee for Democracy, Cuban American Alliance Education Fund, Inc., InterAction (the American Council for Voluntary International Action).

Latin American and Caribbean Region American Friends Service Committee, World Neighbors, Lutheran World Relief, Church of the Brethren, Washington Office, Bread for the World, Paulist National Catholic Evangelization Association, World Education, Lutheran Brotherhood, PACT, Third World Opportunities Program.

Concern America, Center for International Policy, Program On Corporations, Law, and Democracy (POCLAD), Unitarian Universalist Service Committee, Committee of Concerned Scientists, Inc., (which is chaired by Joel Lebowitz, Rutgers University, Paul Plotz, National Institutes of Health, and Walter Reich, George Washington University), Women's International League for Peace and Freedom, Oxfam America, Institute for Food and Development Policy.

Paulist National Catholic Evangelization Association, The Alliance of Baptist, Institute for Human Rights and Responsibilities, Chicago Religious Leadership Network on Latin America, Fund for Reconciliation and Development, Guatemala Human Rights Commission, USA, The Center for Cross-Cultural Study, Inc., Mayor Gerald Thompson, City of Fitzgerald, Georgia, Professor Hose Moreno, Professor of Sociology, University of Pittsburgh, Berkeley Adult School, Career Center Director June Johnson, Youngstown State University, Dept. of Foreign Language, Lake Charles Harbor & Terminal District, Catholic Relief Services.

Mr. ASHCROFT. We are today offering yet another amendment because there is concern that the democratic process in the agricultural appropriations House-Senate conference will not be respected.

Let me be clear. We would not have to be here today offering this amendment that says ''don't enforce the law,'' if we in the Congress were allowed to change the law, which is the purpose of Congress.

If you don't want to change the law, you don't need a Congress. You can have the same laws all the time. We found a law that is not working; we should change the law. This amendment will be a ''don't enforce the law'' amendment, but the truth is, our prior expressions on this are clear. We ought to change the law so we won't have to talk about withdrawing funding for enforcement.

My preference is to get this issue resolved in the agricultural appropriations conference and pass embargo reform for all countries and for future sanctions. We need to send real embargo reform to the President's desk this year. That should be our objective. I will support this amendment today which I am cosponsor of, but real reform, and reforming the regime, the framework in which these sanctions are proposed, is what we ought to do. It is what we have done. I believe, ultimately, it is what we will do for the benefit of not only those who work in agriculture and who respect foreign policy but for future generations and the relations of the United States with other countries.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the Treasury-Postal appropriations bill includes a provision to establish a special postage stamp called the semipostal, intended to raise funds for programs to reduce domestic violence.

I am a very strong supporter of programs to reduce domestic violence—I believe Congress should fully fund those programs—but I do not agree that another semipostal issue should be mandated by the Congress.

Semipostals are stamps that are sold with a surcharge on top of the regular first-class postage rate, with the extra revenue earmarked for a designated cause. Those causes are invariably causes which I think most, if not all, support. They are very appealing causes that come to Congress and ask to require the Postal Service to issue a stamp that has an amount for first-class postage more than the regular 33 cents amount, with the difference going to their cause.

The one and only time that we ever did that was for an extraordinarily worthy cause—breast cancer research. The question now is whether we are going to continue down that road and, as a Congress, mandate the Postal Service to issue those stamps for a whole bunch of causes that are competing with each other for us to mandate the Postal Service to issue such a stamp.

Section 414 of this bill says:

In order to afford the public a convenient way to contribute to funding for domestic violence programs, the Postal Service shall establish a special rate of postage for first-class mail under this section.

It then goes on to describe what that rate shall be. It says in part of this section that:

It is the sense of the Congress that nothing in this section should directly or indirectly cause a net decrease in total funds received by the Department of Justice or any other agency of the Government, or any component or program thereof below the level that would otherwise have been received but for the enactment of this section.

I am not sure how this can possibly be enforced. But that is just one of the problems, not the basic problem, with this language.

As I indicated, the first and only example in American history of a semipostal stamp being issued was the breast cancer research stamp which required the Postal Service to turn over extra revenue, less administrative costs, to the National Institutes of Health and the Department of Defense for its breast cancer research programs. That stamp broke tradition in Congress, not just because it was the first semipostal in our Nation's history but also because it was the first time that Congress mandated the issuance of any stamp in 40 years. I think our tradition of keeping Congress out of the stamp selection process has worked with respect to commemorative stamps, and I believe we should follow that with respect to semipostals as well.

For the last 40 years, Congress has deferred to the Postal Service and to an advisory board which it has set up, nonpartisan, out of politics, objective. That Citizens' Stamp Advisory Committee recommends subjects for the commemorative stamp program. That committee, the Citizens' Stamp Advisory Committee, was created more than four decades ago to take politics out of the stamp selection process. Committee members review thousands of stamp subjects each year and select only a small number that they believe will be educational and interesting to the public and meet the goals of the Postal Service.

Although Congress advises that advisory committee on stamp subjects by making recommendations through letters that we send or through sense-of-Congress resolutions, until now, for the last 40 years, Congress has left the decisionmaking on stamp issuance up to the Postal Service.

This is what the Postal Service says about the role of the Citizens Stamp Advisory Committee:

The U.S. Postal Service is proud of its role in portraying the American experience to a world audience through the issuance of postage stamps and postal stationery.

Almost all subjects chosen to appear on U.S. stamps and postal stationery are suggested by the public. Each year, Americans submit proposals to the Postal Service on literally thousands of different topics. Every stamp suggestion is considered, regardless of who makes it or how it is presented.

On behalf of the Postmaster General, the Citizens' Stamp Advisory Committee (CSAC) is tasked with evaluating the merits of all stamp proposals. Established in 1957, the Committee provides the Postal Service with a ''breadth of judgment and depth of experience in various areas that influence subject matter, character and beauty of postage stamps.''

The Committee's primary goal is to select subjects for recommendation to the Postmaster General that are both interesting and educational. In addition to Postal Service's extensive line of regular stamps, approximately 25 to 30 new subjects for commemorative stamps are recommended each year. Stamp selections are made with all postal customers in mind, not just stamp collectors. A good mix of subjects, both interesting and educational, is essential.

Committee members are appointed by and serve at the pleasure of the Postmaster General. The Committee is composed of 15 members whose backgrounds reflect a wide range of educational, artistic, historical and professional expertise. All share an interest in philately and the needs of the mailing public.

The Committee itself employs no staff. The Postal Service's Stamp Development group handles Committee administrative matters, maintains Committee records and responds to as many as 50,000 letters received annually recommending stamp subjects and designs.

The Committee meets four times yearly in Washington, D.C. At the meetings, the members review all proposals that have been received since the previous meeting. No in-person appeals by stamp proponents are permitted. The members also review and provide guidance on artwork and designs for stamp subjects that are scheduled to be issued. The criteria established by this independent group ensure that stamp subjects have stood the test of time, are consistent with public opinion and have broad national interest.

Ideas for stamp subjects that meet the CSAC criteria may be addressed to the Citizens' Stamp Advisory Committee, c/o Stamp Development, U.S. Postal Service, 475 L'Enfant Plaza, SW, Room 4474E, Washington, D.C. 20260–2437. Subjects should be submitted at least three years in advance of the proposed date of issue to allow sufficient time for consideration and for design and production, if the subject is approved.

The Postal Service has no formal procedures for submitting stamp proposals. This allows everyone the same opportunity to suggest a new postage stamp. All proposals are reviewed by the Citizens' Stamp Advisory Committee regardless of how they are submitted, i.e., postal cards, letters or petitions.

Afer a proposal is determined not to violate the criteria set by CSAC, research is done on the proposed stamp subject. Each new proposed subject is listed on the CSAC's agenda for its next meeting. The CSAC considers all new proposals and takes one of several actions: it may reject the new proposal, it may set it aside for consideration for future issue or it may request additional information and consider the subject at its next meeting. If set aside for consideration, the subject remains ''under consideration'' in a file maintained for the Committee.

What is important about all that is that there are very clear procedures where every citizen of this country can make a recommendation to the committee which has certain basic criteria to determine the eligibility of subjects for commemoration on U.S. stamps. These criteria are set forth for the general public to see—12 major areas guide the selection.

It is a general policy that U.S. postage stamps and stationery primarily will feature American or American-related subjects.

No living person shall be honored by portrayal on U.S. postage.

Commemorative stamps or postal stationery items honoring individuals usually will be issued on, or in conjunction with significant anniversaries of their birth, but no postal item will be issued sooner than ten years after the individual's death. The only exception to the ten-year rule is the issuance of stamps honoring deceased U.S. presidents. They may be honored with a memorial stamp on the first birth anniversary following death.

Events of historical significance shall be considered for commemoration only on anniversaries in multiples of 50 years.

Only events and themes of widespread national appeal and significance will be considered for commemoration. Events or themes of local or regional significance may be recognized by a philatelic or special postal cancellation, which may be arranged through the local postmaster.

Stamps or stationery items shall not be issued to honor fraternal, political, sectarian, or service/charitable organizations that exist primarily to solicit and/or distribute funds. Nor shall stamps be issued to honor commercial enterprises or products.

These criteria—I have just read six of them; there are a total of 12—are set forth for the public to see and for everybody to have a fair chance, according to certain criteria set forth in advance to have a recommendation considered.

The stamp advisory committee, however, does not issue semipostals. One of the questions we need to face as a Congress is whether or not, given the fact we now are beginning to authorize semipostage such as the breast cancer research, semipostal, it would not be better for us to authorize the advisory committee of the Postal Service to be performing this important function.

The problem is that since the breast cancer research stamp has been authorized, we have had dozens of requests for a semipostal stamp. This is a list of some of the bills that have been introduced. These are just the bills that have been introduced for semipostal: AIDS research and education; diabetes research; Alzheimer's disease research; prostate cancer research; emergency food relief in the United States; organ and tissue donation awareness; World War II memorial; the American Battle Monuments Commission; domestic violence programs; vanishing wildlife protection programs; highway-rail grade crossing safety; domestic violence programs—a second bill; another bill on organ and tissue donation awareness; childhood literacy.

There are not too many of us, I believe, who are about to vote against a stamp that could raise—could raise, I emphasize—some funds because the cost of these issues are supposed to be deducted from the receipts, but I do not believe there are too many of us who are in a position where we would want to vote against a stamp or anything else that could assist AIDS research, diabetes research, Alzheimer's disease, prostate cancer research, or organ and tissue donation. Many of us have devoted a great deal of our lives to those and other causes such as the World War II memorial and the National Battle Monuments Commission.

When the breast cancer research stamp was approved, I voted against it. I was one of the few who did. That created for me, and for others who voted no, the prospect that somebody would then say I opposed funds for breast cancer research, which obviously I do not. In a split second, I would have voted to increase the appropriation for breast cancer research by the amount of money which might have been raised by this stamp so we could give to NIH an amount of money at least equal to what might be raised by such a stamp. Obviously, I am not opposed to additional funds. Indeed, the opposite is true.

What does trouble me, however, is that we are now beginning a course which will politicize the issuance of stamps again in this country. We had taken politics out of it by the creation of an advisory committee. For 40 years this advisory committee, and this advisory committee alone, has decided and made the recommendation to the Postal Service what commemoratives will be issued. They have not issued any semipostals nor were any issued by this country until the breast cancer research stamp was approved.

Now in this bill we have another good cause, money which would go to programs aimed at reducing domestic violence. There is no doubt about the validity of the cause. The problem is that we have no criteria, that we do this ad hoc, helter-skelter.

We have already authorized one stamp, which I will get to in a moment, that relates to grade crossing safety. This is on the calendar, approved by the Governmental Affairs Committee, not yet approved by the Senate. This is going to unleash a politicization process of the issuance of stamps which I do not believe will benefit this Nation.

