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PROCEEDINGS AND DEBATES OF THE 102th CONGRESS, SECOND SESSION

SENATE—Friday, October 2, 1992

(Legislative day of Wednesday, September 30, 1992)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the acting President pro tempore [Mr. KOHL].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:
Baruch HaShem. Blessed be the name of the Lord.

Have mercy upon me, O God, according to thy lovingkindness: according unto the multitude of thy tender mercies blot out my transgressions. Wash me thoroughly from mine iniquity, and cleanse me from my sin. For I acknowledge my transgressions: and my sin is ever before me. Against thee, thee only, have I sinned, and done this evil in thy sight: that thou mightest be justified when thou speakest, and be clear when thou judgest. Behold I was shapen in iniquity, and in sin did my mother conceive me. Behold thou desirest truth in the inward parts: and in the hidden part thou shalt make me to know wisdom. Purge me with Hyssop, and I shall be clean: wash me, and I shall be whiter than snow. Make me to hear joy and gladness; that the bones which thou hast broken may rejoice. Hide thy face from my sins, and blot out all mine iniquities. Create in me a clean heart, O God; and renew a right spirit within me.—Psalm 51:1-10.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, am I correct in my understanding that the

Journal of proceedings has been approved to date and the time for the two leaders is reserved for their use later in the day?

The ACTING PRESIDENT pro tempore. That is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning the Senate will debate for 1 hour the motion to invoke cloture on

the education bill. At the completion of that debate, a vote will occur on that motion. Following disposition of that bill, the Senate will debate for 1 hour and then vote on the crime bill conference report and then we will vote on that motion. Following disposition of that bill, the Senate will debate for 1 hour and vote on a cloture motion on the reauthorization bill for the National Institutes of Health.

Since the disposition of the matters will depend upon the outcome of each of the cloture votes, it is not possible

NOTICE

A final issue of the Congressional Record for the 102d Congress, second session, will be printed after the sine die adjournment. Members may submit manuscript for printing to the Official Reporters of Debates not later than October 29, 1992. The interim issue will be dated October 29, 1992, and delivered on October 30.

None of the material printed in the Congressional Record during the recess may contain subject matter, or relate to any event, which occurred after the date the Congress officially adjourned.

No provision herein shall be construed to supersede the two-page rule.

All material must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates, Room HT-60 or S-220 of the Capitol. These offices are open Monday through Friday between the hours of 10 a.m. and 3 p.m.

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By order of the Joint Committee on Printing.

CHARLIE ROSE, *Chairman.*

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

now to know with certainty when the second and third votes will occur. But we intend to press forward on all of these and other measures as we attempt to meet the deadline for adjournment of this Congress set some weeks ago by the Speaker and myself.

I thank my colleagues for their cooperation. Senators should be aware that there may be a late session this evening. It may be necessary for the Senate to be in session on Saturday. If necessary, there could be a session on Sunday. It is my preference that we not meet on Sunday if we can arrange our affairs in such a manner so as to make it unnecessary, but that will require extraordinary cooperation from our colleagues, and I will not make a decision or announcement about the sessions on Saturday and Sunday until later this evening.

I thank my colleagues, and I yield the floor.

NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT—CONFERENCE REPORT

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 1 hour for debate, equally divided, on the motion to invoke cloture on the conference report accompanying S. 2, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the conference report accompanying S. 2, the education bill:

Paul Simon, Herb Kohl, Jim Sasser, John Breaux, Christopher Dodd, Harry Reid, Charles S. Robb, Daniel K. Akaka, Tom Daschle, Harris Wofford, Dale Bumpers, Richard Bryan, John F. Kerry, Max Baucus, David Pryor, Jay Rockefeller.

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, I yield such time as I might use.

Mr. President, this morning, the Senate is being asked to invoke cloture so that we may approve the conference report on the Neighborhood Schools Improvement Act (S. 2).

This is a strong bill that will take important steps to improve our schools. The bill provides for national education goals, the establishment of voluntary national education standards, the development of model national assessments, and regulatory flexibility initiatives for local schools.

The bill also establishes a formula grants program that will provide Federal funds to States to make competitive grants to local schools to improve student achievement. Those with the best proposals will get funded. Those

that do not have good ideas will not win awards.

Funds will be provided to schools over a 5-year period. Schools must show gains in academic achievement. Schools that do not show gains will lose their money. Schools that show gains in academic performance will continue to receive funds.

The opponents of this bill claim that it is deficient because it does not include the initiatives advanced by the Bush administration. With one exception, this is wrong.

There are five principal parts to this bill. Four are initiatives that the administration has previously supported. These are: First, putting the national goals panel on a statutory basis; second, establishing voluntary national education standards; third, developing voluntary model tests and assessments; and fourth, providing greater regulatory flexibility in Federal education programs.

The fifth part of the bill is the Neighborhood Schools Improvement Grants Program, which provides funds to local schools for school reform and links individual school activities with State and local systemwide reform plans.

Unlike the administration's new American schools proposal, this plan will be available to benefit all public schools—not just 535 new schools, one in each congressional district, as the administration proposed.

In addition, this bill will not divert scarce public funds from public schools to private schools.

Unlike the administration's proposal, school reform will be directed by the States and local schools, the Federal Department of Education would not set the terms or pick the winning schools.

Unlike the President's proposal, this bill incorporates strict accountability. Funds will be cut off if the schools do not demonstrate improved academic performance.

The Neighborhood Schools Improvement Act rejects the concept of privatizing education in America, abandoning the public schools, or giving the Secretary of Education final say on where to spend the money. If Federal control of local education is a danger, this bill avoids it far more effectively than the administration's plan.

Yesterday, I received a copy of a letter from Secretary Alexander to the majority leader, GEORGE MITCHELL. The letter cites five reasons for opposing this bill. Secretary Alexander's points are distortions of the legislation, and for the most part contradict positions the administration has previously taken.

First, he claims that the bill "pokes the Federal Government's nose too far in to local decisions—it creates at least the beginnings of a national school board that could make day-to-day school decisions on curriculum."

It is true that the education bill contains national education standards and takes a step forward in the direction of developing a national assessment of education. That is something the administration has eagerly supported.

It was the first point of the President's America 2000 proposal. He called for "new world standards" and "nationwide American achievement tests," developed in conjunction with the National Goals Panel. This bill provides for those standards. It is difficult to understand how Secretary Alexander can now claim that this step will create a National Board of Education.

Second, Secretary Alexander claims that the legislation will allow States to retain 20 percent of their funds, and local education agencies to retain 10 percent of their funds, for systemwide planning and innovative school reform.

Again, the administration has changed its position. In the Senate the administration wanted the States to keep 35 percent of the funds, so they could support innovative new schools.

This bill allows the States and local education agencies together to keep 30 percent—hardly a difference that justifies a veto.

Third, Secretary Alexander complains that the regulatory flexibility proposal does not go far enough.

In fact, it does go quite far. The program initially covers 17 education and social programs, 10 States and 750 schools, far more programs and States than in the original Senate bill.

It is the most comprehensive regulatory reform initiative ever attempted in Federal education policy.

There were good reasons for being careful not to go too far in this process: The Federal regulatory provisions in education are the result of years of evidence that funds were improperly spent. This new flexibility approved in this bill establishes the groundwork for further regulatory reform in the future.

Fourth, Secretary Alexander complains that the bill does not authorize private school choice. Both the House and Senate had rolled votes on proposals to use Federal funds for such programs and were decisively rejected. Nothing in the bill prevents any State or local agency from spending all its funds from the program on choice among public schools, if that is what States and local schools want.

What the bill does not do is impose choice from the Federal level on States and local schools that choose not to spend it. It is difficult to believe that Secretary Alexander, if he is truly concerned about Federal control, would have it any other way.

Fifth and finally, Secretary Alexander objects to the failure of the bill to authorize 535 new American schools as proposed by the President, at \$1 million each, one for each congressional district, to create private, for-profit or

religious, schools as chosen by the Secretary himself.

But one per congressional district picked by the Secretary was a bad idea. Innovative new schools are a good idea and the bill specifically allows it. If any State wants to fund new American schools, the bill specifically authorizes funding of "innovative school reform activities."

That term can certainly include new American schools, as long as they are new American public schools.

This bill is an excellent start on school reform. It is the same basic bill that the Senate approved by a vote of 92 to 6 in January. It includes most of the things that the President wants—national goals, education standards, educational assessments, and money for reform of local schools.

We hope that all 92 Members who supported this bill in January will act to approve the conference report and send the bill to the President.

This is a good bill and it deserves to be approved by the Senate. A vote to invoke cloture will be a step in that direction.

Mr. President, I will include these endorsements of the legislation, but I want to just take a moment of the Senate's time in quoting first of all the National Alliance of Business, which includes many of the most important and successful companies and corporations in the country. I will include the full statement in the RECORD. Here is one paragraph:

Constructive Federal action to stimulate education reform at the state and local levels has been an important goal for the Alliance, representing thousands of business leaders involved in education improvement around the country. We believe that this bill is a constructive effort to legislate the education reform agenda initiated by the President and the Governors in Charlottesville, Virginia, which first established a national education goal.

Here we have a letter from the Council of Chief State School Officers. I will include the full letter in the RECORD.

The Neighborhood Schools Improvement Act supports schoolwide restructuring, not piecemeal or categorical approach. Federal legislation has never done that before. The Neighborhood Schools Improvement Act provides that Governors, State legislators, business leaders, mayors, and community leaders have key roles in developing state and local reform plans. Federal legislation has never done that before.

We will hear comments about the structures that are set up and whether it has been overbureaucratized. Here the National Business Alliance urges the Senate to support this proposal, and the Council of Chief State School Officers who are out on the firing line day in and day out.

Let me continue what they say:

This legislation includes fundamental changes proposed by the President and Members of both parties on the way the Federal Government promotes educational change and excellence. Our schools, school districts

and States need the help this act promises as rapidly as possible.

My characterization of the legislation is not only what the legislation states, but it is what those individuals who are on the firing line day in and day out say is needed.

And I continue with the National PTA and will include their full statement.

The act is not prescriptive, but provides local public schools a variety of restructuring options that will supplement current school improvement moves.

This is the organization that represents the parents. Important provisions in this legislation include parental involvement, and this is what they say, the organization:

The act allows for parental involvement and recognizes the importance of parent participation in school change.

The act focuses on the most impoverished schools and students in both rural and urban settings.

The act invites collaboration with other community-based child-serving agencies in an effort to coordinate services.

An extremely important position. And finally:

The act's objectives are most effective—they focus on the neighborhood school as the most critical level for change.

These are the organizations that understand what this bill is all about. These are the groups that are on the firing line day in and day out.

I will include others, but I welcome the kind of endorsement that they have given to this legislation. That is what we attempted to do. That is what I believe we have achieved. And we welcome the fact that those individuals and organizations that are out on the firing line day in and day out and that are closest to the students and the parents and the communities have given such a ringing endorsement to this legislation.

Mr. President, I ask unanimous consent that the letter to which I referred be printed in the RECORD.

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

NATIONAL ALLIANCE OF BUSINESS,
Washington, DC, September 29, 1992.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express support of the National Alliance of Business for approval of the final conference report on education reform legislation, the "Neighborhood Schools Improvement Act."