I think it will be incredibly difficult for the Postal Service, which does not want us to require the issuance of semipostals. They are still sorting through the breast cancer research stamp costs. We should reauthorize the breast cancer research stamp because we have already authorized the stamp and it has been printed, and unless we reauthorize it, then this program will run out. This is a very different issue from voting for an additional issue, and the next, and the next.

I will spend a couple of minutes this afternoon talking about what happened with another semipostal stamp which was proposed in a bill and was approved by the committee. I did not vote for it

in the Governmental Affairs Committee, not because I oppose its cause, but, again, for what this is going to unleash upon us in terms of politics—issuance of stamps and using the issuance of stamps to raise money for causes which will then be vying against each other. I do not think that is in anybody's interest.

The one example on which I want to focus for a few moments is a proposal which has already been approved by the Governmental Affairs Committee, and that is what is called the Look, Listen, and Live Stamp Act. That bill requires the Postal Service to issue a semipostal stamp for an organization called Operation Lifesaver.

Operation Lifesaver is a nonprofit organization which is dedicated to highway and rail safety through education. Operation Lifesaver seems to be a fine organization, but it is not the only organization which is committed to preventing railroad casualties. As a matter of fact, railway safety advocates are split on the issue of grade crossing safety and the best method to prevent rail-related injuries. Operation Lifesaver, for example, emphasizes safety through education, while other railway safety advocates promote safety by funding automatic lights and gates at railway crossings.

After the Governmental Affairs Committee reported this stamp proposal, railroad safety organizations contacted my office to represent their disagreement with the ''look, listen, and live stamp'' primarily because of the emphasis that one organization, Operation Lifesaver, puts on education and education only.

The president of a group called the Coalition for Safer Crossings wrote me the following letter:

Dear Senator LEVIN: I personally find Operation Lifesaver spin on education appalling. Three and a half years ago, I lost a very dear and close friend of mine at an unprotected crossing in southwestern Illinois. Eric was nineteen. I fought to close the crossing where Eric was killed and since helped many families after the loss of a loved one through my organization, the Coalition for Safer Crossings. And now today, we are moving forward with other smaller organizations to form a national organization to combat certain types of education being put out by other groups and to help victims' families and help change the trend of escalating collisions. The National Railroad Safety Coalition is comprised of families and friends of victims of railroad car collisions, unlike Operation Lifesaver.

Again, Operation Lifesaver is the group that is going to receive the net dollars that will be raised by the issuance of this ''look, listen, and live stamp.''

Then the head of this competing group says:

I personally and professionally oppose this measure. If the United States Congress is truly concerned about this issue of railroad crossing safety and is dead set on making stamps, then you should make a railroad safety stamp not a Operation Lifesaver stamp. And rather than have the money go to their type of education, have it go towards the States funds for grade crossing upgrades in that State. A matching dollar scheme comes to mind from the State.

He concludes:

I am currently 23 years old. When I was in high school, I received the same driver safety training regarding grade crossings safety as my best friend Eric did. Eric is now gone. The funds from this proposed stamp would not have helped him. Now if this stamp would have been around prior to 1996 and funds were allocated to the State of Illinois for hardware and a set of automatic lights and gates were installed at this crossing in question I wouldn't be writing you this letter today. I hope you understand the difference.

Mr. President, at the time that this stamp was approved in the Governmental Affairs Committee, I submitted minority views on this issue. In part, this is what I wrote just about a year ago this month:

For over 40 years, the U.S. Postal Service has relied on the Citizens' Stamp Advisory Committee to review and select stamp subjects that are interesting and educational. The committee chooses the subjects of U.S. stamps using as its criteria, 12 major guidelines, established about the time of the Postal Reorganization Act. [They] have guided the committee in its decisionmaking function for decades.

The tenth criteria guiding [their] selection makes reference to semi-postal stamps, the type of stamp that the Postal Service would be required to issue if the Look, Listen, and Live Stamp Act were enacted. With respect to semi-postals, the guidelines state, ''Stamps or postal stationery items with added values, referred to as 'semi-postals,' shall not be issued. Due to the vast majority of worthy fund-raising organizations in existence, it would be difficult to single out specific ones to receive such revenue. There is also a strong U.S. tradition of private fund-raising for charities, and the administrative costs involved in accounting for sales would tend to negate the revenues derived.'' This position was also reflected in a . . . letter from Postmaster General William Henderson.

He has also cautioned and urged our committee not to mandate the issuance of specific semipostals.

So I do not believe that we can and should be in the business of deciding to promote one worthy charity over another, one specific organization over another. This stamp, the one that is now on the calendar—not the one in this bill; the one on the calendar—for safety at railway crossings is, it seems to me, an example of a stamp that may not be workable, and yet the full Governmental Affairs Committee has reported this bill out.

Then what are we to do? We are going to be presented with a number of proposals relative to semipostals. Many of our colleagues have introduced bills. The bill before us has such a provision. I believe the answer comes from Representative MCHUGH and Representative FATTAH, who are the chairman and the ranking member of the House Government Reform Subcommittee on the Postal Service. They put their views in a bill, H.R. 4437, which passed the House of Representatives on July 17.

It gives the Postal Service the authority to issue semipostals. It requires the Postal Service to establish regulations, before issuing any stamp, relating to, first, which office within the Postal Service shall be responsible for making decisions with respect to semipostals; two, what criteria and procedures shall be applied in making those decisions; and, three, what limitations shall apply, such as whether more than one semipostal will be offered at any one time.

The McHugh bill also requires the Postal Service to establish how the costs incurred by the Postal Service as a result of any semipostal are to be computed, recovered, and kept to a minimum. One thing we learned from the breast cancer semipostal is that the Postal Service did not establish an accurate accounting system for tracking the cost of semipostals.

According to a recently released GAO report, ''Breast Cancer Research Stamp, Millions Raised for Research, But Better Cost Recovery Criteria Needed''—that is the title of the report—the Postal Service did not track all monetary or other resources used in developing and selling the breast cancer research stamp. They kept track of some costs but were not able to determine the full costs of developing and selling the stamp. Postal officials obviously should keep track of both revenues and their full costs so that the appropriate net can be determined for delivery to that particular cause.

The McHugh bill is before this body. The McHugh bill, in addition to authorizing the issuance of semipostals by the stamp advisory committee, also reauthorizes the breast cancer research stamp. It does both things. I hope this body will take up this bill and adopt this kind of procedure in order to attempt to take this issue out of politics and not put us in a position where we have to vote between a stamp raising money for AIDS research or diabetes research or Alzheimer's research or prostate cancer research, organ and tissue donation research, the World War II Memorial, domestic violence, and on and on.

I doubt very much that we would want to vote no to any of those. Yet we cannot possibly have all of them at once. The Postal Service cannot possibly handle the accounting, the delivery, the sale of all those stamps. They have urged us very strongly not to be authorizing and mandating the issuance of those stamps.

So I hope that when the bill comes before us, which I hope will be any time, we will reauthorize the breast cancer research stamp. Again, even though I voted against it, for the reasons I have given here this afternoon, nonetheless I think, given the fact that the stamps have been printed and that effort is already underway, and the huge number of people who have already been involved in promoting the sale, and the women and men from around this country who have gone out of their way to use that stamp are in

place—they have been operating; they have been very successful, very productive with millions of dollars that will be raised, the pluses of continuing to reauthorize that stamp, once it has been issued, and once that effort is underway, outweigh the negatives, which I have outlined this afternoon.

At the same time, I hope that the rest of the McHugh bill will be adopted by us so that we can put into place criteria which will make it a lot easier for us to have a sensible system for the issuance of semipostals.

Mr. President, on a matter that relates directly to this bill, because it is a Treasury bill, I want to just spend a few minutes talking about the issue of the budget surplus, and the response of the Congress to that budget surplus. I want to use, as my text, and then intersperse some comments into it, a memorandum that the Director of the Office of Management and Budget, Jacob Lew, wrote on the effect of congressional legislative action on the budget surplus. This is what the OMB Director wrote:

This memo is in response to your request that OMB assess the effect of legislative action on the budget surplus. Over the past six months, Congress has passed nine major tax cuts resulting in a cost of $712 billion over ten years. Draining this sum from the United States Treasury reduces the amount of debt reduction we can accomplish, thereby increasing debt service costs by $201 billion over ten years. Therefore, the Congressional tax cuts passed to date will draw a total of $913 billion from the projected surplus.

In addition, the Congressional majority has stated clearly that its tax cuts to date represent only a ''down payment'' in a long series of tax cuts it intends to realize. While there has been little specificity about the size and nature of the entire program, the full range of action taken by the 106th Congress, both last year and this, provides an indication of the total impact of the Congressional tax cut proposals on the surplus.

In the first session of the 106th Congress, the majority passed one large measure, which included a variety of tax cuts totaling $792 billion. Excluding certain individual tax cuts which passed this year as well as last year (such as elimination of the estate tax and the marriage penalty), the cost of tax cuts passed last year amounts to $737 billion, and the additional debt service amounts to $148 billion for a total of $885 billion.

Jacob Lew goes on as follows:

The bill-by-bill approach to tax cuts in the absence of an overall framework masks the full impact and risks of the cumulative cost.

I will repeat that because that is the heart of the matter.

The bill-by-bill approach to tax cuts in the absence of an overall framework masks the full impact and the risks of the cumulative cost. In the absence of more specific indications about the content and number of future tax cuts the congressional majority has stated it plans to produce, we have used the total costs associated with tax cuts from the 106th Congress as an illustration of Republican plans. If their plans remain consistent with the past activity, the full cost of this program would be:

—tax cuts of $1.44 trillion

—additional debt service of $349 billion

—for a total of $1.796 trillion.

The effect of such tax cuts would be to completely eliminate the projected non-Social Security/Medicare budget surplus at the end of ten years. Even by the more optimistic projections the entire surplus would be drained. The most recent CBO projections issued earlier this week estimate a ten-year non-Social Security/Medicare surplus of $1.8 trillion. OMB's recent projections estimate a ten-year non-Social Security/Medicare surplus of $1.5 trillion. In either case, because the costs of the tax cuts match or exceed the projected budget surplus, there would be no funds available for any of the nation's other pressing needs, including our proposals to establish a new voluntary Medicare prescription drug benefit, pay an additional $150 billion in debt reduction to pay down the debt by 2012, expand health coverage to more families, provide targeted tax cuts that help America's working families with the cost of college education, long-term care, child care and other needs, or extend the life of Social Security and Medicare.

Those are the options we are going to be faced with in the next few months, whether or not we want to take this projected surplus of either $1.5 trillion or $1.8 trillion—we are only talking about the non-Social Security, non-Medicare surplus—whether we want to take that surplus, which the CBO estimates is $1.8 trillion and the OMB estimates is $1.5 trillion, and use that almost exclusively or exclusively for the tax cuts which have been proposed, or whether we want to use a significant part of that surplus to pay down the national debt faster, to establish a new voluntary prescription drug benefit, to expand health coverage, to expand opportunity for college education, and to extend the life of Social Security and Medicare.

I want to put in the RECORD in a moment the list of the pending tax cuts in the 106th Congress which Jack Lew makes reference to, the $934 billion, approximately, in the 10-year cost. These are bills which have been passed by one body or another or one committee or another in one body: Marriage Penalty Conference Committee, $293 billion; Social Security tier 2 repeal, $117 billion; estate tax in the House $105 billion; the Patients' Bill of Rights in the House, $69 billion; the communications excise tax, $55 billion; the Taxpayers Bill of Rights, $7 billion; then the subtraction for provisions in multiple bills and so forth. Then you have to add the interest costs of these tax cuts. That comes out to be about $900 billion.

I ask unanimous consent to print this list in the RECORD.

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

PENDING TAX CUTS IN THE 106TH CONGRESS

[10-year cost, in billions of dollars]

Tax Legislation (Body Passed):	
Marriage Penalty (Conf. Cmte.)	293
Minimum Wage (House)	123
Social Security Tier II Repeal (W&M Cmte.)	117
Estate Tax (House)	105
Patient's Bill of Rights (House)	69
Communications Excise Tax (Finance Cmte.)	55
Pension Expansions (House)	52
Education Savings (Senate)	21
Taxpayer Bill of Rights 2000 (House)	7
Trade Act (Enacted)	4
Subtraction for Provisions in Multiple Bills (Estimate)	99
Interest Cost of Tax Cuts (Estimate)	187
Total, Pending Tax Legislation	934
Plus New Markets/Renewal Communities	20

Mr. LEVIN. Mr. President, there are problems with each of the major tax bills. I may spend a moment on each of those problems. On the estate tax bill, it has problems. There is an alternative which is a better alternative, which would help more people. For those relatively few people who do pay an estate tax, the alternative Democratic plan would provide immediate relief—100 percent relief to people who have less than $8 million per couple for family farms and small businesses; total and immediate relief for those people in the alternative plan.

The bill which has been adopted has a major problem in that it favors upper income individuals, the wealthiest among us, and most of its benefits go to those people rather than the people who need this the most, which are individuals and married couples who have estates that might be, in the case of a family farm or small business, $8 million or less. But there is a bigger problem, whether we are talking about repeal of the estate tax or the marriage penalty tax. And there—regarding the marriage penalty, we have an alternative as well which would benefit a larger number of low and moderate income people with a greater benefit instead of a group of people who are at the upper end of the income level. The major problem I have with these tax bills is that when you put them all together, what it means is that we would not be able to apply this surplus to reduction of the national debt.

I am out there, as all of us are, in our home States. I talk to people and ask people in all the meetings I have: What do you primarily want us to spend the surplus on? Do you want tax cuts—putting aside for the moment whether they benefit upper income folks or benefit working families, put aside that issue for the moment; that is a major issue—do you basically want us to take this $1.8 trillion and pay down the national debt? Or do you want that to go in tax cuts?

Overwhelmingly, repeatedly, I hear back from people, they want us to pay down the national debt. Whether we are talking about younger people, middle-age people, older people, they all come to the same conclusion: No. 1, we can't be sure the surplus will be that large so don't spend it all on anything, be it tax cuts or other programs. Spend most of it on protecting the future economy of the United States. Spend most of it on that $6 trillion debt that has been rung up—to reduce the amount of that debt, to try to assure that the economy, which we now have humming, will stay humming; that an economy which we finally have at a

point where we don't add to the national debt with annual deficits each year, that is healthy in terms of interest rates and job creation and in low inflation, that that economy will be there for us next year, next decade, next generation.

I believe that is what the American people overwhelmingly want us to do. We can argue, and we should, and we can debate, and we should, which estate tax proposal is a better estate tax proposal. That is a legitimate debate. We obviously have an alternative to the one that was adopted which is targeted to the people who need it the most, people who have farms and small businesses and estates worth up to $8 million, people who are still paying an estate tax even though it might mean in some cases that they could lose that family farm. Our alternative provides total relief to those families and immediate relief to those families, unlike the one that was passed by the Republican majority which gives most of its cuts to the people who need it the least, people who are in the higher brackets, higher asset levels, and phases it in and then only does it partially.

We should, and we do, debate those issues: Which alternative plans on the estate tax or on the marriage penalty tax provide the fairest kind of tax relief to the people who need it the most. But the underlying issue, which is one I hope we will keep in mind, is whether or not we want to commit this projected surplus of almost $2 trillion in 10 years to any of these proposals to the extent that we have. Be it tax cuts or be it efforts to improve education or health care or what have you, it is my hope and belief that the greatest contribution we can make to our children and to their children is to protect this economy, to try to keep an economy, which is now doing so well, healthy in future years, as it has been in the past few years. That means we need to protect that surplus, not spend it; not use it for tax cuts on the assumption that there is going to be $1.8 trillion or $1.5 trillion over the next 10 years, because there is too much uncertainty in that, because our people sense—and correctly—that we do not know for certain that that budget surplus will in fact be there.

There has been recent public opinion polling which seems to me illuminating on this subject. When people are asked whether or not they want to protect Social Security and Medicare and pay down the debt, or whether or not they think passing a tax cut is the better way to go, 75 percent believe protecting Social Security and paying down the debt is the most important priority we have right now. Only 23 percent favor passing tax cuts as an alternative. When asked the question of whether or not the trillion-dollar tax cut package that was passed last year, without a penny for Medicare, and whether or not the tax cuts that are being added this year to the same amount, still without a penny for Medicare, is the better way to go, 63 percent say no, 32 percent say yes.

So the public senses that with the surplus we have, the proportion we project, the best thing we can do to protect our economy and the best thing we can do with that projected surplus is in fact to pay down the debt, protect Medicare, and to target our efforts on some of the needs we have as a country, rather than to provide for the kind of tax cuts that we have seen the Republicans enact.

What I have said about the estate tax is also true relative to the marriage penalty bill. We have two alternatives—the one that passed, but we also have an alternative that did not pass, which provides targeted, comprehensive relief and is fiscally more responsible because it leaves more for debt reduction and, therefore, overall is a better value for the American taxpayer. The alternative completely eliminates the penalty in all of its forms, not just in a few, as the marriage tax penalty legislation we passed does. The Democratic alternative eliminates it for couples earning up to $100,000, which is 80 percent of all married couples, and it costs $29 billion per year when fully phased in.

The plan that was adopted, the Republican plan, confers 40 percent of its benefits on taxpayers who currently suffer a penalty. In other words, only 40 percent of the benefits of the Republican plan go to taxpayers who currently actually suffer a penalty. The rest of the people who get a benefit in the Republican plan either don't suffer a penalty—indeed they received a bonus when they got married—or are left untouched one way or another. And the Republican plan addresses only 3 of the 65 instances of the penalty in the Tax Code, whereas the Democratic alternative plan addresses every place in the Tax Code where the marriage penalty exists. And the Republican plan costs $40 billion when fully phased in as compared to $29 billion per year for the alternative Democratic plan.

So, again, it seems to me it is a pretty clear choice that we have: Do we want a plan that is targeted to people who earn under $100,000, that confers benefits on people who are truly penalized when they are married, in terms of the taxes they pay, and a plan that does so at a cost significantly less than in the Republican plan that was adopted? Or do we want to adopt the more costly plan, most of the benefits of which go to people who are in the upper income brackets, and then do not address totally the problem that exists for those people who do suffer a tax penalty upon marriage?

The same thing is true with the overall tax cut that has been proposed. We have basically two alternatives that have been set forth to the American people, not yet put in the legislative form, but which have been proposed by Governor Bush and Vice President GORE. According to the Citizens For Tax Justice, the distribution of benefits of the Bush plan basically provides that 10 percent of the taxpayers get 60 percent—the upper 10 percent, the top 10 percent of taxpayers, get 60 percent of the benefits; the bottom 60 percent of the taxpayers get 12 percent of the benefits. That is the tax plan that has been proposed by Governor Bush.

It would reduce revenues by $460 billion over the first 5 fiscal years, and by $1.3 trillion over 9 fiscal years, plus an additional $265 billion in associated interest costs. That is an extraordinarily expensive plan. We haven't seen that yet in legislative form, and I am not sure we will. Nonetheless, the American people are again going to be presented with very different approaches as to how we should use the surplus.

Some people say, ''Senator, that is our money you are talking about; what is wrong with the tax cut?'' My answer is that it is our money, your money. It is also our economy. It is also our Social Security program. It is also our Medicare program. It is also our education program. It is our health care program.

So the argument that this money belongs to the people of the United States is clearly true. I think it is undeniable. I can't imagine anybody suggesting that anything in the Treasury is anything but the property of the people of the United States. But the other half of that, which is too often left out, is that the economy, which is now healthy, belongs to the people of the United States. They have made it possible, through their work, for us to have a strong economy. Keeping that economy healthy is also the job of this Congress, as well as the job of the people of the United States.

The Social Security system, which has made such a difference for so many that the poverty rate among seniors is now 5 percent, compared to the poverty rate among children, which is 20 percent, mainly because of the existence of Social Security—that program belongs to the people of the United States. Protecting that program is also our responsibility. So to say that, yes, the surplus belongs to the people is true. But the Medicare program, Social Security program, health care program, education program also belong to the people of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I come to the floor today to discuss moving to the Treasury-Postal appropriations bill.

I agree with the Majority Leader and others who have come to the floor this year to insist that we do the people's business, and that the people's business means completing all of the appropriations bills.

There are several very important amendments that will be proposed to this legislation, and we must give them the time and consideration they deserve. I may well vote against the

Treasury-Postal appropriations bill in the end, but I recognize the importance of taking it up, considering it, and getting it done.

We have got to take care of the unfinished business.

We have more appropriations bills to consider, and we have other business as well, as my colleagues are well aware.

I find it interesting to look at some of the other measures we have considered, and still might consider, this year.

I am talking about priorities—what we get done on this floor, and what gets ignored.

As I said, it is essential that we pass these appropriations bills—they are the core of the people's business, because they keep the government up and running.

But beyond bills like Treasury-Postal, what are we choosing to do?

Recently, we chose to consider a repeal of the estate tax. As I said during that debate, the estate tax affects only the wealthiest property-holders. In 1997, only 42,901 estates paid the tax. That's the wealthiest 1.9 percent. People are already exempt from the tax in 98 out of 100 cases. Let me repeat that: Already, under current law, 98 out of 100 do not pay any estate tax.

The Republican estate tax repeal would give the wealthiest 2,400 estates—the ones that pay now half the estate tax—an average tax cut of $3.4 million each. And remember, 98 out of 100 people would get zero, nothing, from this estate tax cut.

Now, this doesn't sound like something most Americans are clamoring for.

It is of no use to most Americans, in fact. But it is of use to a very small—but wealthy—group of people.

Those who are wealthy enough to be subject to estate taxes have great political power.

They can make unlimited political contributions, and they are represented in Washington by influential lobbyists that have pushed hard to get the estate tax bill to the floor.

The estate tax is one of those issues where political money seems to have an impact on the legislative outcome. That's why I recently Called the Bankroll on some of the interests behind that bill, to give my colleagues and the public a sense of the huge amount of money at stake—not taxes, but political contributions.

We considered that bill not because it affected the vast majority of Americans, but because it directly affected the pocketbooks of a wealthy few.

A similar point can be made about another piece of legislation, the H–1B bill.

We haven't considered it yet, but we may well yet, and so far a terrific effort has been made by both sides to see it taken up.

Why? Why, when we have more appropriations bills to consider, when we have the real people's business to do, are we pushing so hard to take up H–1B?

Because the high-tech industry wants this bill to get done.

In the case of H–1B, I'm not addressing the merits of the legislation— I am not necessarily opposed to raising the level of H–1B visas. Instead I want to point out what is on our agenda and why? Why is it that we have this set of legislation as part of our agenda?

The high tech industry wants to get this bill passed, and they have the political contributions to back it up.

American Business for Legal Immigration, a coalition which formed to fight for an increase in H–1B visas, offers a glimpse of the financial might behind proponents of H–1Bs. ABLI is chock full of big political donors, and not just from one industry, but from several different industries that have an interest in bringing more high-tech workers into the U.S.

Price Waterhouse Coopers, pharmaceutical company Eli Lilly, telecommunications giant and former Baby Bell BellSouth, and software company Oracle, to name just a few.

All have given hundreds of thousands of dollars in this election cycle alone, and they want us to pass H–1B.

We all know this.

This is standard procedure these days for wealthy interests —you have got to pay to play on the field of politics. You've got to pony up for quarter-million dollar soft money contributions and half-million dollar issue ad campaigns, and anyone who can't afford the price of admission is going to be left out in the cold.

I Call the Bankroll to point out what goes on behind the scenes on various bills—the millions in PAC and soft money that wealthy donors give, and what they expect to get in return.

And yet we don't do anything about it.