Constructive federal action to stimulate education reform at the state and local levels has been an important goal for the Alliance, representing thousands of business leaders involved in education improvement around the country. We believe that this bill is a constructive effort to legislate the education reform agenda initiated by the President and the governors in Charlottesville, Virginia, which first established national education goals. We recognize that the bill is not ideal, but it represents a critical step toward achieving the goals.

From a business perspective, the key contributions of the bill would be to codify the national education goals into law and to establish federal objectives to help meet the goals. The bill would reconstitute the National Education Goals Panel, and, most important, would authorize a process to develop a system of voluntary, national education standards and assessments. Federal grants to local school districts and schools would be awarded competitively based on state and local plans for comprehensive school restructuring which would be developed with business participation. Schools must show gains in academic achievement or funds are cut off, establishing accountability and responsibility for school reform at the local level.

We view this bill as one important step in the bipartisan effort to improve American education. We commend your efforts to shape and complete a bill in this Congress, and urge your support for final enactment into law.

Sincerely,

WILLIAM H. KOLBERG,
President.

COUNCIL OF CHIEF
STATE SCHOOL OFFICERS,

Washington, DC, September 28, 1992.

Re vote "Yes" on the Neighborhood Schools Improvement Act (S. 2) Conference Report.

DEAR SENATOR: This week the conference report on the Neighborhood Schools Improvement Act (NSIA) will come before the Senate for final passage. The nation's chief state school officers urge you to vote "yes" on this essential legislation.

The Neighborhood Schools Improvement Act supports school-wide restructuring, not a piecemeal or categorical approach. Federal legislation has never done that before. The Neighborhood Schools Improvement Act provides that governors, state legislators, business leaders, mayors, and community leaders have key roles in developing state and local reform plans. Federal legislation has never done that before.

This Act codifies the National Education Goals; authorizes development of voluntary national education content standards for students and voluntary national school delivery standards. It provides funds for developing model assessments in mathematics and science. These are all breakthroughs in Federal legislation.

The Neighborhood Schools Improvement Act provides for demonstration of deregulation by giving flexibility to states and school districts in administering Federal programs. This flexibility is brand new in Federal education legislation.

This legislation includes fundamental changes proposed by the President and members of both parties on the way the Federal government promotes educational change and excellence. Our schools, school districts and states need the help this Act promises as rapidly as possible.

Once again, we urge you to vote "yes" to the conference agreement on S. 2. Thank you in advance.

Sincerely,

GORDON M. AMBRICH,
Executive Director.

THE NATIONAL PTA,
Chicago, IL, September 29, 1992.

DEAR SENATOR: The Neighborhood Schools Improvement Act conference report is anticipated to be taken up by the full Senate later this week. The National PTA, com-

prised of over 6.9 million parents, teachers and other child advocates, urge you to vote for the conference report. This provides financial help to public schools that either are currently or will be undertaking initiatives for educational restructuring and reform.

The Neighborhood Schools Improvement Act should be passed for the following reasons:

1. The act provides assistance solely for needy public schools and does not include funding for private or religious schools in any form;
2. The act is not prescriptive, but provides local public schools a variety of restructuring options that will supplement current school improvement moves;
3. The act allows for parental involvement and recognizes the importance of parental participation in school change;
4. The act focuses on the most impoverished schools and students in both rural and urban settings;
5. The act invites collaboration with other community-based child-serving agencies in an effort to coordinate services;
6. The act's objectives are most effective—they focus on the neighborhood school as the most critical level for change.

The National PTA supports this bill in its current form and asks that you cast your vote in support.

Sincerely,

ARLENE ZIELKE,
Vice-President for Legislative Activity.

THE NATIONAL COALITION
FOR PUBLIC EDUCATION,
Washington, DC, September 29, 1992.

DEAR SENATOR: This week, the Senate will be taking up the Neighborhood Schools Improvement Act Conference report, S. 2 and H.R. 423. The National Coalition for Public Education (NCPE) has been working with members of both the House and the Senate to assure that monies from this act be allocated only to public elementary and secondary schools. The NCPE strongly supported the Senate's defeat of several private school amendments when S. 2 was originally passed on January 22, 1992; and NCPE was also strongly supportive of the House's overwhelming defeat of similar private school voucher amendments when H.R. 423 was passed on August 11, 1992. This decisive action on behalf of public schools sends a clear signal that Congress does not believe that private school vouchers are a legitimate educational reform vehicle.

As the Neighborhood Schools Improvement Act comes up for a vote later this week, we ask that you take into account that the act rightly allocates money to public schools only. We ask that you oppose all parliamentary ploys intended to add private school parental choice including the President's G.I. Bill or any other form of private school aid. The National Coalition for Public Education is an organization of over 40 education, religious, civic and civil rights group opposed to public money going to private and religious schools.

We thank you for your attention in this matter.

American Association of School Administrators.
American Civil Liberties Union.
American Federation of Teachers.
American Jewish Committee.
American Association of University Women.
Baptist Joint Committee.
Council of Chief State of School Officers.
General Conference of Seventh-day Adventists.

Council of the Great City Schools.
International Reading Association.
National Association of Elementary School Principals.
National Committee for Citizens in Education.

National Association of State Boards of Education.
National Coalition for Public Education and Religious Liberty (PEARL).
National Education Association.
National Congress of Parents and Teachers Association.

Mr. KENNEDY, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore, The Chair recognizes the Senator from Kansas [Mrs. KASSEBAUM].

Mrs. KASSEBAUM. Mr. President, I rise to express my opposition to the conference report on S. 2, the Neighborhood Schools Improvement Act, and urge that all my colleagues join me in voting against cloture on this measure.

Mr. President, it is not for political reasons that I oppose this legislation. It is because I support sound, sensible measures regarding education, and I do not believe that this is one. It is a great disappointment to me to have to be arguing against a measure I would like to support. The bill we passed in January was one which I did support, as did a large majority of the Senate, as was pointed out by the Senator from Massachusetts.

However, little of that Senate bill is now in this conference bill before us, and I would say to the chairman of the Labor and Human Resources Committee, it is not basically the same bill which was passed by the Senate in January.

I would like to go through some of the reasons why I believe this is not a sound or sensible approach at this time.

It goes without saying that it is difficult for any of us to oppose a bill that has education in its title. No one opposes education. No one argues against its importance in assuring that our Nation stands tall in an increasingly competitive world.

In many respects, the easiest thing to do would be to just let this bill go. We all know there is not any money available to fund this program. Moreover, any action we take at this late date will surely be overshadowed by the reauthorization of the Elementary and Secondary Education Act during the next Congress. The gesture might be meaningless, but we could all go home and say we voted for education reform.

However, it is simply too late to be considering this bill. The conference report for the Labor-HHS-Education fiscal year 1993 appropriations bill was filed last night. There is not one penny of the \$80 million authorized by S. 2 in that measure. In fact, funds are already tight for the proven, existing education programs already on the books. That is going to be a very im-

portant reauthorization beginning the first of 1993.

Moreover, even under the best of circumstances, by the time any school could expect to receive funds under this bill, we will have passed a major reauthorization of Federal elementary and secondary education programs—involving over \$13 billion of funds which are available and are being spent.

The most we can hope to accomplish by approving this measure at this late date is to send a signal that Congress is interested in education reform. However, if we do so, we will be sending the wrong signal. This is a bill which promotes bureaucracy—not reform. By once again saying that the Federal Government knows best, we threaten to strangle creativity and innovation at the State and local levels.

As a former school board member of a small rural school district, in Kansas, I cannot tell you how strongly I feel about increasing bureaucracy at the Federal level regarding our educational system.

Having been a member of the conference committee on this bill and having reviewed its final provisions, I have determined that I cannot simply cast my vote in favor of this legislation just because it concerns education. This is a course I simply cannot take. The structures we build in one piece of legislation are often superimposed on other programs, and—once built—they rarely go away. I believe the structure of this bill is not sound education policy and think it would be a tragedy if it were to serve as a cornerstone of other new or existing Federal assistance programs.

It was dismaying to me to see the features of the Senate bill which I believed were most important hit the cutting room floor during conference deliberations. The bill which left the Senate included a streamlined administrative structure, a direct focus on local neighborhood schools, and a strong emphasis on targeting assistance to those schools in greatest need. By contrast, the conference bill establishes an elaborate maze of new bureaucracies for schools to try to negotiate and fails to target assistance in any meaningful way.

My single biggest concern with the bill is, in fact, its creation of a bureaucracy which could potentially stifle rather than assist reform efforts which are already underway at the State and local levels.

Many of us worked very hard to streamline the process included in earlier versions of the Senate bill, and I was very appreciative of the assistance given by the Senator from Massachusetts in that endeavor, and the chairman of the Education Subcommittee, Senator PELL.

The bill which passed the Senate provided for the provision of grant funds to State education agencies [SEA's],

which developed a State reform plan in consultation with an advisory council. Local schools desiring assistance would develop a proposal in cooperation with school officials, community participants, and a local education agency [LEA]. The LEA would then submit the application to the State which would make funding decisions.

The requirements which emerged from conference, however, are much like the before and after pictures of a weight-loss ad—in reverse. And I dislike having to spend some time laying out the bureaucracy of it all.

But under the conference bill—and I would just like to explain how complicated this gets—a State first applies for a planning grant, then establishes a State improvement panel. The panel then develops a plan and sends it to the State education agency, which may approve it or disapprove it or send it back for revision.

When a suitable plan is developed, the SEA submits it to the Secretary—who cannot disapprove it except after giving the State notice, technical assistance, and an opportunity for a hearing.

Local education agencies wishing to receive funding undergo a parallel process—also establishing a reform committee. A peer-review process must be established at the State level to review LEA applications. In the meantime, the LEA selects schools to receive funding and submits both its local reform plan and school funding proposals to the State.

Finally, schools which wish to obtain grant support must submit a restructuring proposal to the LEA.

So the State, the local education agency, and schools by and of themselves, all go through the same elaborate procedure.

I should also point out that, not only does the bill require the establishment of State and local policymaking panels outside those which already exist, but it also specifies who should serve on those bodies. If the point of all these reform committees is to bring in fresh blood and new ideas, we should at least leave room for States and localities to identify such individuals themselves.

The structure I have just described is exactly the reason that the American public is frustrated with the Federal Government and with all of us. Washington is seen not so much a source of support as of aggravation.

Another major point of difference between the House and Senate bills was whether reform will be accomplished from the top-down or from the bottom-up. Clearly, the top-down approach favored by the House prevailed in the conference bill.

I believe that most of us in the Senate were very disappointed with this outcome. Whatever one may say about the failings of our current system and our need for improvement, it would be

foolhardy not to recognize that one of the real strengths of the system is the personal stake that individuals and communities have in their schools.

We cannot legislate the kinds of individuals who are involved in schools on a day-to-day basis, nor can we regulate their day-to-day behavior. It is the commitment, talents, and interests of teachers, parents, and administrators that will make or break any reform effort. Reform takes the constant prodding and adjustments which can only be done by those on the scene who are committed to that effort.

The fact of the matter is that the future of education reform in this country does not hinge on the enactment of this legislation. Our tendency to offer Federal assistance in the form of a one-size-fits-all regulatory straitjacket could actually produce the opposite result.