We took a small but important step toward better disclosure of the activity of wealthy donors earlier this summer when we passed the 527 disclosure bill.

But there is a great deal more to do.

We are going to keep pushing until we address the other gaping loopholes in the campaign finance law.

Right now, wealthy interests have the power to help set the political agenda.

Wealthy interests spend unlimited amounts of money to push for bills which serve the interests of the wealthy few at the expense of most Americans.

We have got to question why consider some bills on this floor while we ignore so many crucial issues the American people care about—like increasing the minimum wage and supporting working families.

But instead we are left with an agenda that looks like wealthy America's ''to do'' list.

How does it happen, Mr. President?—It's all about access, and access is all about money.

Both parties openly promise, and even advertise, that big donors get big access to party leaders.

Weekend retreats and other ''special events'' where wealthy individuals have the chance to talk about what they want done—whether that might be a repeal of the estate tax, or that their company wants to see the H–1B bill passed this year.

Needless to say, that is the kind of access most Americans can't even dream of.

And I have to wonder why we aren't doing anything about that.

I am all for the doing people's business, and right now the people's business should be the Treasury-Postal Appropriations bill, and that's why I support the motion to proceed, even though I may well vote against the underlying bill in the end.

But I don't think that an issue like the repeal of the estate tax is the people's business—not 98 out of every hundred people, anyway.

We need to get at the heart of what is wrong here.

Our priorities are warped by the undue influence of money in this chamber.

We have got to change our priorities, and do it now, by putting campaign finance reform back on the agenda.

Because the best way to loosen the grip of wealthy interests is to close the loophole that swallowed the law: soft money.

Soft money has exploded over the past few years.

Soft money is the culprit that brought us the scandals of 1996—the selling of access and influence in the White House and to the Congress. The auction of the Lincoln Bedroom, of Air Force One. The White House coffees. All of this came from soft money because without soft money, the parties would not have to come up with ever more enticing offers to get the big contributors to open their checkbooks.

Soft money also brings us, time and time again, questions about the integrity and the impartiality of the legislative process. Everything we do is under scrutiny and subject to question because major industries and labor organizations are giving our political parties such large amounts of money. Whether it is telecommunications legislation, the bankruptcy bill, defense spending, or health care, someone out there is telling the public, often with justification in my view, that the Congress cannot be trusted to do what is best for the public interest because the major affected industries are giving us money.

For more than a year now, I have highlighted the influence of money on the legislative process through the Calling of the Bankroll. And the really big money, that many believe has a really big influence here, is soft money. We have to clean our campaign finance house and the best place to start is by getting rid of soft money. Let's play by the rules again in this country. With soft money there are no rules, no limits. But we can restore some sanity to our campaign finance

system. When I came to the Senate, I will confess, I didn't even really know what soft money was. After a tough race against a very well financed opponent who spent twice as much as I did, I was mostly concerned with the difficulties that people who are not wealthy have in running for office. My interest in campaign finance reform derived from that experience. Soft money has exploded since I arrived here, with far reaching consequences for our elections and the functioning of the Congress. Now I truly believe that if we can do nothing else on campaign finance reform, we must stop this cancerous growth of soft money before it consumes us.

I will take a few minutes to describe to my colleagues the growth of soft money in recent years. It is a frightening story. Soft money first arrived on the scene of our national elections in the 1980 elections, after a 1978 FEC ruling opened the door for parties to accept contributions from corporations and unions, who are barred from contributing to federal elections. The best available estimate is that the parties raised under $20 million in soft money in that cycle. By the 1992 election, the year I was elected to this body, soft money fundraising by the two major parties had risen to $86 million. Eighty-six million dollars is clearly a lot of money; it was nearly as much as the $110 million that the two presidential candidates were given in 1992 in public financing from the U.S. Treasury. And there was real concern about how that money was spent. Despite the FEC's decision that soft money could be used for activities such as get out the vote and voter registration campaigns without violating the federal election law's prohibition on corporate and union contributions in connection with federal elections, the parties sent much of their soft money to be spent in states where the Presidential election between George Bush and Bill Clinton was close, or where there were key contested Senate races.

Still, even then, even with that tremendous increase in the use of soft money, soft money was far from the central issue in our debate over campaign finance reform in 1993 and 1994. In 1995, when Senator MCCAIN and I first introduced the McCain-Feingold bill, our bill included a ban on soft money, but it was not particularly controversial and no one paid that much attention to it at that time.

Then came the 1996 election, and the enormous explosion of soft money, fueled by the parties' decision to use the money on phony issue ads supporting their presidential candidates. Remember those ads that everyone thought were Clinton and Dole ads but were actually run by the parties? That was the public debut of soft money on the national scene. The total soft money fundraising skyrocketed as a result. Three times as much soft money was raised in 1996 as in 1992. Let me say that again—soft money tripled in one election cycle. The reason was the insatiable desire of the parties for money to run phony issue ads, and that desire has only increased since 1996. Both political parties are raising unprecedented amounts of soft money for ad campaigns that are already underway this year. Soft money is financing our presidential campaigns, and this Congress stands by doing nothing about it.

Fred Wertheimer, a long time advocate of campaign finance reform said it well in an op-ed in the Washington Post on Monday: He wrote,

Vice President Al Gore and Gov. George W. Bush and their presidential campaigns are living a lie. The lie is this: that the TV ads now being run in presidential battleground states across America are political party ''issue ads.'' In fact, everyone—and I mean everyone—knows that these ads are presidential campaign ads being run for the unequivocal purpose of directly influencing the presidential election.

Wertheimer goes on to say:

The ''issue ad'' campaigns now underway blatantly promote and feature Gore and Bush, are designed and controlled by the Gore and Bush presidential campaigns and are targeted to run in key battleground states. The political parties are merely conduits for the scheme and cover for the lie.

He continues:

What's the significance of all of this? Well, for starters we are living this lie in the election for the most important office in the world's oldest democracy. The lie will result in some $100 million or more in huge corrupting contributions being illegally used by Gore and Bush in the 2000 presidential election. (Many millions more will be illegally used in the 2000 congressional races.)

Mr. President, I ask unanimous consent that the full text of Mr. Wertheimer's article, ''Gore, Bush, and the Big Lie'' be printed in the RECORD.

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

[From the Washington Post, July 24, 2000]

GORE, BUSH, AND THE BIG LIE

(By Fred Wertheimer)

Vice President Al Gore and Gov. George W. Bush and their presidential campaigns are living a lie. The lie is this: that the TV ads now being run in presidential battleground states across America are political party ''issue ads.'' In fact, everyone—and I mean everyone—knows that these ads are presidential campaign ads being run for the unequivocal purpose of directly influencing the presidential election.

The presidential campaigns and political parties know it, the media know it and so do the viewers of the ads, which are indistinguishable from other presidential campaign ads being run.

As such, the ''issue ads'' are illegal, because, among other things, they are being financed with tens of millions of dollars of soft-money contributions that the law says cannot be used to influence a federal election. The ''issue ad'' campaigns now underway blatantly promote and feature Gore and Bush, are designed and controlled by the Gore and Bush presidential campaigns are targeted to run in key battleground states. The political parties are merely conduits for the scheme and cover for the lie.

What's the significance of all of this? Well, for starters we are living this lie in the election for the most important office in the world's oldest democracy. The lie will result in some $100 million or more in huge corrupting contributions being illegally used by Gore and Bush in the 2000 presidential election. (Many millions more will be illegally used in the 2000 congressional races.)

The lie makes a mockery of the commonsense intelligence of voters and the honesty of the presidential race. And, to date, no one in authority is prepared to do anything about it.

How did it happen that this lie came to rest at the core of our national elections? Well, in good part we have Presidential Clinton to thank. It was Clinton who, more than anyone else, developed and ''perfected'' the lie, and the legal fiction on which it is based.

Soft money had been a problem prior to 1995, but no presidential candidate had ever tried to use soft money to finance a TV ad campaign promoting his candidacy. That's not because politicians weren't clever enough to think of this, but because everyone understood it was illegal.

Then President Clinton and his staff invented a scam for the 1996 election: They would use the Democratic Party as a front for running a ''second'' presidential campaign. This $50 million second campaign would use soft money—funds that the law does not allow in a presidential campaign—to finance Clinton campaign ads that would be labeled Democratic Party ''issue ads.''

It didn't take long for the Republican presidential candidate, Bob Dole, to follow suit. Today, four years later, the ''issue ads'' lie is standard political practice in presidential and congressional races.

The lie is built on the legal fiction that under Supreme Court rulings, political party ads are not covered by federal campaign finance laws unless they contain such magic words as ''vote for'' or ''vote against'' a specific federal candidate. That's supposed to be true even if the party ads promote a specific federal candidate and even if the ads are coordinated with or controlled by the candidate.

But the reality is that neither the Supreme Court nor any other federal court has ever said anything of the kind regarding political party ads. When the Supreme Court established the ''magic words'' test in *Buckley v. Valeo*, it made explicit that it was for outside groups and non-candidates only and did not apply to communications by candidates or political parties. And in any case, the ''magic words'' test is not applicable when an ad campaign is conducted in coordination with a federal candidate, as a Washington federal district court confirmed last year.

The Justice Department, in its failure to pursue the 1996 Clinton soft-money ads, never found the ads to be legal. Instead, Attorney General Reno closed the case based on the Clinton campaign's reliance on its lawyers' advice, which she said was ''sufficient to negate any criminal intent on their part.''

The general counsel of the Federal Election Commission did find that the 1996 soft-money ads were illegal. The commission, however, by a 3 to 3 tie vote, refused to proceed with an enforcement action. Thus we are left today with enforcement authorities that refuse to act against these soft money ads and, at the same time, refuse to say they are legal. And the lie goes on.

Mr. FEINGOLD. Mr. President, the big lie led to the transformation of our two great political parties into soft money machines. And what was the effect of this explosion of soft money, other than the millions of dollars available for ads supporting presidential candidates who had agreed to

run their campaigns on equal and limited grants from the federal taxpayers? Soft money is raised primarily from corporate interests who have a legislative axe to grind. And so the explosion of soft money brought an explosion of influence and access in this Congress and in the Administration.

Here are some of the companies in this exclusive group. We know they have a big interest in what the Congress does—Philip Morris, Joseph Seagram & Sons, RJR Nabisco, Walt Disney, Atlantic Richfield, AT&T, Federal Express, MCI, the Association of Trial Lawyers, the NEA, Lazard Freres & Co., Anheuser Busch, Eli Lilly, Time Warner, Chevron Corp., Archer Daniel's Midland, NYNEX, Textron Inc., Northwest Airlines. It's a who's who of corporate America, Mr. President. They are investors in the United States Congress and no one can convince the American people that these companies get no return on their investment.

They have a say, much too big a say, in what we do. It's that simple, and it's that disturbing. That's why our priorities are so out of whack, Mr. President. We should be going to the Treasury-Postal appropriations bill, and that's why I support the motion to proceed, despite the fact that I may vote against it when all is said and done. I recognize we have to focus on what people want, not what wealthy interests want.

As I said when I first began Calling the Bankroll last year, we know, if we are honest with ourselves, that campaign contributions are involved in virtually everything that this body does. Campaign money is the 800-pound gorilla in this chamber every day that nobody talks about, but that cannot be ignored. All around us, and all across the country, people notice the gorilla. Studies come out on a weekly basis from a variety of research organizations and groups that lobby for campaign finance reform that show what we all know: The agenda of the Congress seems to be influenced by campaign money. But in our debates here, we are silent about that influence, and how it corrodes our system of government.

I have chosen not to remain silent, but I know there are those who wish that I would stop putting the spotlight on facts that reflect poorly on our system, and in turn on the Senate, and on both the major political parties.

I wish our campaign finance system wasn't such an embarrassment.

I wish wealthy interests with business before this body didn't have unlimited ability to give money to our political parties through the soft money loophole, but they do.

I wish these big donors weren't able to buy special access to our political leaders through meetings and weekend retreats set up by the parties, but they can.

I wish fundraising skills and personal wealth weren't some of the most sought-after qualities in a candidate for Congress today, but everyone knows that they are.

Most of all I wish that these facts didn't paint a picture of Government so corrupt and so awash in the influence of money that the American people, especially young people, have turned away from their government in disgust, but every one of us knows that they have.

It is our unwillingness to discuss it or even acknowledge the influence of this money in this body that makes it even worse.

It goes on and on, and it just gets worse.

Last year was another record-breaker in the annals of soft money fundraising—the national political party committees raised a record $107.2 million during the 1999 calendar year—81 percent more than they raised during the last comparable presidential election period in 1995, according to Common Cause.

An 81 percent increase is astounding, especially considering that the year it's compared with—1995, the last off-election year preceding a presidential election—which was itself a record-breaking year for soft money fundraising.

This year one of the most notable fundraising trends hits very close to home, or to the dome, as the case may be: Congressional campaign committees raised more than three times as much soft money during 1999 as they raised during 1995—$62 million compared to $19.4 million.

That is a huge increase, Mr. President.

Three times as much soft money—much of it raised by members of Congress.

Now the latest news reports show record-breaking soft money figures for the first quarter of this year as well.

How should the public view this?

What can we expect them to think as Members of Congress ask for these unlimited contributions from corporations, unions and wealthy individuals, and then turn around and vote on legislation that directly affects those donors that they just asked for all this money?

Frankly, it is all the more reason for Americans to question our integrity, whether those donations have an impact on our decisions or not.

They question our integrity, and we give them reason. Why aren't we getting their business done? I say let's get the business done—let's agree to move to Treasury-Postal, whether we'll support that bill in the end or not. And then let's move on to the other pressing issues before us—not tax cuts for the wealthy, but real priorities like campaign finance reform.

Let's put a stop to the soft money arms race that escalates every day, and involves more and more Members of Congress.

I do not know how many of my colleagues are actually picking up the phones across the street in our party committee headquarters to ask corporate CEOs for soft money contributions. But no one here can deny that our parties are asking us to do this. It is now part of the parties' expectations that a United States Senator will be a big solicitor of soft money.

Consider the soft money raised in recent off-year elections. In 1994, the parties raised a total of $101.7 million. Only about $18.5 million of that amount was raised by the congressional and senatorial campaign committees. In 1998, the most recent election, soft money fundraising more than doubled to $224.4 million. And $107 million of that total was raised by the congressional and senatorial campaign committees. That's nearly half of the total soft money raised by the parties.

Half the soft money that the parties raised in the last election went to the campaign committees for members of Congress, as opposed to the national party committees. And I and many of my colleagues know from painful experience that much of that money ended up being spent on phony issue ads in Senate races. The corporate money that has been banned in federal elections since 1907 is being raised by Senators and spent to try to influence the election of Senators. This has to stop.

The growth of soft money has made a mockery of our campaign finance laws. It has turned Senators into panhandlers for huge contributions from corporate patrons. And it has multiplied the number of corporate interests who have a claim on the attention of members and the work of this institution.

I truly believe that we must do much more than ban soft money to fix our campaign finance system. But if there is one thing more than any other that must be done now it is to ban soft money. Otherwise the soft money loophole will completely obliterate the Presidential public funding system, and lead to scandals that will make what we saw in 1996 seem quaint. Virtually no one in this body has stepped up to defend soft money. So let's get rid of it once and for all. Now is the time. Let's move to the Treasury-Postal Appropriations bill, vote yes or no, and then let's do what we have to get done.

When we define what we need to get done this year, let's get serious. It is not the estate tax, and it's not the H–1B bill. It's banning soft money.

Now there is more support for banning soft money than ever before.

I think it is important to talk on this floor about just who those Americans are who want to clean up this campaign finance system, because today calls for reform are coming from an incredible range of people in this country, including some very unlikely places.

One of the most interesting places you can find demands for reform is corporate America, where one group of corporate executives, tired of being shaken down for bigger and bigger contributions, has said enough is enough.

This organization, called the Committee for Economic Development, issued a report and proposal urging reform, including the elimination of soft money.

One might guess that this group of people, who are in the position to use the soft money system to their advantage, would not dream of calling for reform.

But the soft money system cuts both ways—it not only allows for legalized bribery of the political parties, it also allows legalized extortion of soft money donors, who are being asked to give more and more money every election cycle to fuel the parties' bottomless appetite for soft money.

But it isn't just weariness at being shaken down that led CED members to call for reform of our broken campaign finance system. Let me quote from the CED report, which stated their concern so well:

> Given the size and source of most soft money contributions, the public cannot help but believe that these donors enjoy special influence and receive special favors. The suspicion of corruption diminishes public confidence in government.

The bigger soft money contributions get—and the amounts are truly skyrocketing—the more damaging the effect on the public's perception of our democracy.

I applaud CED for its commitment to restoring the public's faith in government by calling for a soft money ban.

And CED is just one part of a growing movement to call on this body to clean up our campaign finance system.

One of the most inspiring leaders of the movement for reform is not any business leader, or political figure for that matter. She is a great grandmother from Dublin, New Hampshire named Doris Haddock. Doris, known affectionately as Granny D, walked clear across the United States at age 90 to insist that Congress pay attention to reform issues.

She walked across mountains and desert, in sweltering heat and freezing cold, to make her point. And along the way she inspired thousands of others to speak up about the corrupting influence of money in politics, and demand action from Congress. I was proud to have her support for the McCain-Feingold bill, and I am thrilled to have such a devoted ally on this issue.

The fight for reform is also gaining tremendous strength from religious organizations that are reaching out to educate and mobilize their congregations about the issue.

Support from religious organizations includes: The Episcopal Church, Church Women United, the Lutheran Office for Governmental Affairs, the Evangelical Lutheran Church of America, the Church of the Brethren's Washington Office, the Mennonite Central Committee's Washington Office, the National Council of the Churches of Christ in the USA, the Union of American Hebrew Congregations, the United Church of Christ's Office for Church in Society, the United Methodist Church's General Board of Church and Society, and NETWORK—a national Catholic social justice lobby.

Reform has the vital support of environmental groups like the Environmental Defense Fund, Friends of the Earth and The Sierra Club, and the backing of seniors groups like AARP and the Gray Panthers.

The support for reform in this country is strong, it is vocal, and is truly broad-based. We also have the support of consumer watchdogs like the Consumer Federation of America, health organizations like the American Heart Association, children's groups such as the Children's Defense Fund, and of course the support of groups like Common Cause and Public Citizen, which have been fighting a terrific fight against the undue influence of money in politics for decades.

And I could go on. We are talking about people from every walk of life, every income level and every political affiliation. But they all have one simple thing in common: They are demanding an end to the soft money system that has made a mockery of our campaign finance laws, has deepened public cynicism about this body, and darkened the public perception of our democracy.

The public is watching us right now. That is why I want us to move to the Treasury-Postal Appropriations bill, whether we support it or not—so that they can have faith that we are doing what we should be doing. Not serving wealthy interests, but doing their business, and doing it responsibly.

And being responsible means acting on campaign finance reform.

That is what people want—their voices can be heard loud and clear in polls on the campaign finance issue:

Two out of three Americans think money has an ''excessive influence'' on elections and government policy, according to Committee for Economic Development's March 1999 report on campaign finance reform.

Another CED poll question revealed that two-thirds of the public think ''their own representative in Congress would listen to the views of outsiders who made large political contributions before a constituent's views'';

74.5 percent of respondents believe the Government is pretty much run by a few big interests looking out for themselves, according to a poll from the Center for Policy Attitudes;

78 percent of respondents believe ''the current set of laws that control congressional campaign funding needs reform,'' in a Hotline poll.

These numbers are even more disturbing than the numbers of the soft money donations themselves.

These numbers tell us that it's a given today that people think the worst of us and the work we do—they believe that we are on the take, and who could possibly blame them?

What is it that they do not understand, that they are misinterpreting about this system and how it affects us? Nothing; the public has not missed a thing.

The public has got it exactly right. It is this body that has it wrong every time a minority of my colleagues block the majority of the Senate and will of the American people by trying to kill reform.

The public deserves a Congress that can respond to the concerns of all Americans, not a wealthy few.

The public deserves a responsible Congress that does its job by moving to the Treasury-Postal appropriations bill, whether we choose to vote yes or no, and the same goes for the other remaining approps bills that deserve our attention.

Most of all, the public deserves a Congress that can set priorities that represent the concerns of the American people, and not just soft money donors, not just those who can afford to attend weekend getaways with party leadership, and not just those who have estates of more than $100 million dollars.

That is our challenge. Let's address the people's real priorities. Let's do the people's business, and let's get started right now.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Is there further debate on the motion?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Under the rules, once a quorum is called off, if nobody seeks the floor, is it the requirement that the Chair put the question?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. Mr. President, I simply cannot understand what is going on here. I wish someone would tell me. I think we had a unanimous vote a little earlier here on the motion to invoke cloture on the motion to proceed to the consideration of the Treasury-Postal Service appropriations bill.

Why don't we vote? Why don't we vote?

As the ranking member on the Appropriations Committee, I can say to my colleagues that Senator TED STEVENS and I—the chairman and I—and the various chairmen and ranking members of the subcommittees on Appropriations have worked hard—have worked hard—to bring these appropriations bills to the Senate floor. We need

to get on with acting on these appropriations bills so that we can send them to the President.

I can tell you what is going to happen. I have seen it happen all too often in recent years. We don't get the appropriations bills down to the President one by one, so that he can sign them or veto them, which he has a right to do. What we do is delay and delay and delay. As a result, when the time comes that the leaders and Senators have their backs to the wall, and there is a big rush on to finalize the work so Senators can go home and the Senate can adjourn sine die, then everything is crammed into one big bill, one omnibus bill.

I am telling you, you would be amazed at what happens in the conferences. You would be amazed to see what occurs in those conferences. Entire bills are sometimes put into the conference report—entire bills, bills that may or may not have passed either House. And the administration is there also. The executive branch has its representatives there. They are there for the purpose of getting administration measures or items that the executive branch wants put into those conference reports. The items may not have had a word of debate in either House. Neither House will have had an opportunity to offer amendments on bills or to debate measures, and yet those measures will be put, lock, stock, and barrel, into the conference reports.

Then the conference report comes back to the Senate, where Senators cannot vote on amendments to that conference report. So Senators, as a result, have no opportunity to debate these matters that are crammed into the conference reports in those conferences. They will have had no opportunity to debate them. They will have had no opportunity to amend them. They will have had no opportunity to vote on parts thereof. Yet Senators in this Chamber are confronted, then, with one package, and you take it or you leave it. You vote for it or you vote against it.

We have experienced that on a number of occasions. When we were considering the fiscal year 1997 appropriations, we had a conference report on the Defense Appropriations Bill and five additional appropriations bills were crammed into that conference report in conference, five appropriations bills. I believe two of them had never been taken up in the Senate. I believe two of them had had some debate, had been brought up, but had not been finally acted upon.

I intend at a future time to have all of this material researched so I can speak to it. Today, I recall there were five appropriations bills crammed into that conference report on the DOD Appropriations Bill. It was brought back to the Senate where Senators were unable to amend it and have votes on parts of it. And if Senators think that was bad, in fiscal year 1999, eight different appropriations bills were put into the final omnibus package. In addition thereto, a tax bill was put into that package in the conference. I believe that tax bill involved about $9.2 billion. That was put into the conference report. It had never had a day, an hour, or a minute of debate in this Senate. There were no amendments offered to it. Eight appropriations bills and a tax bill were all wrapped into one conference report in FY 1999, tied with a little ribbon, and Senators were confronted with having to vote for or against, that conference report—take it or leave it!