All over this country, States and localities are actively engaged in exciting and innovative reform efforts. They have undertaken these efforts without a Federal proscription regarding the type of committees they should establish, the membership of those committees, or the specific reform methods to be included. They undertook those reforms because people in their districts and in their education arenas believed that they could do it and knew what they wanted for their schools.

I am sure that every Member of this body can produce a list of innovations underway in his own State, whether it is Massachusetts, Kansas, or Utah or any of the other States so represented here on the floor.

One wonders how many of these programs could meet the specs outlined in this bill. I am not sure that they could with the innovations which they are undertaking.

President Bush has called upon communities across the Nation to undertake a concerted examination of what they want from their schools. In a country as diverse as our own, a variety of exciting and thoughtful responses have emerged. Let us not strangle these efforts in their infancy with reams of redtape.

Other aspects of the legislation before us are disappointing as well. It includes a statement of the six national goals, along with a series of findings calling for unrealistic levels of spending for a variety of Federal programs—unfairly raising expectations that the Federal Government will honor commitments in the future which has been unable to honor in the past.

It omits any specific mention of the innovative reform ideas included in the Senate bill. These ideas—such as new American schools, corner schools, essential schools, charter schools—are not even referenced in report language. This totally ignores the substantial interest in this area, as evidenced by the fact that the privately funded New

American Schools Development Corporation received proposals from 686 groups.

It also sets the stage for Federal involvement in areas more appropriately left to State and local governments. For example, it calls for data collection activities in the area of school finance. Unless the Federal Government is prepared to help assume the general operating costs of local schools, which I doubt, there are serious questions regarding our ability to play a constructive role in this sensitive and complex area.

Likewise, provisions in the bill relating to the development of school delivery standards open the door to future attempts to decide at the Federal level, educational inputs, ranging from class size to teacher credentials. In addition, at a time when we are trying to do more to look at educational outcomes, this brings us back to looking at inputs and may have the effect of requiring or encouraging every school in the Nation to do everything in the same way, whether or not that makes sense for them.

I also note that there are some good features of the bill. It gives statutory recognition to the National Education Goals Panel, which was established following the 1989 education summit between President Bush and the Nation's Governors. Earlier this week, this group issued the 1992 National Educational Goals Report. This bill also provides the waivers of Federal requirements which stand in the way of efforts to serve students more effectively. Such waivers would be permitted in up to 750 schools across the country. Contrary to the thrust of this bill, this provision recognizes that Federal statutory and regulatory requirements can get in the way of good ideas at the local level.

In conclusion, I urge that, before casting their votes, all Members consider these important points:

First, this bill is not the right thing to do for education and may, in fact, stifle the flexibility needed to achieve true reform.

Second, it holds out false promises and expectations because not one penny of the \$800 million authorized for fiscal year 1993 has been appropriated. In fact, it has proven impossible under current budget circumstances to fund existing, proven programs at the levels we would like to see.

I wonder if any of the groups that are endorsing this legislation know that. Although my office has not received any of them, the Senator from Massachusetts says that five or six groups have sent letters of endorsement. However, I wonder if they really know there is nothing in this but, perhaps, false hopes for the future.

Third, even if funds were appropriated in some future year, little, if any, money would be available for pro-

grams in schools until a second year of funding was provided. First-year funding would be solely devoted to planning.

Fourth, nearly 2 years after this bill was introduced, and 8 months after it was approved by the Senate, we are considering an elementary and secondary education bill in the waning hours of the 102d Congress. Within the 103d Congress, when it reconvenes in just 3 months, we will begin a comprehensive review of the elementary and secondary education programs—for which over \$13 billion are available and being spent—in preparation for reauthorization of the Elementary and Secondary Education Act.

That is the appropriate forum for a serious discussion of the effect of the Federal role in promoting education reform.

Mr. President, for all these reasons, I urge that we not go forward with this bill at this time.

I yield the floor.

Mr. KENNEDY. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator has 17 minutes, 40 seconds.

Mr. KENNEDY. I yield myself 3 minutes.

Mr. President, I listened with great interest to my friend and colleague characterize the legislation and the shortage of resources in terms of this legislation. That is very true. It is interesting to have our Republican colleagues urging that we need the additional funding for education programs. We do need it. Although money is not the only answer, the level of funding does reflect the Nation's priorities. I am very hopeful that that attitude will continue as we move forward on other education programs.

What is not mentioned, however, is what is included in this legislation. This legislation is a national statement of policy on education. We have standards and the development of assessments. We have flexibility and waiver provisions. We authorize waiver provisions in this legislation that will help States eliminate some of the Federal regulations on some 17 different programs. That was argued about here in January and was actually proposed by the Senator from Oregon [Mr. HATFIELD]. I know he wishes that we had even more flexibility even though we did 6 States in the Senate bill and have 10 States and 17 programs. Nonetheless, it is not as expansive as some would like. With the authorization however, the process can begin and we can start eliminating interference, duplications, and overlap and the bureaucracy of many programs.

We are for that. We support it. It is in this legislation, and we are delaying eliminating these problems unless we pass it.

Second, the costs of the standards and the costs of the assessments, Mr.

President, are not great. These concepts have been supported by the President of the United States. We provide specific authorization for moving ahead. We have to try and determine what our children ought to know in key subjects, such as math and history and other extremely important subjects. Developing assessments for those standards is also enormously important. It is going to take time. How are we going to develop assessments that will be fair and be able to look at various considerations of children's performance? Those are matters that are included in this program.

Finally, Mr. President, if this was as bureaucratic as my friend and colleague has pointed out, it is difficult for me to believe that we would have the kind of support from the business community that we have. They have indicated a ringing endorsement for it. On the one hand, those that are opposed to this legislation say we are not providing new people, new ideas, new opportunities, for parents and community leaders and business leaders to be involved in the education reform. So we have tried to do that by developing groups at the local level and the State level that can provide that kind of input. Now we have done that, we are told that we are developing an additional bureaucracy, and therefore you cannot support it. We have tried to provide a balance, and I think we have a good balance.

On the one hand, our Republican colleagues are complaining about the bureaucracy and, on the other hand, we have the support of the chief of State School Offices, the National School Board Association, the National School Boards, the Council of Great City Schools, the National PTA Association, the Association of Elementary School Principals, and the Association of Secondary School Principals. You cannot have it both ways. It is difficult to believe we could have those endorsements and have provided a mechanism for those that are involved at the local level in the school reform. In such a way that we have the strong and overwhelming support of the business community, and yet still have created a bureaucracy.

So, Mr. President, I hope at least for some of those reasons, and others which identified earlier, that we would support the bill.

Mr. PELL addressed the Chair.

ADDITIONAL CONFEREES—H.R. 5334

Mr. KENNEDY. Mr. President, I ask unanimous consent that the following Senators from the Environment and Public Works Committee be appointed as additional conferees with respect to title X of H.R. 5334, the Affordable Housing and Community Development Reauthorization Act: Senators MOYNIHAN, REID, and CHAFEE.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT—CONFERENCE REPORT

CLOSURE MOTION

The Senate continued with consideration of the closure motion.

Mr. PELL. Mr. President, I express my strong support for the conference agreement that has been reached on S. 2, the Neighborhood Schools Improvement Act. It is important legislation, and I hope very much that we can approve the conference report so that this legislation can be sent to the President for his signature.

The Senate-House agreement provides an authorization of \$800 million for a grant program to encourage systemic education reform at the local school level. My home State of Rhode Island would be eligible to receive approximately \$2 million a year to support education reform programs in schools throughout the State.

The legislation also provides for a demonstration program to support flexibility in Federal education programs in 10 States. The purpose of the program would be to reduce Federal regulatory burden and achieve program simplification. Both of these goals compliment and strengthen my longstanding commitment and efforts to reduce the paperwork burden in our Federal education programs. Our goal should always be to make sure that our education programs efficiently and effectively serve the students who need our help most, and the demonstration program that is a part of this legislation is designed to do just that.

Finally, the legislation supports the development of voluntary national content standards in all areas, and of model assessments in mathematics and science. The standards are absolutely necessary as a statement of what students should be expected to know in various subject areas. This is critical if our education system is to be truly world class, and if we are to achieve the national goals in education set forth almost 3 years ago.

The Department of Education, often in cooperation with other Federal agencies, has already made grants for the development of standards in areas such as history, civics and government, and the arts. This legislation recognizes the work that is already in progress. It seeks not to interrupt that work, but to add to it. It seeks to strengthen the process of standards development, and provides for the certification of such standards by the National Goals Panel. These are important steps in the right direction of bringing true reform to the American schools.

Standards are not enough, however, and I am very encouraged that we not

only encourage but support, as part of the Eisenhower Math and Science Act, the development of model assessments in mathematics and science. I am equally encouraged that we do not preclude the work on assessments in other areas. Our efforts mean little if we do not have assessments to determine if we are meeting the standards we set forth.

As my colleagues know, I have long believed that we should have a national test or a series of national tests to measure what students know. That measurement would help us understand what we have to do to improve the education of students nationwide. It would also help us target those students most in need of our help, and identify those schools and local education agencies where the need for improvement is most pressing. That information would not only help us help students but also help us improve American education overall.

Our goal is to make American education world class in every classroom in the Nation. None should be left out, and none should be neglected. Make no mistake about it, our efforts are to lift the quality of education everywhere. And, to my mind, that means a very specific, concentrated effort in those schools where improvement is the most difficult to achieve, and with those students who most need our assistance.

This legislation is a step in the right direction, but it is only a step. I would hope, therefore, that we would view it as a precursor to what we should be considering when we begin our work to reauthorize the Elementary and Secondary Education Act next year.

Mr. President, I urge my colleagues to join me in approving this important conference agreement.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I yield 5 minutes to the Senator from Mississippi (Mr. COCHRAN).

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. COCHRAN. I thank the distinguished Senator from Kansas for yielding time to me.

Mr. President, the vote we will be called upon to cast after this 1 hour of debate is completed is on cloture on the motion to proceed to the consideration of the conference report. Some of us have the very strong feeling that this conference report should not be considered by the Senate at this time. I feel very strongly that it should not be considered, and I am going to vote against invoking cloture on this motion.

The reason is because of my serious concern about the discussions that we had in conference, the absolute failure of the conferees on the part of the House to consider seriously or discuss any of the reforms contained in the bill passed by the Senate.

It became clear as the conference proceeded that House Democrats did not want this bill. They were not interested in including any provisions that the Senate had thought were important to authorize, for example, the establishment of new American schools. That was included in the conference in Charlottesville as one of the ways to help improve education in America. The Governors and the President, we all remember, met in Charlottesville to talk about establishment of goals for the future for education in America, how do we improve our schools.

One of the ways was to get the Federal Government to loosen up its regulations on how Federal funds could be spent and let local communities, individual school districts, local administrators, teachers, the private sector get involved in trying to come up with new and better ways to teach our children, to develop new schools for the future.

So, this bill was an opportunity for us to cooperate in the education reform effort and loosen up some of the Federal strings that had been attached to Federal funds that had been allocated to elementary and secondary education in the past.

But House Democrats would not have any of it. They refused to include even the use of the words "new American schools" in the bill. Wherever that appeared in Senate language, it was stricken and no consideration given to reconsidering that decision.