That was right at the end of the session when many Senators wanted to go home. They had town meetings scheduled; they wanted to go home. When that kind of circumstance arises, we are faced with a situation of having to vote on a bill that may contain thousands of pages which we have not had an opportunity to read. As I remember, there were 3,980 pages in that conference report. Imagine that. If the people back home knew what we were doing to them, they would run us all out of town on a rail. And we would be entitled to that honor, the way we do business here. All we do is carry on continual war in this body, continual war, each side trying to get the ups on the other side. It isn't the people's business we are concerned with. It is who can get the best of whom in the partisan battles that go on in this Chamber.

A lot of new Members come over from the House where they are accustomed, I suppose, to being told by their leaders what to do and how to do. Others come here fresh from the stump. I suppose they feel this is the way it has always been done. They don't know how it used to be done. They don't know that there was a day when we used to have conferences, and it was the rule that only items could be discussed in conference which had passed one or the other of the two bodies. Nothing could be put into a conference report that had not had action in one or the other of the two bodies. Otherwise, a point of order would lie against it.

I can assure you, those of you who are not on the Appropriations Committee, you ought to see what goes on in the conferences. Bills that have never passed either body, measures that have never passed either body, measures, in many instances, which are only wanted by the administration, are brought to that conference and are crammed into that conference report. The conference report comes back to the Senate. It is unamendable, and we have to take it or leave it. That is no way to do business.

I regret that it has come to this, and we are getting ready to do it again. I see the handwriting on the wall.

Those of you who have read the book of Daniel will remember Belshazzar having a feast with 1,000 of his lords. They drank out of the vessels that had been taken from the temple in Jerusalem and brought to Babylon. And as they were eating and drinking and having fun, Belshazzar saw a hand appear over on the wall near the candlestick. And he saw the handwriting: mene, mene, tekel, upharsin. So he sent for his wise men, his astrologers, and wanted them to tell him what this writing meant. They couldn't do it. But the Queen told Belshazzar that there was a young man in the kingdom who could indeed unravel this mystery. As a result, Daniel was sent for. He told the King what was meant by the handwriting on the wall: ''God hath numbered thy kingdom, and finished it. Thou art weighed in the balances, and art found wanting. Thy kingdom is divided, and given to the Medes and the Persians.'' And that night, Belshazzar was slain and the Medes and the Persians took the kingdom.

I see the handwriting on the wall: mene, mene, tekel, upharsin. I see the handwriting. We have voted unanimously in this body today to proceed to take up the appropriations bill making appropriations for the Department of Treasury-Postal Service and so forth, but we are not going to vote on that. I have asked questions around: When are we going to vote? There is no intention to vote on that today. We have another cloture vote coming up within a few minutes. If that cloture motion is approved, the Senate will then take on that subject, and the Treasury-Postal appropriations bill will go back to the calendar. We are not going to take it up. There is no intention of voting on that bill, no intention. It will go back on the calendar.

Then what will happen? I see the handwriting on the wall. We will go to conference one day when we get back from the August recess. We will go to conference one day on another appropriations bill, and everything will go on that appropriations bill. I wish Daniel were here today so he could tell me exactly what the handwriting on this wall really means, but I think I know what it means. It means this bill isn't going to see the light of day until after the recess, and probably not then. In all likelihood, the Treasury-Postal Service bill will be put on a conference report, maybe on the legislative appropriations bill. This bill will go on that. As time passes, more and more appropriations bills will likely go on that in conference.

So we will get another conference report back here that is loaded—loaded—with appropriations bills. We won't know what is in them. We Senators won't know what is in those bills. We didn't know what was in the 3,980-page conference report in fiscal year 1999. We voted for it or against it blindly. I voted against it. I didn't know what was in it. That is what we are confronted with.

The American people, I think, are going to write us off as being irrelevant. We don't mean anything. We just stay here and fight one another and try to get the partisan best of one another.

Democrats versus Republicans, Republicans versus Democrats. Who can get the ups on the other side. The people will say we can go to hell. That is the attitude here. Hell is not such a bad word. I have seen it in the Bible, so I perhaps will not be accused of using bad language here. But that is what we are in for. That is the handwriting on the wall. We are going to replay the same old record and have these monumental conference reports come back here, unamendable, and we take them hook, line, and sinker, one vote. No amendments. We won't know what is in the bill.

How is that for grown up men and women? We won't know what is in the bill because we are playing politics all the time. We are playing politics. That is why we are not getting our work done. I am not blaming that side or this side. I am just blaming both sides. We are all caught in this. I am sure the American people can't look at this body, or this Congress, and get much hope because we play politics all the time. I am sorry that things have come to this. But Congress doesn't work by the rules; the Senate doesn't operate under the rules it operated under when I came here and that existed up until a few years ago. This game has been going on and it is getting worse. It is getting worse.

Mr. President, I don't intend to hold the floor any longer. I will have more to say about this. If you want to know the truth, what is said is exactly the truth. We are absolutely working a fraud on the American people. They look to this body and expect us to legislate on the problems of the country, and we are just tied in knots. We only seem to think about partisanship. I am sick and tired of that. I am sure we have to have a little of that as we go along, but it has become all partisan politics. Who can win this? If they come up with something, we have to come up with an alternative.

I don't think the American people want that. I think they know more than we think they know, and I believe they are pretty aware of what is going on. We are just playing politics. That is exactly why we can't get this Treasury-Postal Service Appropriations Bill up and get it passed and send it to conference. Mark my words; we are going to play the same old game over and over again that we have played all too many times now, not passing appropriations bills, but having them all in conference put into one monumental, colossal conference report, and it is sent back here and we will vote on it and we won't know what is in the conference report. Shame! Shame on us!

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I rise today to discuss the current posture of the Treasury-Postal appropriations bill on the floor. It seems to me that we are in the doldrums. Our sails are unfurled, the crew is at their positions, but the ship is not moving. There are many reasons for that. But I suggest one of the principal reasons is that over the last several months—indeed, throughout this entire Congress—the leadership has taken it upon themselves to essentially try to nullify the President's constitutional authority to appoint judges to the Federal courts.

Article II, section 2 of the Constitution is quite clear that the President has the right to appoint Federal judges, subject to the advice and consent of the Senate. But what has happened with increasing enthusiasm is that these appointments arrive here and then languish month after month after month after month. At some point, this type of nullification, this avoidance of responsibility under the Constitution, subverts what I believe the Founding Fathers saw as a relatively routine aspect of Government: Presidential appointment and consideration within a reasonable time by the Senate of these appointments.

It has not been a reasonable time in so many cases. Repeatedly, appointments to the Federal bench have been made by the President. They have come to the Senate and have been virtually ignored month after month. At some point, we have to be responsible not only to the Constitution, but to the people of the country and act on these appointments. Now, that doesn't mean confirm every appointment. But it certainly, in my mind, means to have a reasonable deliberation, a hearing, and then bring it to a vote. It is far better, both constitutionally and in terms of the lives of individual Americans, to decide their fate, decide whether or not they will serve on the bench in a reasonable period of time than to let them twist slowly in the wind—some for upwards of a year or more. That is what has been happening. It is a reflection of a deeper paralysis within the system.

The Senate is not operating as it traditionally has, as a forum for vigorous debate, amendment, and discussion, and after a vigorous debate, a vote. We have seen a situation in which measures are brought to the floor only after concessions are made about the number of amendments, the scope of amendments, and the type of amendments. That is operational procedure that is frequently associated with the other body but which defies the tradition of this body, where we pride ourselves on our ability to debate and amend, to be a place in which serious discussions about public policy take place routinely and just as often decisions are made by the votes of this body. We haven't seen that.

We introduced on this floor for consideration—and it has been the pending business now since May—the Elementary and Secondary Education Act. Every 5 years, we reauthorize the education policy of the Federal Government—the education policy with respect to elementary and secondary schools throughout this country: the title I program, Professional Development Program, and the Eisenhower Program that assists professional development. Yet this major piece of legislation has come to this floor and then, like judges, has been languishing in the shadows for months now. Why? Well, some suggest it is because the majority doesn't want to consider amendments with respect to school safety and gun violence. Those amendments might cause difficult votes. But in any case, we are likely, this year, not to discharge our routine duty of every 5 years reauthorizing the Elementary and Secondary Education Act. We are going to—using a sports metaphor—punt.

All of these things together have caused us to stop and essentially ask why can't we refocus our operations, refocus our emphasis, and begin to renew the tradition in this body of debate, wide-open amendment leading to votes with respect to substantive legislation and with respect to appointments by the President to the judiciary and other appointments.

That is why I believe we are here in these doldrums. The lights are on. We are assembled, but we are not moving forward. I think we have to begin to look at what we are doing and why we are doing it. Perhaps that is the most useful aspect of this discussion this afternoon—because I hope that eventually we can emerge from these doldrums and begin to, once again, take up the people's business in a reasonable and timely fashion leading to votes after debate. Some may go the way we want. Some may not. But in the grand scheme of things, when we are debating and bringing the principles of the debate to conclusion by voting, we are discharging the responsibility that the American people entrusted to us when they elected us to the Senate.

There are many examples of what we could be doing if we adopted this approach. For example, I have an amendment which I would like to introduce with respect to this Treasury-Postal bill regarding the enforcement of our firearms laws in the United States.

We hear time and time again—particularly by the opponents of increased gun safety legislation—that all we have to do is enforce the laws. Yet in the past we have seen the erosion of funds going to the ATF for their enforcement policies. I must say that this year's Treasury-Postal appropriations bill has moved the bar upwards in terms of funding appropriate gun safety programs, and I commend the Chairman and Ranking Member for their effort. But there are two areas in which they have failed to respond. One is the youth crime gun interdiction initiative by the ATF.

I would request in my amendment an additional $6.4 million, which would bring it up to the funding requested by the President. This, to me, is an absolutely critical issue—not only in the sense of making sound public policy, but critical because in every community in this country we are astonished

by the ease of access to firearms by youngsters. We are horrified by the results of this access to firearms.

A few weeks ago in Providence, RI, we were absolutely devastated by the murder of two young people. They had been in Providence on Thursday evening at a night club. They left. One youngster was working and the other was a college student. They were chatting by their car, waiting to go to their homes that evening when they were carjacked by five or six young men. They were driven to a golf course on the outskirts of Providence. Then they were brutally killed with firearms.

Where did these accused murderers get these firearms? It is a confused story. But there was an adult, apparently, who had lots of weapons. Either they were stolen from this individual, or he lent the firearms to one of these young men. But, in any case, this is one of those searing examples of young people having firearms being desperate, being homicidal, and using those weapons to kill two innocent people.

The program, which is underfunded in this appropriations bill, would authorize the ATF to work with local police departments to develop tracing reports to determine the source of firearms in juvenile crimes.

There was some suggestion initially and anecdotally that most of these firearms were stolen, but then preliminary research suggested not; that, in fact, there is an illegal market for firearms and that too many weapons used by juveniles in these heinous crimes are obtained in this illegal firearms market.

This type of information is extremely useful in terms of designing strategies to interdict access to firearms by youth perpetrators. We need this kind of intelligence in the Nation, if we are going to construct appropriate programs that are going to deal with this problem.

This, again, is a reflection of what I sense happened in Providence. It is unclear precisely what happened. But here you have the possibility that the individual with the firearms either sold them or lent them, got them into the hands of young people who, in turn, used them to kill other young people.

It would be extremely useful if we knew collectively and not only individually how these weapons moved through our society, because without this knowledge it is very hard to create counterstrategies.

That is one important aspect—these trace reports—for appropriations that I will seek to move today with respect to appropriations.

Indeed, the Senate Appropriations Committee report emphasizes the importance of the partnerships that are underlying this initiative, and underlying also the ability to deal with the incidents of youth firearm crimes. In their words:

> The partnership between ATF and local law enforcement agencies in these communities—
>
> is invaluable to the mutual effort to reduce gun-related crimes. The tracing information provided by ATF not only allows local jurisdictions to target scarce resources to investigations likely to achieve results, but also gives ATF the raw data to be able to investigate and prosecute the illegal source of these crime guns. The Committee continues to believe that there are significant disruptions in these illegal firearms markets directly due to investigative leads arising from this regional initiative.