It seems to me, Mr. President, that we ought to recognize that this conference report does not reflect a compromise at all. It does not include important Senate provisions, because the House Democrats would not agree to any compromise on those reform provisions in the Senate bill.

So this conference report should not be considered by the Senate. Next year the Elementary and Secondary Education Act comes up for reauthorization. We will have another opportunity next year, because that is legislation that I am sure the Senate will consider. We will have hearings. We will get input from those who are interested in education reform. We will make a new effort next year to get a better bill after a conference with the House, which I hope will produce some compromise.

But I am very disappointed in the failure of this conference to produce a compromise bill. It is a bill that is not really supported by those involved in education back in the States. It gives the States more regulations, more controls than we already have on the efforts of those at the local level.

It seems to me this is really an effort in disguise to impose more Federal control over local decisionmaking than we have had before. The Federal Government contributes only 6 percent of the money that is used for education back in the States, yet it wants 100

percent of the say-so as to how the funds will be used.

I am hoping the Senate will reject the notion of taking up and seriously considering this conference report. And so I hope Senators will vote "no" on the cloture motion.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

It is extraordinary to hear criticisms of this legislation, saying this program is a top-down program, from those who are supporting the administration's program that would have the Secretary of Education select 535 programs and 535 school districts. Talk about a top-down program, you have it there, unless top down does not mean that. The administration's approach is 535 programs in 535 congressional districts. If that is not a top-down approach, then I don't know what is.

We have a formula program of grants to the States, and the emphasis is on competition among the local schools working through the LEA's.

Let me list the kinds of programs that are already taking place that we want to support, Mr. President:

In the State of Maine, they have a rural middle school. Teams of teachers and students spend 2 years together, and the teams control their own budgeting and their own scheduling.

You have in New Jersey models for ungraded schools with emphasis on K through 3. There will be team teaching, individual school development, and family participation. Head Start will be available to all eligible students by 1996. The first 2 years of the plan are focusing on teacher training in primary grades to learn how to devise interdisciplinary curricula. They are also looking at adding 40 days to the school year over the next two decades.

These are the things that this bill could support. In Rockdale, GA, after joining the Coalition of Essential Schools, the teachers and students redesigned the academic program to eliminate tracking. Textbooks are used only as supplements to lessons which are interdisciplinary, and they make use of computers for math and science tests and use essay questions even in math.

In Baltimore, 6 elementary schools in the Success for All Program have regrouped their students for 90 minutes each day where the youngest students are in classes of 15 and have intensive reading. It has been so successful that it has now spread to Philadelphia.

This is what we are trying to further. This is what we are trying to help. This is what we are trying to stimulate. We used these examples developing this legislation.

Mr. President, these are examples of strategies that we are going to support, and I think it is important to recognize that.

How much time do I have remaining? The ACTING PRESIDENT pro tempore. The Senator from Massachusetts has 6 minutes, 50 seconds.

Who yields time?
Mrs. KASSEBAUM. Mr. President, how much time do I have remaining?
The ACTING PRESIDENT pro tempore. The Senator from Kansas has 8 minutes, 32 seconds.

Mrs. KASSEBAUM. I yield 8 minutes to the Senator from Utah.

The ACTING PRESIDENT pro tempore. The Senator from Utah [Mr. HATCH].

Mr. HATCH. I thank the distinguished Senator from Kansas.

I can assure this body the business community would not support this bill. The National Alliance for Business certainly is a respected smaller group within the community, but I have to tell you many in the business community do not support this bill.

I also want to compliment our distinguished ranking member, Senator KASSEBAUM, for the work that she has done on this. I know how disappointed she is that we were unable to get together and have basically the Senate version of this bill. We all fought for and which was a compromise. S. 2, as passed by the Senate, was not everything the distinguished Secretary of Education wanted but, nevertheless, was so much better than what we have come up with in this conference report, which is a political exercise to try and get the President to veto an education bill so that they then can say that the President is against education.

It is really pitiful that we get one of the finest Secretaries of Education who is renowned for his work to improve education as a Governor, who is certainly considered to be a moderate, who has tried to work with our committee and with the House of Representatives for something that would create new American schools, and other innovative and break-the-mold-type approaches, and it gets dissolved into some sort of politics like this one.

This really bothers me. In 16 years of service on this committee, I have never seen a more politicized bill than this one. And it was very apparent when we went to conference that the House of Representatives, after gumming the bill up, was not going to accept any reasonable suggestion. In fact, I made reasonable negotiated suggestions to them that ordinarily would have been grabbed like that by those on both sides. They would not consider the slightest suggestion in any way, shape, or form. So this is a political exercise and I hope everybody understands that.

Now I have to say we have heard quoted by the distinguished Senator from Massachusetts about this bill being a breakthrough for the Federal Government. Well, I suggest that a breakthrough by the Federal Government is a breakdown of State and local control, and that is what this bill is.

Mr. President, this is an important debate because it is going to determine just where we go from here. I have to

say that there is not a lot in this bill that the administration wanted. There are no real reform measures in this bill. Innovative educational ideas like new American schools or charter schools are not even mentioned in this bill.

We are told these ideas can be funded out of the small reserve fund left to the States, but no State education officials would even know that because there is not a mention of it in the bill. Nothing to encourage it. And that includes public school choice programs, which Governor Clinton supports. There was not one bit of a chance of having that included in this bill. There is nothing to suggest that any of these innovative suggestions that the Secretary has made even exists as an option.

The Senate passed its version of S. 2 which I was pleased to support. The distinguished Senator from Kansas supported it, as well as the distinguished Senator from Massachusetts. It was a bipartisan bill. We worked together, as we always do. It contained ground-breaking proposals to demonstrate educational flexibility.

But I would just like to say to my distinguished colleague from Oregon, Senator HATFIELD, that I think he would be very upset how the House of Representatives diminished the ed-flex proposal.

It is hard to have a concept for which you have worked so hard to be rejected out of hand.

But, here was a real reform that would have helped States and local school districts better target their resources. Instead of spending money to comply with certain program requirements, they could obtain waivers and spend the funds to meet other needs.

But, Senator HATFIELD would not recognize the vestige of it that is left in the bill, at least I do not think he would.

One can only speculate that the supporters of S. 2 only intend more of the same old thing for education. This, in my book, is an empty promise.

The second reason to reject this bill is this bill creates even more educational bureaucracy.

In my view, we ought to be getting the investment of those scarce resources we have into the classrooms as quickly as possible. This conference agreement plainly does not do that.

For starters, this bill authorizes \$800 million in the first year. Not a dime of it will flow down to individual schools. It will go to States for a year's worth of planning activities.

If parents think that their children's schools are going to see any quick improvements as a result of this bill, they can forget it. That is an empty promise.

Well, how about the second year? Nothing in the second year either. In the second year, the \$800 million authorized would flow to States and then

to local education agencies [LEAs] for planning.

Mr. President, I am all in favor of planning, but this strikes me as just a little ridiculous. Two years worth of planning assumes that State and local education agencies, Governors, legislatures, or school boards have never given a moment's thought to their educational needs and how they would like to address them.

Now, how about that planning process? Let me show it to you. I believe my colleagues will agree that the conference should have stuck with the Senate bill.

This chart shows the procedure States and local education agencies would have to follow, as outlined in the conference report and how it works. It looks like a roadmap of the United States. You start here, go to there, here, here, here, here, then up here, through all of these various program requirements right down to all of those.

It is so complex that one has to wonder just what in the world are we trying to do bureaucratizing the educational establishment even more than it is now. This is done by devotees of the Federal Government. And it is done to impose the Federal Government ultimately upon the backs of public schools. And I have to tell you, this is the beginning of a Federal takeover of our schools.

Now that is going to be refuted, but I do not think so. If you look at what this really says, you are going to be concerned.

Now, we are going to make the States establish duplicate school boards and commissions and advisory councils. Why is any of that necessary?

Why are we forcing State and local education dollars—not to mention the dollars allocated by this bill—to be spent on planning and not on kids in the classroom?

I am also very concerned about national school delivery standards, which will basically prescribe to every school district in the United States how to run their schools.

National school delivery standards could include, for example, minimum per pupil expenditures, maximum student-teacher ratios, minimum teacher salaries, number of books in the library, and so forth.

And some States may or may not be able to meet what the Federal Government thinks are the standards they should meet.

National school delivery standards developed by tax dollars sound very reasonable. They say it is really up to the States to adopt them. But this is the beginning of Federal control of education.

There is a lot more I have to say, but my time is nearly up. But before I conclude, let me share a letter from 10 State Governors expressing their oppo-

sition and concern about this conference report:

STATE OF SOUTH CAROLINA,
OFFICE OF THE GOVERNOR,
Columbia, SC, September 30, 1992.

Hon. EDWARD KENNEDY,
Chairman, Committee on Labor and Human Resources,
U.S. Senate, Washington, DC.

DEAR SENATOR: At the Charlottesville Education Summit in September of 1989, the Nation's governors and the President agreed to institute a process to establish performance-based education goals for the nation and a way to hold ourselves accountable for progress toward those goals. Legislation currently before Congress, the conference version of S. 2, is framed around the goals and the bill has been characterized as furthering the governors' education agenda. It does not.

Since the Summit, governors have been active in promoting a national education agenda that is based on the national goals and high standards, but quite specifically relies on state and local strategies to achieve them. Our emphasis has been on performance and outcomes, not programs and input. Unfortunately, the conference version of S. 2 totally reverses that emphasis by including language requiring states to adopt school delivery standards as a condition for receipt of federal funds. From a gubernatorial point of view, S. 2 is fatally flawed in several other ways and could in fact stymie our efforts to achieve real results-based education reform.

Today, the National Education Goals Panel, a group of eight governors, four Members of Congress and two members of the Administration, released the second of 10 National Education Goals Reports. The Panel represents a fairly unusual if not unique experiment in federalism and it is making credible progress in an important domestic policy area. The process has not always been easy, but the panel does its work in a bipartisan way, operating in the spirit of consensus. By contrast, S. 2 does not reflect this cooperative approach.

Many of us have worked with the Congress through the National Governors' Association and others in trying to craft legislation that would further the governors' reform agenda, not stifle it. And, in fact, the original Senate-passed version of S. 2 would have done that. We are deeply concerned, however, that passage of this current version of S. 2 will cripple future opportunities to produce real reform legislation, and we urge you to oppose this Conference Report.

Sincerely,

Tommy Thompson, Governor of Wisconsin; John Ashcroft, Governor of Missouri; John Engler, Governor of Michigan; Jim Martin, Governor of North Carolina; Norman Bangert, Governor of Utah; Carroll Campbell, Governor of South Carolina; Terry Branstad, Governor of Iowa; Anne H. Carlson, Governor of Minnesota; Jim Edgar, Governor of Illinois; Peter Coleman, Governor of American Samoa.

Let me reiterate what the Senate bill was. Just a very simple plan that would have worked. From this chart the application process goes from right down there, to right there and right there. There are basically only three steps. But to be fair, we put in every little step in the overall process, and it amounts to eight steps. So compare that with the hobgoblin of Federal bureaucratise—found in this conference report, completed without in-

corporating one suggestion from this side.

How can anybody vote for this and call it an education reform bill?

There is not going to be money for this bill to begin with. This is a fancy charade that we ought to vote down here today. And I hope all of our colleagues vote against cloture here today because basically it is the only way that we can stand up for States and local school districts in the States.