Frankly, the committee recognizes that this is a useful initiative. I would like to see it fully funded. That is something we could be talking about. Indeed, I hope we can move to incorporate that within the appropriations bill that is before us.

There is another important firearms enforcement measure that was not funded by the committee which I would like to see funded, and that is the national integrated ballistics information network. I would like to see that appropriation moved up by $11.68 million to meet the President's request. This would integrate two systems that try to identify bullets based upon their ballistic characteristics so they can be more useful in investigating crimes.

The ATF has an integrated ballistics identification system, which is called in shorthand IBIS. The FBI has what they call the ''drugfire'' ballistic system. I have seen demonstrations of these systems. They are remarkable. They recover a slug at a crime scene. They take it to a lab, which has the computer equipment that is designed to run this system. They are able to identify the characteristics of the particular slug that is being examined and then, through their data banks, match it up with a known group of slugs, make a positive identification, and the positive identification leads, in many cases, to the arrest, or certainly to the identification of the weapon that was used. It is very similar to fingerprinting, with which we are all familiar.

We have these two systems. They work very well independently. But they would work much better if their databases were combined; if the source was engineered to cooperate and work interdependently. That is what this appropriation would do.

We have seen success already. Both of these systems, working independently, have produced more than 8,000 matches and 16,000 cases. For the first time we can take a slug from a crime scene, match it up with known weapons, leading, hopefully, to arrests and ultimately conviction. In a way, it is not only like fingerprints, it is like DNA, like all the scientific breakthroughs we are able to use to more effectively enforce the laws and bring lawbreakers to justice.

I hope we can use this system more effectively by integrating the two programs, the ATF program and also the FBI program.

One of the reasons I am offering this amendment is to ensure we have the money this year. There is a 24-month proposed schedule for the deployment of this system. The work has been done, the plans have been done, but if we do not appropriate sufficient money in fiscal years 2001 and 2002, then we will fall short of this scheduled deployment. We will create a situation in which, again, when we ask why the American people get so frustrated with government, the situation in which we have been planning, we have been expending money, we are all ready to move forward on an initiative that will materially aid law enforcement authority, and then we stop short and go into a hiatus for a year, and maybe at the end of the year start again. But, more than likely, it will be more expensive, and we have lost months or years in terms of having effective tools for our law enforcement authorities. That is one of the frustrations. It is frustration based upon our inability to be able to move efficiently and promptly to do the people's business.

I hope we can deal with this issue of both the youth crime gun interdiction initiative and the national integrated ballistics information network. These are the types of appropriations measures we should not only be talking about, but we should be voting for. Again, we are in this predicament because there has been such a conscious, overt effort on the part of the leadership to deflect consideration, deliberation, and decision on so many important issues that are critical to the future of America. Lifetime tenure on Federal courts is being withheld because there is a hope, an expectation on one side, that these judges will go away, these nominees will go away, in 6 or 9 months.

I don't think that is what the American people want Congress to do. They want Congress to either approve or disapprove, but they want Congress to act.

Mr. BENNETT. Will the Senator yield?

Mr. REED. I am happy to yield to the Senator.

Mr. BENNETT. Mr. President, the Senator has talked about the present situation we are in. Is the Senator aware that the majority leader tried to move the Senate toward consideration of this bill as long ago as last Friday and it was objected to by the minority?

Mr. REED. I am aware of that. It is one of the situations where, after months and months of cooperating, of trying to accommodate, mutually, the desire and the recognition of getting things done, at some point when we see no movement with respect to our constitutional obligation to confirm judges, no real movement, when we see the elementary and secondary education bill that has been put out to languish and perhaps not to see the light of day for the rest of the year, when we see a process in which the price of bringing a bill to the floor is an agreement to surrender the rights of individual Senators to amend that legislation, to make that amendment

process subject to the approval of the majority leader, when we see all those things, what I think we have to do and what we must do is insist that we get back, away from that process of majority oppression. Perhaps that is too melodramatic. We have to get back to the rules of the Senate, the spirit of the Senate, which, I believe, is open debate, open amendment, and a vote.

Frankly, if that were the rule that was forthcoming from the majority leader, if the majority leader said, bring ESEA back, open up the amendment process, vote; when we finish the amendments, if the debate goes too long, in my prerogative, after long debate, I will enter a cloture motion—that is the way the Senate should operate. I suggest that is not the way this Senate is operating. That is why we are here today.

There is responsibility for every individual Senator for what happens on the floor of the Senate. Certainly the management of the Senate is within the grasp and the control immediately of the majority leader and the majority. That control has been deliberately, I think, to thwart the nomination and the confirmation of judges and deliberately to frustrate legislation important to the American people because there might be amendments that are uncomfortable for consideration by some in this body.

Mr. BENNETT. Will the Senator yield?

Mr. REED. I am happy to yield to the Senator.

Mr. BENNETT. Is the Senator aware the majority leader has an agreement with the minority leader whereby a number of judges would, in fact, be confirmed and that the agreement was accepted by both sides, only to have the minority leader come forward and say that he wanted to identify the specific judges, and the numbers were not acceptable? The minority leader wanted to pick specific people, in contradiction of the normal pattern of the Judiciary Committee.

Is the Senator aware of the fact the minority leader has taken that stand?

Mr. REED. Reclaiming my time, essentially what the Senator is arguing, by implication, is that the majority leader has the sole responsibility and sole prerogative to pick who will come to this floor for consideration as a judge.

I am amazed at this whole process. Look at judges who have been pending for almost a year and their names are not coming to the surface. That is something more at work than the breaks of the game. That is a deliberate attempt by the majority to suppress the nomination of individual judges.

Frankly, an offer to bring some judges to the floor is, in my view, insufficient unless that offer was transparent, saying we will begin to work down the judges who have been pending longest, with perhaps other criteria, such as districts or circuits that need judges.

But that is not how it is working. These magnanimous offers of bringing up a couple of judges—I believe I saw yesterday where three judges from Arizona were just nominated by the President, and they already have hearings scheduled. We have other judges who were nominated over a year ago, and they have not even had a hearing, a year later. Some magnanimous gestures by the majority leader are self-serving and ultimately had to be rejected by the minority.

I respect the Senator, but I will continue my discussion on some other points.

Mr. BENNETT. I will respond at a later time.

Mr. REED. The youth crime gun interdiction initiative and the national integrative ballistics information network are important issues. Those are the issues we are talking about. They are a subset of what I argue is the larger issue.

The larger issue: Is the Senate going to be the Senate? Or is it some type of smaller House of Representatives where the leadership dictates what is coming to the floor, what judge's name might come up, what bill might come up, what amendment might come up, when it all comes about? That, I think, is the key point.

Let me take up another key point in terms of the demonstration of why we are not doing our duty. We have before the Senate a very difficult vote on extending permanent normal trade relations to China. It is a very difficult vote. We know that. It is a vote that bedeviled the House of Representatives. It was controversial. It was difficult. But after intense pressure and vigorous debate, the House of Representatives brought it to a conclusion and voted.

Now that measure is before the Senate. It is controversial. It is, like so many other things, languishing. It could have been accomplished weeks ago. The business community would argue vociferously it should have been accomplished weeks ago. It has been couched in many terms, but one term I think is most compelling is that it is a critical national security vote. It is a critical national security vote. Yes, it is about trade. Yes, it is about economic impacts within the United States and around the world. But it is also about whether or not we will continue to maintain a relationship of engagement with China, or if we reject it, or if we delay it indefinitely and open up the distinct possibility of confrontation and competition with China.

Yet this critical national security vote, this critical vote which is probably the No. 1 objective of the business community in this country, again languishes.

Some would say there are reasons. We want to talk about Senator THOMPSON's and Senator TORRICELLI's amendment about proliferation. But, again, it is symptomatic of a situation in which the Senate is not responding as it should to its constitutional and to its public responsibilities because of the political calculus.

Our side is not immune to political calculation. But the leadership of this body has created a situation in which avoidance of difficult issues, nullification of constitutional responsibilities and obligations to confirm judges, and deferment of critical national security issues for short-run advantages, is the standard of performance. I believe that is not the role the Senate should play and that is the heart of this discussion today.

Let me suggest one other point with respect to the business of the body. We confront a range of issues that deal with those world-shaking, momentous issues like China trade policy; issues with respect to domestic tranquility; the safety of our streets; the funding of the appropriations bills for law enforcement when it comes to firearms.

Then there are issues that are not important to the vast number of Americans in the sense it doesn't affect them directly but are critically important to many Americans. One is a measure I have been trying to find the opportunity to bring to the floor, and that is to somehow help the Liberian community in this country who came here in 1990, in the midst of their violent civil war, and who for the last decade have been in the United States. They have been residing here. They have been contributing to our communities. Many of them have children who are American citizens. Yet they are in a position where they face deportation October 1. The clock is ticking.

This is not an issue that is going to galvanize parades through every Main Street in America. But for these roughly 10,000 people who are caught up in this twilight zone while they are here, they want to remain here with their children, many of whom, as I said, are Americans, but they face a prospect of being deported back to a country that is still tumultuous, still dangerous, still threatening to them and many others.

This is legislation that has been supported by Senator CHAFEE, my colleague from Rhode Island, Senator HAGEL, Senator WELLSTONE, Senator KENNEDY, Senator LANDRIEU, Senator KERRY, and Senator DURBIN, legislation that will materially assist these individuals. But, once again, we are not moving with the kind of rapidity that allows for the easy accommodation of this type of legislation on the floor. I hope it does come up soon, but I think it represents the cost of this overcontrol and this inflexibility, perhaps, that we are seeing as the management leadership style here today.

Let me just briefly set the stage about the need for this legislation. Liberia is a country that has the closest ties of any African nation to the United States—it was founded by freed slaves in the middle 1800s. Its capital is Monrovia, named after President Monroe. It is a country that did its utmost

throughout its existence in the 1800s and the 1900s, to emulate American Government structure, at least. But it erupted into tremendous violence in 1989 and 1990. Over the next several years, 150,000 people fled to surrounding countries. Many of them came to the United States—many being about 14,000. In March 1991, the Attorney General recognized that these individuals needed to be sheltered, so he granted temporary protected status, or TPS.

Under TPS, the nationals of a country may stay in the United States without fear of deportation because of the armed conflict or extraordinary conditions in their homeland. People who register for TPS receive work authorizations, they are required to pay taxes—and this is precisely what the Liberian community has done in the United States. They went to work. They paid taxes. However, they do not qualify for benefits such as welfare and food stamps. Not a single day spent in TPS counts towards the residence requirement for permanent residency. So they are in this gray area, this twilight zone. They have stayed there now for 10 years because the situation did not materially change for many years.

Each year, the Attorney General must conduct a review. The Attorney General did conduct such a review and continued to grant TPS until a few years ago, until the fall of 1999, when the determination was made that the situation in Liberia had stabilized enough that TPS was no longer forthcoming.

At that, many of us leaped to the fore and said the situation has changed. The situation has changed in Liberia, but it has also changed with respect to these individuals here in the United States. They have established themselves in the community. They have become part of the community. Their expectations of a speedy return to Liberia long ago evaporated and they started to accommodate themselves—indeed many of them enthusiastically—to joining the greater American community.

The situation changed in Liberia. The change there was more procedural than substantive. What happened was the situation in which there was an election, which was monitored by outsiders, which elected a President, the former warlord, Charles Taylor.

Based upon this procedural process change, the State Department and others ruled, essentially, that the situation was now ripe for the return of Liberians from the United States and surrounding countries to Liberia. But at the heart, the chaos, the economic disruption, the violence within Liberia did not subside substantially. As a result, Liberians here in the United States have genuine concerns about their return to Liberia. What has happened most recently, because this is an evolving situation, is that Charles Taylor, the President, again, duly elected President, has not renounced all of his prior behaviors because it is strongly suggested that he has been one of the key forces who is creating the havoc in the adjoining nation of Sierra Leone.