The PRESIDING OFFICER (Mr. LIEBERMAN). Who yields time?
Mr. KENNEDY. Mr. President, how much time remains.

The PRESIDING OFFICER. The Senator from Massachusetts has 6 minutes and 42 seconds.

Mr. KENNEDY. Mr. President, as pointed out in the earlier debate, the opponents of this legislation somehow are suggesting that this is a Federal takeover. What we have incorporated in this legislation is that the resources go to the States in formula, and that the local schools or the local LEA's will make application for competitive grants. Those competitive grants will then be decided on by a peer review operation or an organization that, based on what will strengthen and improve academic achievement, will make recommendations.

That was in the bill that passed the Senate. And it is in the conference report.

Let us be crystal clear on what is at stake with the vote on cloture for the Neighborhood Schools Improvement Act.

A vote against cloture is a vote to kill this bill for 1993. It is a vote against the establishment of National Education Goals and Federal policies to achieve them.

It is a vote against the establishment of a national education goals panel with two-thirds of its members being State legislators and Governors. It is a vote against establishing voluntary national standards for education. It is a vote against development of assessments. It is a vote against deregulation and flexibility in the administration of Federal education programs.

Let us vote against an \$800 million program for individual school restructuring and school system change with decisions made at the State and local level, not by the Secretary of Education. That is what a vote against cloture means. That is what is at stake in this cloture vote.

I urge my colleagues to join in voting for cloture so there is an opportunity for the will of the Senate to be exercised. Let us not lose, as we did in 1990, the opportunity to act on an essential Elementary and Secondary Education Reform Act.

Let us not lose the opportunity to transmit this bill to the President for his choice as to whether he will sign a bill with his national goals, standards,

assessments, flexibility, and restructuring schools programs or veto it.

I wish that we knew where the President stood on this legislation. We know where the Secretary of Education stands. But we do not know where the President stands. This is probably the first education bill that I have seen on the floor of the U.S. Senate where we have not had a position from the President of the United States. We know where the Secretary is. But from someone who wanted to be the education President, why do we not have some message to know where he stands on this program?

Mr. President, I hope the Senate will enact cloture so we can make an important step in terms of reforming the schools at the local levels in this country.

The PRESIDING OFFICER. The Senator from Kansas has 40 seconds remaining.

Mrs. KASSEBAUM. Mr. President, I would like to say I know where the President stands on this measure. The President stands for sound, sensible education reform. He cares a great deal about elementary and secondary education and the ability to be innovative, the ability to draw communities together and to establish what they believe important for education.

I feel strongly that this cloture vote is an important vote. We should not proceed ahead with this bill at this time. I strongly urge my colleagues to vote no on cloture, because we will have the opportunity, within only months, to address these same issues with the reauthorization of the Elementary Education Act. I yield my time.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 3 minutes and 30 seconds.

Mr. KENNEDY. I yield the remaining time to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized.

Mr. SIMON. Mr. President, I have to confess when my friend Senator HATCH was talking about this bill I did not recognize it. I think there are three fundamental thrusts in this. One is to promote voluntary national standards so that we can have in other fields what the teachers of mathematics have had—some standards.

If, for example, the Presiding Officer, Senator LIEBERMAN, were suddenly a school administrator and he has to hire a French teacher—perhaps he is an expert in French but I am not aware of it if he is—how does he know whether that French teacher is competent?

So this bill suggests that we have voluntary national standards in other fields. I think that is a significant step forward.

Second, it has innovation. It did not take in the conference the President's

title "New American Schools." Frankly, I cannot get excited about that one way or the other. But that is a compromise that was made. But there is innovation.

And the third thing that was rejected is assistance to private schools. Frankly, we have two or three States that are now experimenting in this area. We have a 50-State system, so that we have laboratories. We do not need to make national mistakes. Let us not rush into this area of aid to private schools.

My feeling is that this is a solid piece of legislation. Senator HATCH says there is no quick improvement here. Perhaps no quick movement, but I think substantial improvement, particularly in promoting voluntary national standards.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senate majority leader.

Mr. MITCHELL. Mr. President, I ask Senator KENNEDY if he would yield me the rest of his time and then I will use a brief amount of leader time.

Mr. KENNEDY. Mr. President, I yield such time as remains.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, for the second consecutive Congress, we have the opportunity to approve legislation which will begin the process of national education reform. But again, for the second consecutive Congress, we face obstruction designed to kill the bill.

I hope today that we can invoke cloture on S. 2, the Neighborhood Schools Improvement Act, and end the obstruction that has prevented this good bill becoming law.

Ten years ago, the National Council on Excellence issued a report entitled "A Nation at Risk," which alerted all America to the urgent need for change and renewal in our education system. The second graders of 1982 are this year's high school graduates.

In 1989, at the education summit, the Nation's Governors agreed on a series of explicit education goals. The President endorsed those goals. The high school freshman class of 1989 are this year's high school graduates.

The majority in the Congress responded to the call of the Nation's Governors in 1989.

The education reform bill of the 101st Congress codified the Governor's goals. It would have been the first step in education reform. Instead, a minority of Republican Senators blocked action on it.

We risk the same outcome today. A minority of Republican Senators may again block action. If they do, that will condemn this year's freshmen, this year's third graders to an education system without the resources or the leadership needed for reform.

We have the opportunity today by stopping this filibuster on this legislation to act on the political promises of education reform which everyone is making.

Let us be clear. A majority of Senators favor this bill. It is a minority that is preventing action on the bill.

Our children deserve better than empty promises and grand speeches. We owe them more. The neighborhood schools bill is our chance to make good on those promises and act on those speeches.

The bill codifies the national education goals endorsed by the Nation's Governors at the 1989 education summit; it encourages the development of models for testing and assessment in critical academic areas—math, basic science, history, and English. Without tests to measure student achievement, a school cannot know if its reforms are working; parents cannot know if the school is giving their children the teaching they deserve.

For the first time in the history of Federal aid to education, the neighborhood schools bill makes funds available directly to schools, as opposed to specific students, or student populations. Funds are designed to go only to States and schools that have locally developed reform programs. Instead of top-down directives, there are incentives for grassroots change.

It was interesting to hear the comment about Federal bureaucracy. The President's bill, the bill supported by Republican colleagues, would have had all of the crucial decisions made by the Secretary of Education, a Federal official. This bill has the decisions made by State and local officials. That is one reason why the Secretary of Education is against this bill. He wanted the President's bill, which would have centralized decisionmaking in the Federal Government, in the person of the Secretary of Education.

So the argument turned the facts upside down. The bill that would centralize control at the Federal level in the person of the Secretary of Education was the bill proposed by the President.

The bill that will decentralize authority, that will permit decisions to be made not by the Federal Government, not by the Secretary of Education, but by State and local officials is the bill now before us and that is why the Secretary of Education is against it.

So, if you want to vote to decentralize authority, if you want to vote to give authority to State and local officials, you will vote for this bill. If you want to vote to give all of the power to the Federal bureaucracy, if you want to give the Secretary of Education the crucial decisionmaking process, then you will vote against cloture. It is as simple and straightforward as that.

This bill embodies four of the President's education reform proposals and a modified version of the fifth proposal.

I urge my colleagues to reject obstructionism. Our Nation deserves better. Our children deserve better. Our parents deserve better.

A vote for cloture will be a vote to stop the endless circular debate over whose reforms are real reforms and start the process of change that is crucially needed. Our schools and our students need action, not more talk. Let us end the filibuster. Let us end the talk. Let us vote and start action today.

Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given just 1 minute of the leader's time.

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

Mr. HATCH. Mr. President, I have been interested in the distinguished majority leader's comments, but, the issue is not whether the Secretary of Education was going to win on this issue or not. He was not. The issue is whether the Senate bill, which was a reasonable bill, was put together in a bipartisan manner. The Senate bill does not have all this bureaucracy. The Senate bill was given no consideration by the House of Representatives. And I am sorry to report to you, it was not given one ounce of consideration by the House of Representatives because they wanted to make this a political football and they wanted to play politics with this.

I tried to get a bipartisan bill. We have done it on this committee for 16 solid years. We have put together bipartisan education bills for 16 years, Republicans and Democrats. It has been a matter of course. This is the first time I can recall where we have gone into it like this. Even more important is the content of this bill. We are going to have the Federal Government making suggestions for voluntary school delivery standards for the State and local school districts. That is the beginning of the takeover of our State and local control over our schools.

Mr. MITCHELL addressed the Chair. The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I will just take a moment to make a final response.

If this were to deprive local officials of their authority and concentrate it in the Federal Government, what would you expect the response of local officials to be? Why, of course, they would be against it.

But let us look at who is for it: The State school officers, the State board associations, the school board associations—all local officials—the Council of City Schools; the Parent Teachers Association; the Elementary School Principals Association; the Secondary School Principals Association. Vir-

tually every local school official in the country favors the bill that our colleagues say takes authority away from them and gives it to the Federal bureaucracy.

It is the exact opposite of the facts. This bill empowers local school officials. The Republican bill empowers the Secretary of Education. That is the difference between the two bills. If you are for local control, you vote for this bill. If you are for Federal control in the person of the Secretary of Education, you vote against this bill.

Mr. LIEBERMAN. Mr. President, I note that the version of S. 2 reported out by the conference committee does not contain explicit language allowing States to use a portion of the funds that can be held at the State level for the startup of new, innovative public schools, including charter schools, and I want to clarify the committee's intent regarding this program. Chartered public schools offer a significant opportunity for educational improvement by enabling those who know best what our children need to succeed and how to provide it, parents and teachers, to create new and diverse public schools. Chartered public schools can be tailored to meet the particular needs of a community or a group of students. Because they enter into an outcomes based contract with the chartering agency, each school will be held accountable for their performance to the Government, their students, and the parents who decide to send their children there.

Despite the fact that mention of charter schools is not explicit in the conference committee's agreement on S. 2, I understand that under the agreement States may still use available funds to develop new types of public schools. I would like to engage in a brief colloquy with the distinguished Senator from Massachusetts, Senator KENNEDY, to confirm the intent of the language in the conference committee's agreement regarding allowable State uses of funds authorized under section 8305(B)(2)(a)(iii).

I understand that States are authorized to use not more than 20 percent of the total cost of the State's program in the second and succeeding years following enactment for several purposes including "other innovative school reform activities that are consistent with such State's plan and subject to peer review." I ask the Senator from Massachusetts if it is his intention that a State could use a portion of the money set-aside pursuant to this section for startup funding for new, innovative public schools, including charter schools? This would assume, of course, that providing State-level startup funding for charter schools is consistent with the State's plan and subject to the required peer review.

Mr. KENNEDY. Yes, given that assumption, these funds could be used for

the startup of such new schools provided that the new schools receiving funds are public schools operating under the authority of a State or local education agency, nonsectarian in their programs, admissions policies, employment practices, and all other operations, and not affiliated with a nonpublic sectarian or religious school or institution. The committee's intent was to provide general program guidance to the States allowing maximum flexibility to the States to design their own programs consistent with the requirements we have discussed.

Mr. LIEBERMAN. Mr. President, I thank the Senator from Massachusetts for the assurance that it is his intention that startup funding for new public schools, including charter schools, will be allowable State uses of funds authorized under section 8305.