All of us have seen horrific photographs of the violence there, of children whose arms and hands have been cut off by warring factions in Sierra Leone. The Revolutionary United Front is one of the key combatants in that country. Part of this is an unholy alliance between Taylor and the Revolutionary United Front for the purpose of creating, not only mischief, but also for exploiting diamond resources within Sierra Leone for the benefit of Taylor and the benefit of others. But all of this, this turmoil, once again, suggests that Liberia is not a place that is a stable working democracy where someone, after 10 years of living in the United States, could return easily and gracefully and immediately.

Last year at this time, after being approached by myself and others, the Attorney General determined that she could not grant TPS again under the law. But she did grant Deferred Enforced Departure, or DED, to Liberians, which meant the Liberians could remain in the United States for another year but essentially they are being deported. It is just stayed, delayed for a while. They have been living in this further uncertainty for the last year.

My legislation would allow them to begin to adjust to a permanent residency status here in the United States, and hopefully, ultimately, after passing all of the hurdles, to become citizens of this country.

They arrived here, as I said, about 10 years ago. They came here with the expectation that they would have a short stay and would be home, back in their communities, back in Liberia, but that expectation was frustrated, not by them but by the violence that continued to break out throughout Liberia.

Now they have established themselves here. They are part and parcel of the community, and they are extremely good neighbors in my State of Rhode Island, as well as in other parts of this country. I believe equity, fairness, and justice require that we offer these individuals the opportunity to become permanent resident aliens and ultimately, as I said, I hope they will take the opportunity to become citizens of this country.

Our immigration policy is an interesting one, idiosyncratic in many cases, but it is important to point out there are several other countries around the globe that have already dealt with a problem like this: Norway, Denmark, the Netherlands, Spain, and Great Britain. After a certain length of time, even if you are there temporarily—certainly 10 years is a sufficient time—you can, in fact, adjust your status to something akin to permanent resident of the United States and pursue citizenship.

We have done this before. We have made these types of adjustments for other national groups that have been here and for many of the same reasons: Simple justice, length of stay, connections to the community of America, continued turmoil in their own countries. For example, in 1988 we passed a law to allow the Attorney General to adjust to permanent status 4,996 Polish individuals who had been here for 4 years, 387 Ugandans who had been here for 10 years, 565 Afghanis who had been here for 8 years, and 1,180 Ethiopians who had been here for 11 years.

The 102nd Congress passed a law which allowed Chinese nationals who had been granted deferred enforced departure after Tiananmen Square to adjust to permanent residency. Over the next 4 years, 52,968 Chinese changed their status.

In the last Congress, we passed legislation known as NACARA. Under this law, 150,000 Nicaraguans, 5,000 Cubans, 200,000 El Salvadorans, and 50,000 Guatemalans who had been living in the United States since the eighties were eligible to adjust to permanent residency status. A separate law allows Haitians who were granted DED to adjust to permanent residency.

As one can see, we are not setting a precedent. We are doing what we have done before in response to similar motivations: fairness, length of stay here, turmoil in the homeland to which we propose to deport these individuals.

Another important point is why we believe we have a special obligation to Liberia. As my colleagues know—and I have mentioned before—this is a country that shares so much with the United States.

In 1822, a group of freed slaves in the United States began to settle the coast of western Africa with the assistance of private American philanthropic groups and at the behest of the U.S. Government. In 1847, these settlers established the Republic of Liberia, the first independent country in Africa. Five percent of the population of Liberia traces their ancestry to former American slaves. They modeled their constitution after ours. And they used the dollar as their currency.

Before the 1990 civil war, the United States was Liberia's leading trading partner and major donor of assistance. When Liberia was torn apart by civil war, they turned to the United States for help. We recognized that special relationship, and we offered aid to Liberia. We offered it, as I said, to assist those who were fleeing destruction and devastation. We should continue to do that. We have had a special relationship with Liberia over history, and we have formed a special relationship throughout this country with those communities of Liberians who have been here for a decade and who seek to stay.

Again, this is some of the legislation we could be considering, some of the legislation with which we could be dealing if we had a process that allowed that free flow of legislation to the floor.

Mr. President, I ask unanimous consent that two letters be printed in the

RECORD: A letter from Bill Gray, President of the College Fund, and a letter from the Lutheran Immigration and Refugee Service.

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

THE COLLEGE FUND,
Fairfax, VA, April 19, 2000.

Hon. JACK REED,
U.S. Senator, Senate Hart Office Building, Washington, DC.

DEAR SENATOR REED: I write to let you know of the great importance I attach to the passage of legislation that would allow Liberian nationals already in the U.S. for almost ten years to become permanent residents. Your legislation, S. 656, the Liberian Immigration Fairness Act, would accomplish this important goal.

The United States has always shared a special relationship with Liberia, a country created in 1822 by private American philanthropic organizations for freed American slaves. In December 1989, civil war erupted in Liberia and continued to rage for seven years. USAID estimates that of Liberia's 2.1 million inhabitants, 150,000 were killed, 700,000 were internally displaced and 480,000 became refugees. To date, very little of the destroyed infrastructure has been rebuilt and sporadic violence continues.

When the civil war began in 1989, thousands of Liberians fled to the United States. In 1991, the Attorney General granted Temporary Protected Status (TPS) to these Liberians, providing temporary relief from deportation since ongoing armed conflict prevented their safe return home. For the next seven years, the Attorney General annually renewed this TPS status. Last summer, Attorney General Reno announced that this TPS designation would end on September 28, 1999. Throughout 1999, Liberians faced the prospect that they would be uprooted and forced to return to a country still ravaged by violence and repression. However, on September 27, 1999, President Clinton granted non-citizen Liberians living in the United States a reprieve, allowing them to remain in the country and work for one additional year.

The Department of Justice estimates that approximately 10,000 Liberians are living in the United States under protection of our immigration laws. There are significant Liberian populations in Illinois, Ohio, Michigan, Maryland, Pennsylvania, New Jersey, New York, Georgia, Minnesota, Rhode Island, and North Carolina. For the past decade, while ineligible for government benefits, Liberians have been authorized to work and are required to pay taxes. They married, bought homes, and placed their children, many of whom were born in this country, in school. Despite their positive contributions to our communities, their immigration status does not offer Liberians the opportunity to share fully in our society by becoming citizens.

When they first arrived, these nationals of Liberia hoped that their stay in this country would indeed be temporary. But ten years have passed and they have moved on with their lives. Liberians have lived in this immigration limbo longer than any other group in the United States. More importantly, other immigrant groups who were given temporary haven in the United States for much shorter periods have been allowed to adjust to permanent residency: Afghans, Ethiopians, Poles and Ugandans after five yeas and 53,000 Chinese after just three years. It is time to end the uncertainty that Liberians have lived with for so long. It is time to allow them the opportunity to adjust to permanent residency as our nation has allowed others before them.

Following our Nation's tradition of fairness and decency, I am pleased to add my personal support to S. 656 in order to offer Liberians the protection they deserve.

Sincerely,

WILLIAM H. GRAY III.

LUTHERAN IMMIGRATION AND
REFUGEE SERVICE,
Washington, DC, March 7, 2000.

Hon. JACK REED,
U.S. Senate, Washington, DC.

DEAR SENATOR REED: On behalf of the undersigned organizations, we urge your support of the Liberian Refugee Immigration Fairness Act of 1999 (S. 656). This Act would provide relief and protection for some 15,000 Liberian civil war refugees and their families now residing in the United States.

Since March of 1991, over 10,000 Liberian civil war refugees have resided in the United States. Recently, they were granted an extension of their temporary exclusion from deportation when President Clinton ordered the Attorney General to defer their enforced departure. Granted for one year, the order is set to expire in September of this year. Against this general background, legislation has been introduced by Senator Jack Reed (D–RI) to adjust the status of certain Liberian nationals to that of lawful permanent residence. We strongly support Senator Reed's proposed legislation, S. 656. We view this bill as being vital to the basic protection of and fairness towards Liberian civil war refugees.

JUSTIFICATIONS

The Liberian Refugee Immigration Fairness Act of 1999 would protect Liberian refugees and their families from being forcibly returned to a nation where their life and freedom may still be threatened. Even the Human Rights reports from the U.S. Department of State and Amnesty International have called attention to the continuing pattern of abuses against citizens by the Liberian government. Additionally, the legislation would protect against the dissolution of families as Liberian parents are forced to choose between leaving their American born children in the U.S. or taking them back to Liberia if they are deported. Further, after nearly a decade of living in the U.S., Liberians have established real ties in their local communities and as such, forced deportation would simply be wrong. Finally, it is imperative that Liberian civil war refugees be accorded the same favorable treatment as other refugee groups seeking relief in the United States.

We remain appreciative to Congress for its continued attention paid to the general issue of immigration relief for those in need, and we trust the same will be devoted to the Liberians. We appreciate your consideration of these comments.

Sincerely,

RALSTON H. DEFFENBAUGH,
President.

On behalf of:

Nancy Schestack, Director, Catholic Charities Immigration Legal Services Program.

Douglas A. Johnson, Executive Director, Center for Victims of Torture.

Richard Parkins, Director, Episcopal Migration Ministries.

Tsehaye Teferra, Director, Ethiopian Community Development Council.

Eric Cohen, Staff Attorney, Immigrant Legal Resource Center.

Curtis Ramsey-Lucas, Director of Legislative Advocacy, National Ministries, American Baptist Churches USA.

Jeanne Butterfield, Director, American Immigration Lawyers.

William Sage, Interim Director, Church World Service Immigration and Refugee Program.

John T. Clawson, Director, Office of Public Policy and Advocacy, Lutheran Social Service of Minnesota.

Muriel Heiberger, Executive Director, Massachusetts Immigrant and Refugee Advocacy (MIRA) Coalition.

Oscar Chacon, Director, Northern California Coalition for Immigrant Rights.

Skip Roberts, Legislative Director, Service Employees International Union.

David Saperstein, Director of the Religious Action Center of Reformed Judaism, Union of American Hebrew Congregations.

Ruth Compton, Immigrant and Latin America Consultant, United Methodist Church, General Board of Church and Society.

Katherine Fennelly, Professor, Humphrey Institute of Public Affairs, University of Minnesota.

Asylum and Refugee Rights Law Project of the Washington Lawyers' Committee for Civil Rights and Urban Affairs.

Don Hammond, Senior Vice President, World Relief.

Morton Sklar, Director, World Organization Against Torture, USA.

Mr. REED. These two letters are strong statements on behalf of the legislation, the Liberian Refugee Immigration Fairness Act, which I have spoken about and which I ardently desire to see acted upon in this session in the next few weeks.

Bill Gray, as many know, is a former distinguished Congressman from Philadelphia, PA. He is now President of the College Fund, which was formerly known as the United Negro College Fund.

He points out in his letter the long association between the United States and Liberia and urges that we act quickly and decisively to pass this legislation.

The letter from the Lutheran Immigration and Refugee Service also makes that same plea for prompt and sympathetic action on this legislation. It is signed also on behalf of numerous organizations: the Catholic Charities Immigration Legal Services Program; the Episcopal Migration Ministries; the National Ministries of American Baptist Churches USA; the Lutheran Social Services of Minnesota; the Union of American Hebrew Congregations; the United Methodist Church, General Board of Church and Society; and it goes on and on.

Again, this is the heartfelt plea by the church community and the religious community in general of this country for a favorable and immediate response to the plight of these Liberians who are here with us.

VISIT TO THE SENATE BY THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES

RECESS

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate stand in recess for 6 minutes while Senators and others have an opportunity to meet a distinguished guest, the President of the Philippines, the Honorable Joseph Estrada.

There being no objection, the Senate, at 3:57 p.m., recessed until 4:03 p.m.;