Mr. D'AMATO. Mr. President, I wonder if my colleague from Kansas, Senator KASSEBAUM, would be willing to engage in a brief colloquy regarding a program, known as Parents as Teachers [PAT], that was included in the House version of S. 2 but not, as I understand it, in the Senate version of this bill. I have reviewed the bill language on the program and have spoken to a number of my constituents in New York and have some concerns about this program.

My concerns center around the requirements that in some PAT programs parents receive and participate in home visits from an educator, social worker, or other State representative. I know a number of my constituents are troubled by reports of abuse of this requirement in States which already have this program. They are concerned that under certain criteria that have been established, they and their families might be labeled as dysfunctional or even have their children removed from the home.

I would like to ask for some clarification on this matter from my colleague, Senator KASSEBAUM, who serves as the ranking minority member of the Education, Arts, and Humanities, Labor and Human Resources Committee.

It is my understanding that the PAT Program proposed by the House is no longer in the conference bill. I would ask my colleague from Kansas whether this is, in fact, the case.

Mrs. KASSEBAUM. Mr. President, I can assure my colleague from New York that the Parents as Teachers Program, as included in the House version (H.R. 4323) of the Neighborhood Schools Improvement Act is no longer included in this conference bill.

Because the Senator from New York and a number of our colleagues had concerns about this program, we took a careful look at this program and decided that the best course of action for now was not to include the program in the conference bill. In its place, we substituted a directive—an assignment,

actually—to the Secretary of Education to conduct a review of the existing evaluations of this program. A number of States already have programs of this type. The review is simply a literature-type review—no Federal program is being established. This review is to be completed and presented to the Senate for its consideration in 6 months.

Mr. D'AMATO. So while we will have an opportunity to consider the Secretary of Education's findings in 6 months, at this point, the bill does not establish a Federal program. Am I correct in my understanding?

Mrs. KASSEBAUM. Yes, the Senator from New York is correct.

Mr. D'AMATO. I thank the Senator from Kansas for this information. I agree that this is a reasonable way to proceed.

Mr. METZENBAUM. Mr. President, I rise in support of the conference report on the Neighborhood Schools Improvement Act.

We are all aware of the serious problems facing our Nation's schools, and the need to improve our educational system to meet the challenges of the 21st century.

This legislation represents an important step toward this end. It demonstrates our commitment to the national education goals, establishes a program to help our neighborhood public schools achieve these goals, and provides a means for determining our progress.

The core of the bill is the Neighborhood Schools Improvement Program, which will provide sustained assistance to help States and local public schools undertake comprehensive, systemic reform. Neighborhood public schools, working in cooperation with teachers, parents, and the local community, will decide what they need to do to improve student achievement. Schools may use funds for initiatives which will result in comprehensive schoolwide change, including such things as early childhood education, school-based management initiatives, professional and staff development, parent education, and involvement programs, expanded use of technology, alternative programs for school dropouts, and class-size reduction programs.

Unlike the administration's plan to create 535 new American schools, this program is designed to help improve education for all American students in all American public elementary and secondary schools. Its focus is on meeting the real needs of our public school system.

And, Mr. President, I believe that support for our public schools is the best investment we can make in the future of our Nation.

That is why I so strongly opposed the President's proposal to divert scarce Federal resources from our public schools to fund a voucher program for

students attending private and religious schools. I believe that proposal is bad public policy, which would unwisely break down the barrier between church and State and distract our attention from the real needs of our public schools.

I am pleased that during consideration of the Neighborhood Schools Improvement Act, both the Senate and the House voted decisively to reject this ill-advised plan.

In this regard, I want to call special attention to the language in this bill that emphasizes that, with the exception of section 8310 regarding information and teacher training, none of the authorized funds may "directly or indirectly benefit any school other than a public school." I don't think we can make any plainer our intention that we are authorizing funds for public schools only. We are not authorizing funds for private schools, nor to create new private schools, nor for school choice or voucher programs involving private or religious schools.

Now some in the administration, in proposing choice programs involving private schools, have argued that they should be permissible since they provide money to families rather than institutions, and after all, they say, public education ultimately benefits. The Senate has rejected that proposal, and that reasoning, and the language I have called attention to is designed to ensure that the Federal funds we authorize in this bill cannot be put to those purposes.

The words "directly or indirectly" mean that the money cannot be used for private schools, whether it flows there through the Government or through parents. It cannot end up in the hands of any educational authorities, other than public school authorities. That is what this body means by this language.

I would like to ask the distinguished chairman of the Labor and Human Resources Committee if that is the effect of the provision I have cited.

Mr. KENNEDY. Yes; the Senator is correct. In January, the Senate decisively rejected an amendment to authorize a private school choice program. The provision you have quoted will ensure that none of the funds authorized by this legislation may be used for voucher programs involving private schools.

Mr. METZENBAUM. I thank the Senator for his confirmation of this important point. I urge my colleagues to support the conference report.

SCHOOL HEALTH PROGRAMS

Mr. DURENBERGER. Mr. President, today, we know that Americans smoke too much, abuse alcohol and drugs, suffer from violence and accidents, engage in unsafe sexual activity, fail to follow healthy diets, and exercise too little. Too many babies are born to unmarried teenagers who have not received ade-

quate prenatal care. Too many of our children are uninsured and lack access to care.

The consequences of personal behavior can be seen in the hospital emergency room and the neonatal intensive care unit. The hospital is asked to provide extraordinarily expensive medical solutions for the consequences of the decisions we have made about our personal behaviors.

We are learning that we can prevent many of these costly diseases through personal choices and community action. Many of the expenses associated with preventable disease can be eliminated if individuals make healthy lifestyle choices. Family and community support for healthy lifestyles, however, must be cultivated at the earliest possible age. This support must begin at home, with families, but must also be emphasized in the nurturing environment of schools.

Mr. President, I rise today to express my desire that we foster healthy children so that they are able to learn and thrive in school. I want to emphasize my commitment to address this important issue in the next session of Congress.

Support for school health services is growing in our States and communities. My distinguished colleagues and I must make every effort to eliminate obstacles to that support and to provide assistance for the development of community-based school health programs.

This important concern is one which I share with many of my distinguished colleagues, Mr. President. Several months ago, the distinguished chairman of the Labor and Human Resources Committee, Senator KENNEDY, introduced the Comprehensive Services for Youth Act of 1992 to assist States and communities to establish integrated health and social services in schools.

I was enthusiastic about this bill because it was consistent with my goals of streamlining health and social services and improving access to children so they are ready to learn.

I was unable to cosponsor this bill, however, because I did not want it to serve as a vehicle for circumventing current requirements regarding Federal funding for abortion. The broader objectives of this bill were too important to compromise with a protracted discussion about abortion.

On July 28, 1992, the Labor and Human Resources Committee held a hearing on the bill. One witness at that hearing was Donna Zimmerman, the executive director of Health Start, a pioneering school-based clinic program in St. Paul, MN. The program provides comprehensive health care services to students who would not otherwise have access to care, and helps students integrate health, wellness, and responsible decisionmaking into their lives.

During the hearing, Donna and several other witnesses talked about the importance of local flexibility and the need to work with parents and teachers to design appropriate school health programs. Several witnesses indicated that they were currently using funds from the maternal and child health block grant to support their school health programs.

This testimony led me to propose an amendment to title V of the Social Security Act to encourage States and communities to use the maternal and child health block grant to support school health services and to increase the authorization for appropriations for this important program.

Mr. President, at least 24 States are currently using MCH block grant funds to support school-based health services. Since the 1930's, these funds have provided resources to support basic school health programs in most States.

In my own State of Minnesota, both the Minneapolis and St. Paul school districts have made school-based clinics a high priority for a number of years. The Health Start Program opened the doors to the first school-based clinic in St. Paul in 1973 and it now serves over 3,000 students in its school-based clinics. This program provides a one-stop shopping model of comprehensive health and social services based on the need of each school's community.

Mr. President, with support from Governors Rudy Perpich and Arne Carlson, the Minnesota Legislature initiated a State grant program to encourage collocation of services in schools. Now in its fourth year, this program has provided both planning and implementation grants to several dozen communities all over the State.

Collocation of services in schools is also a high priority for Minnesota 2000, our State's response to President Bush's America 2000 initiative. And, collocation of services is a major goal of Minnesota's winning entry in the grant competition announced recently by the New American Schools Development Corporation.

Finally, Mr. President, Minnesota leaders—from Governor Carlson to Minneapolis Mayor Don Fraser to Honeywell CEO Jim Renier have made our State a leader in redesigning and collocating a broad range of health, nutrition, education, and social services for children from conception forward—conveniently located and accessible to all.

Two examples of that leadership are the Minneapolis United Way's Success by Six Program—long championed by Honeywell CEO Jim Renier—and the neighborhood family resource center proposal that has been advanced by Minneapolis Mayor Don Fraser.

Mr. President, based upon these innovative efforts in my State and support from the Association of Maternal and Child Health Programs, I worked with

Senators HARKIN and BENTSEN to seek authorization for additional appropriations for the maternal and child health block grant and to include reference to school health in the authorization language.

Because this amendment was not time-sensitive for the closing days of this Congress, it was not included in S. 3274, the Medicare and Medicaid Amendments Act of 1992 and additional funds were not available for fiscal year 1993 appropriations.

Mr. President, I continue to be committed to supporting comprehensive school health services. During the next session of Congress, I will be exploring effective ways to expand funding for comprehensive health and other services through schools. I will also be working with Senator KENNEDY and others who share my support for longer range and more comprehensive ways of encouraging colocation of services within the context of next year's reauthorization of the Elementary and Secondary Education Act.

A number of my colleagues in both parties have expressed an interest in considering legislation that would promote colocation of health and other services in schools in a more proactive and comprehensive manner.

As we move ahead, there are a number of issues that will need to be explored. School health programs must become self-sufficient through collection of third-party payments, including Medicaid and EPSDT. These programs should also be designed to promote continuity of care by establishing relationships with managed care programs.

Mr. President, I intend to hold a series of meetings and public forums in Minnesota on colocation services through schools later this fall. I hope to return next year more knowledgeable about the problems facing our children in school and about creating local solutions.

I intend to translate that knowledge into new legislation that builds upon my commitment to streamlining Government support to States and communities, and supporting local flexibility to design appropriate, integrated school health programs.

Mr. ADAMS, Mr. President, I rise in support of the conference report on the Neighborhood Schools Improvement Act. I am pleased to have been an original cosponsor of this legislation. The bill is an important step toward addressing education reform in the United States.

The Congress will reauthorize the Elementary and Secondary Education Act next year. That reauthorization will include a thorough review of all Federal programs that affect our elementary and secondary schools. The conference report before us now is an appropriate foundation for education reform in our public schools. The bill includes several important provisions

to improve education at the local level. Funds are provided to States for grants to local districts and schools. These grants will assist local districts to develop reform initiatives for improving academic achievement and student performance.

Critics of this legislation will continue to express their frustration at the exclusion of President Bush's private school choice proposal—a proposal which I oppose. The Senate has been very clear on this issue. During consideration of S. 2 earlier this year, the Senate defeated a private school choice amendment by a vote of 57 to 36. Public funds should not be used to support private, parochial, or religious schools. We must continue to provide the necessary support for our Nation's public schools—schools that must take in all students, not a select few. The Neighborhood Schools Improvement Act is an important step toward that goal.

During this year when education reform has been an issue of great concern to Americans everywhere, and a priority of the Congress, I am disappointed to learn that the education President is likely to veto this bill. The House approved the conference report on Wednesday. I urge my colleagues in the Senate to join me in support of the conference report on S. 2.

Mr. SIMPSON, Mr. President, I rise today to oppose the conference report to S. 2, the education bill. I do not believe this legislation, in its present form, will empower schools to solve the problems that plague our Nation's educational system, nor is the final conference report a true reflection of the original legislation that was passed by an overwhelmingly majority of the Senate, including me, in January.

The crisis in our schools has not diminished. Children's achievement test scores are stagnant or in decline, violence in schools is on the upswing, and local revenues that pay for the bulk of educational activities are decreasing. There is no benefit in pointing fingers at who is to blame for this state of affairs, but it is clear that creativity and innovations are needed.

We have innovative efforts at the local and State level, but the Democratic-controlled Congress has been loath to legislate a policy that would be supportive and responsive to those grassroots initiatives. The original version of S. 2, while not as far-reaching or innovative as the President's America 2000 education plan, did offer support and encouragement to local school systems. That is why I decided to support it in its final form earlier this year.

I did not believe the House education bill was anywhere near as sound a policy as the Senate bill, and I was hopeful that the final conference report would be more reflective of the Senate version than the House—but that is not the case. However, a cursory glance at

the report shows that the \$800 million worth of authorizations included in the agreement creates bureaucracy and pays only lip service to the problems our schools face and does more harm than good to our Nation's schoolchildren.

This report does not enjoy the support that the original version of S. 2 did. In fact, the House is not all that happy with the final version of the bill. There was even a motion on the floor to recommit the bill to conference. That motion failed along largely party lines—but the final vote was 166 to 254. I would not call that a vote of confidence for the conference report by any means.

I view the report as an attempt by Members on the other side of the aisle to ram a very bad education bill down the President's throat—all in the name of improving education. House and Senate Republicans view were wholly ignored during conference, and consequently, we have a report that is completely partisan. That is simply no way to legislate. So now we are put in the position of voting on a bill that does nothing to help our schools and is clearly unfunded. There is no private school choice in this bill. There is no recognition or reward for schools that are reforming or improving their performances. There is an awful lot of bureaucracy—a ton of it—and a mandate for States to pay for programs they have not even chosen to implement—at a time when they can hardly round up enough money to pay for existing programs.

The fact is there was an opportunity for the Congress to do something truly proactive on education. We could have debated the President's education bill. His plan was the first one introduced, but it was never debated. Why? Because the House Democratic leadership knew it was an excellent plan and that the President could garner the bipartisan support needed to get the bill passed.

The President has kept his promise to do something about education. He has signed 10 major pieces of education legislation during his term. He responded to the Nation's education problems with his America 2000 plan. It encourages and rewards change. But the bill was never considered on the floor of the Senate or House. It was never even reported out of committee because the House Democrats didn't want the Bush bill to become a law and that is exactly what would have happened if the process worked the way it is supposed to. Instead, it was manipulated by the Democratic leadership.

Let's be honest about all this: this conference report is an obvious attempt to draw lines on who is for or against education improvement. I think everyone would say they are for improvement. But when we legislate policy that does not include the ideas

of all who have a vested interest in the process—and Republicans were surely not included in the conference committee decisionmaking process—then we are using our children as a weapon in the battle for votes. They deserve better than that. They deserve laws that will help free teachers to teach and parents to make informed choices. They deserve the quality of school choice and the chance to excel.

During the next session of Congress, we will take up consideration of the Elementary and Secondary Education Act. A thorough review of every Federal education program is already in progress by the Department of Education and the Congress. I believe we will have a better opportunity at that time to legislate a policy that will truly help our children. I urge my colleagues to join me in voting against this conference report.

Mr. GORTON. Mr. President, I would like to express my opposition to the conference report accompanying S. 2. I cannot support a bill that is supposed to bring fundamental reform to our schools, but instead plugs \$800 million into business as usual programs.

Although it codifies the six national education goals adopted by the National Education Conference in 1989, it does little to achieve them. It fails to offer fundamental education reform to those who seek it—Americans who want the best for today's students.

School choice, for example, is a promising concept that has achieved considerable success in my State. It provides powerful incentives for teachers and administrators to demonstrate academic excellence by allowing parents to choose their children's schools. Choice extends educational opportunities to disadvantaged families who desperately want a better life for their children, and who know that a good education is the key. Choice is the ultimate path to accountability in our schools, and S. 2 has failed to include it as an avenue for reform.

Another failure of S. 2 is its deletion of the new American schools concept which would have given each congressional district the opportunity to "break the mold" and reinvent American schools from scratch. This program fosters increased involvement by parents and community leaders with teachers and students. Their combined efforts could develop schools that reflect the best of teaching, learning, the educational technology. S. 2 has failed to extend this unique opportunity to communities who seek school improvement.

The programs that remain in this final version of S. 2 are not new, and they assuredly are not innovative. The education reform legislation we adopt should give specific recognition to truly innovative reform ideas. The opportunity to make significant improvements in our children's education will

be lost if we continue to shy away from bold new concepts such as these.

My State has not only taken a step towards reform by adopting choice programs, but has established a program to award innovative educational projects. Washington's Schools for the 21st Century are connected by an electronic network, which enables teachers to discuss ideas and share lesson plans. The program supports a 10-day supplemental contract which, in effect, sets aside 2 weeks for school-level planning, staff development, and instructional improvement. Common themes among projects include outcome-based education, integrated curricula, cross-age grouping of students, parental involvement, and technology.

"Washington's Schools for the 21st Century" are light-years ahead of DC bureaucrats when it comes to education reform. How can I ask Washington taxpayers to pay for Federal education programs that do not take them forward, but bring them back to "business-as-usual" education?

Educators want to implement innovative reform programs that work. My State's educators have passionately taken on bold new programs. This legislation does not reward, commend, or offer support for their hard and spirited work. Instead, it forces them to return to education practices that have failed our students.

Federal education policy should correct problems that have faced educators for years. Overteaching bureaucratic mandates plague our education system and are burdensome to the extent that educators cannot do their jobs. Educators should be able to focus their attention on improving students' skills. They should not have to spend their time and energy interpreting Federal regulations.

Separate regulations and reporting requirements often result in chapter 1 students being removed from a regular reading period, moved across the room, and placed in a chapter 1 reading activity. This senseless interruption is dictated by regulations that harm, not help, chapter 1 students. S. 2 fails to address this frustrating problem.

The provision addressing regulatory flexibility—which is fundamental to any education reform—allows for only a limited number of waivers for a limited period of time for a limited purpose. We have agreed that too many Federal programs are burdened with detailed requirements on what schools can and cannot do with their funding. Yet this legislation opts to relieve only a small number of schools from that burden. Furthermore, those select 750 schools are forced to go through a maze of additional red tape if they are to participate in the waiver program.

If we choose to confront this problem, we should not address it through token national recognition. We should implement a policy that corrects it.

Unless school officials can consistently expect flexibility from the Federal Government, these token waivers are of little or no benefit.

The President's America 2000 education reform strategy, however, will reduce the red tape that suffocates innovative teachers in thousands of schools. Because real education improvement happens school by school, teachers and parents in each school must be given the authority and responsibility to make important decisions about how the school will operate. Federal red tape must be cut.

America 2000 calls on the Government to remove Federal constraints that impede the ability of States to spend education resources more effectively. America 2000 asks that this opportunity be given to thousands of schools anxious to answer society's call for education reform. The timid regulatory flexibility proposal in S. 2 gives this opportunity to a mere 750 schools.

I asked educators in my State what single thing can Congress do to improve education. I got the same response from all those I asked: "Let us do our jobs." Their calls for regulatory relief ranged from rescinding specific reporting requirements to a ban on new programs that justify increased bureaucracy. These people who dedicate their lives to teaching should not be required to spend half of their time as administrative lawyers.

S. 2 does nothing to respond to their requests—instead, it heaps new layers on an already swelled bureaucracy. In the first year, the entire \$900 million is allocated solely for planning purposes. Not one dollar of this money will go directly to schools, teachers, or students. It would take 1 year of Federal money and paperwork to squeeze any kind of direct support for our schools from this legislation.

Worse yet, by establishing national school delivery standards, the Federal Government begins to direct schools towards particular curriculum and instructional material. School delivery standards make an attempt at defining teacher quality and practices. This does not respect the traditional role of States and localities in providing education. Federal support should assist—not direct—State and local reform efforts.

As long as we continue to build and fund a bureaucratized education system, we cannot expect the results to be any different than they have been for the last decade—less learning, less creatively, and increased frustration.

The conference bill fails to acknowledge bold new reform strategies, it limits the scope of regulatory flexibility initiatives, and it creates a myriad of new bureaucracies.

Mr. President, I supported the original version of S. 2. I cannot support an unfunded initiative that guts the original version and which ultimately does

little to promote true reform. I will not support S. 2 in its final form.

Mr. BURNS. Mr. President, I rise to express my opposition to the conference report accompanying S. 2, the Neighborhood Schools Improvement Act. I have supported the Senate bill and voted for it three times. I believe strongly in the need to revitalize our education system. However, in my opinion, this bill does just the opposite and must be defeated.

It is a misnomer to call this the Neighborhood Schools Improvement Act when the only neighborhood that will benefit from this bill is down the street at the Department of Education. Once again the major constituency of the Democratic controlled Congress—the bureaucracy—wins out. This bill sets national delivery standards mandating the resources and conditions under which State and local education agencies should operate. It comes dangerously close to establishing the equivalent of a national school board, a notion which I find very troubling.

In other areas, this bill takes some positive steps toward reform, but then ties them down with redtape. It offers grants to State education agencies to reform local schools, but only if they appoint another level of bureaucracy and get the plan approved by Washington. By the time the grant money filters through the bureaucracy, the schools in our Montana neighborhoods will receive only 68 percent of the money. It offers freedom from certain regulations to a small number of local school boards, but only if they work their way through the bureaucratic maze of State and Federal approval. This is reform? It sounds like business-as-usual to me, Mr. President.

In sum, this bill steals the initiative for reform from the local school boards and puts it in the hands of the State and Federal Governments. It is on the local level that true reform can, and does, happen and I must reject this attempt to usurp their authority in the name of reform.

It is with great disappointment that I vote against this conference report. I only hope that next session we can break free from the grip of the bureaucracy and the special interests and pass true educational reform for our sake of our children and our Nation.

Mr. DODD. Mr. President, I rise in strong support of the conference report on S. 2, the Neighborhood Schools Improvement Act, which will provide communities across the country with assistance in restructuring their schools.

Frankly, Mr. President, I am a little stunned that we find ourselves in a fight this morning to save this bill rather than joining together with many from the other side of the aisle to vote in support of this bill—a bill which will assist States and schools across the country in improving their schools.

Just a little about what is actually in the conference report, as it seems there is some confusion on this point.

S. 2 codifies the six national education goals which were established by the President and our Nation's Governors—school readiness, student achievement, school completion, life-long learning, achievement in math and science, and drug-free, safe, and disciplined schools. It provides for a standard setting process so that we can reach these goals and for the establishment of model assessments to measure our Nation's progress. These elements of the bill are noncontroversial—supported by the President, the Congress, by governors, teachers, and community leaders.

The heart of the bill is a \$800 million formula grant program, which will provide every State in the Nation with funding to pursue school improvement and restructuring. The States will use these funds to make competitive grants to local schools to improve student achievement. The bill does not establish a new program with new Federal mandates—it is an invitation to communities to organize to improve their own schools. It says to parents, teachers, and business leaders if you have a quality plan to improve your children's education, we will help you.

The bill also establishes a demonstration program in educational flexibility, an idea strongly supported by the President. Under this program, 750 schools in ten States will assess the impact of waiving Federal regulations on student achievement. The program will demonstrate if schools can do a better job through an emphasis on results rather than on meeting the various regulatory and statutory requirements.

Just last month as schools began, I held a hearing in New Haven to talk about school reform and explore the success of the initiatives in my State. Over and over, when I asked witnesses about the Federal role in school reform, they talked about the importance of Federal assistance. But they didn't want advice, they wanted funds—funds that they could flexibly in their communities to make the improvements their communities identified. That's what this bill would do. It would empower communities to begin the fundamental restructuring which is so critical to our Nation's future.

Just this week the national education goals panels, which would be statutorily established with this bill, released its third annual report on the state of education in our Nation. Some of their figures were startling; 13-year-olds in U.S. schools were consistently outperformed by students from other industrialized nations in science and math. Sixteen percent of high school students were threatened with a weapon at school. Less than half of all preschoolers were read to daily.

In my State of Connecticut, the statistics also demonstrate the need for this legislation. Twenty percent of our students drop out. Eleven percent are from homes where English is not spoken. Of the 46,546 children born in Connecticut last year, over 8,000 had no prenatal care, nearly 5,000 were born with drug exposure. Each day, our schools are confronted with this reality—and our schools need our help.

But it's not just our schools. Not only are we failing to secure a future for our own children, but also the future of our own economy. If you look at some of our major international competitors, with dropout rates near 1 percent, you must ask yourself, how we are going to compete in the high-technology marketplace of the 21st century.

Our school system was designed around an agrarian calendar—afternoons and long summers off for farm work. Basics were reading and writing and arithmetic, not trigonometry, and computer science. Our educational system, in many parts of the country, has just not kept up with the rapid changes in the economy of the world or this Nation.

In years past, a high school diploma opened many doors. Even without a diploma, a hard-working 16-year-old who left school could often find work to support themselves and their families, to purchase homes, and to provide for some financial security.

But the economy has dramatically changed, and in the next decade, less than 1 percent of new jobs will be available to people in this country who have less than a high school diploma.

There are many who are quick to blame others for the problems in our Nation's schools. They blame teachers, or parents, or the bureaucracy of government, or a failure of family values. The blame game is unending, but most would admit it is not the answer. We must all commit ourselves, regardless of what else we do in our lives, to working together to improve our Nation's public educational system.

We need to ask ourselves, as a people, who loses when a young person drops out of school; who loses when a middle-income family is unable to afford the skyrocketing costs of higher education.

If we believe that it is only the dropout, only the jobless, only the under-educated who are the losers, then, I believe there is little hope of changing our priorities in this country.

If, however, we understand that when a student stays in school, when a person has a good paying, decent job, and when a young person receives a college diploma or a degree from a community technical college, then we are all winners.

Reaching these goals is the challenge that lies in front of every one of us, and we can start right here today—by voting to support this bill.

During the waning hours of the last Congress, another education reform

bill came before the Senate and was killed by a filibuster similar to the one before us today. The Senate missed that opportunity to provide our communities with vital educational assistance.

The Senate cannot afford to make the same mistake again today. Our communities, schools, and children need our help. I urge my colleagues to join me in support of this bill.

Mr. SASSER. Mr. President, I want to take just a moment to commend the chairman of the Labor and Human Resources Committee, Senator KENNEDY, and the chairman of the Subcommittee on Education, Senator PELL, for their leadership for serious school reform.

The Conference report on S. 2, the Neighborhood Schools Improvement Act, has reached the Senate floor only because of their tenacity and tireless work. This legislation is not business as usual.

For the first time, Federal dollars for educational innovation will be passed through to individual schools. For the first time, schools have been recognized by Congress as the site for the most promising reform efforts.

The vast bulk of the \$821 million authorized by this legislation will fund local school restructuring plans; plans collectively developed by principals, teachers, parents, and community representatives. I believe in this blending of Federal resources with local know-how. Therefore, I urge my colleagues to support the conference report on S. 2.

Mr. CHAFEE. Mr. President, I would like to take a moment to discuss the cloture vote on the conference report to accompany S. 2, the Neighborhood Schools Improvement Act. Earlier this year, I joined 91 of my colleagues in supporting S. 2. As approved by the Senate, the bill incorporated some new ideas, such as new American schools and regulatory flexibility. But I plan to vote against cloture today.

I think many of us agree that the conference agreement does not even come close to reflecting what the Senate approved. Much of what the Senate accomplished was dismantled in conference and replaced with provisions of the House bill.

The conference agreement makes no mention of new American schools, and the regulatory flexibility provision—which I think shows real promise in helping our schools achieve better results—has been scaled back severely.

So what we have here essentially is the House bill that requires States and local education agencies to establish advisory councils to develop State and local school improvement plans—a system that has the potential to stifle innovation by increasing unnecessary bureaucracy.

Further, it concerns me that the entire first year authorization of \$800 million would be devoted to planning costs. If you really think about it, the

title of the bill is somewhat misleading—the Neighborhood Schools Improvement Act—yet none of the funds in the first year go to local schools.

Mr. President, there clearly is cause for concern over what is happening in our educational system. Studies show that our high school students lag behind those of other nations in math and science ability, and our graduates often lack the skills necessary to obtain entry level employment.

These and other painful observations have led to a desperate call for reform. As you well know, those in government will sometimes try anything to achieve better results. And that is what we have here today.

This certainly is an ambitious plan to embark upon just three months before Congress will begin its work to revise and extend the Elementary and Secondary Education Act [ESEA], and when many of the ESEA programs are not adequately funded to serve all eligible students. And it is my understanding that the conference committee completed its work on the Labor-Health and Human Services appropriations bill for next year, which does not include any funding for programs that would be authorized under this conference agreement.

The solutions to the problems in our Nation's education system will not come easily and reform will not be achieved overnight. We have a tremendous responsibility to ensure that our Nation's students receive a quality education—it is in our Nation's best interest. But we should not vote today just for the sake of saying, "Well, we voted for an education bill this year."

Mr. President, as I mentioned, my decision was not an easy one. The conference agreement does take some steps in the right direction, but it does little to guarantee that innovative ideas will receive attention.

CLOTURE MOTION

The PRESIDING OFFICER. The clerk will now report the motion to invoke cloture.

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, hereby move to bring to a close debate on the conference report accompanying S. 2, the education bill:

Paul Simon, Herb Kohl, Jim Sasser, John Breaux, Christopher Dodd, Harry Reid, Charles S. Robb, Daniel K. Akaka, Tom Daschle, Harris Wofford, Dale Bumpers, Richard Bryan, John F. Kerry, Max Baucus, David Pryor, Jay Rockefeller.

CALL OF THE ROLL

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

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that the debate on the conference report accompanying S. 2, the Neighborhood Schools Improvement Act, shall be brought to a close?

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

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

The yeas and nays are required—yeas 59, nays 40, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—59

Adams	Ford	Mitchell
Akaka	Fowler	Mozzhan
Baucus	Glenn	Nunn
Bentsen	Gore	Packwood
Biden	Graham	Pell
Blingaman	Harkin	Fryer
Boren	Heflin	Reid
Bradley	Hollings	Riegle
Breaux	Inouye	Robb
Bryan	Johnston	Rockefeller
Bumpers	Kennedy	Sanford
Burdick, Jocelyn	Kerry	Sarbanes
Byrd	Kerry	Sasser
Conrad	Kohl	Shelby
Cranston	Lautenberg	Simon
Daschle	Leahy	Spencer
DeConcini	Levin	Wellstone
Dixon	Lieberman	Wirth
Dodd	Metzenbaum	Wofford
Eaton	Mikulski	

NAYS—40

Bond	Gramm	Nickles
Brewer	Grassley	Presster
Burns	Hatch	Roche
Chafee	Hatfield	Rudman
Coats	Helms	Seymour
Cochran	Jeffords	Simpson
Coburn	Kasich	Smith
Craig	Kasten	Stevens
D'Amato	Leahy	Symms
Danforth	Lugar	Thurmond
Dole	McClellan	Waltrop
Domenici	McConnell	Warner
Garn	Murkowski	
Gorton		

NOT VOTING—1

Durenberger

The PRESIDING OFFICER (Mr. DASCHLE). On this vote, the yeas are 59, the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. KENNEDY. Mr. President, I believe that all parents, all children, all schoolteachers, all the members of the business community, those who have been involved in constructive efforts across the country, and who believe that those efforts to increase and enhance academic achievement for our schoolchildren ought to be supported are disappointed today by the effective blocking by our Republican friends of an opportunity to pass this legislation. We have missed a very, very important opportunity.

Make no mistake about it, Mr. President. The underlying thrust of the administration's proposal was, No. 1, to have the Secretary of Education, the Federal officer, make the decisions,

and second, to divert scarce public resources for private schools.

It is those two elements and the differences between us and the administration on those two elements that have virtually prohibited us from making progress on education reform.

We are not going to be deterred. We are going to continue to be committed to this concept. We are going to bring this legislation back time in and time out until we give support at the local level for those that are really trying to do something to enhance school achievement of the children of America.

Mrs. KASSEBAUM. Mr. President, I say to the Senator from Massachusetts, we are just as committed on this side, as is President Bush, to bringing assistance to the local level in all the constructive ways that we can. We are going to have the opportunity to revisit this next year with the reauthorization of the Elementary and Secondary Education Act.

When the Senator from Massachusetts speaks to the Federal bureaucracy and the fact that the administration was wanting all the power to reside in the Secretary of Education, that is not the shape of the bill that left the U.S. Senate, and it was the Senate legislation that was supported here by a majority on both sides of the aisle.

With that in mind, I believe that we can work next year, in the appropriate fashion and at the appropriate time, with a bill that will be supported by a strong majority on both sides of the aisle, that will be a sensible approach to the problems in education. I think that we have addressed all of the problems with this bill. I look forward to working next year in the reauthorization to accomplish what we all hope to achieve in education reform.

THE OMNIBUS CRIME CONTROL ACT—CONFERENCE REPORT

CLOSURE MOTION

The PRESIDING OFFICER. There will now be an hour equally divided on the debate on the motion to invoke closure on the conference report accompanying H.R. 3371. The clerk will report.

The legislative clerk read as follows:

CLOSURE MOTION

We, the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany H.R. 3371, the omnibus crime control bill:

Kent Conrad, Herb Kohl, George Mitchell, David Pryor, Joe Biden, Wyche Fowler, Jeff Bingaman, Al Gore, Tom Daschle, Tim Wirth, Jim Sasser, Richard Bryan, Edward M. Kennedy, John F. Kerry, Daniel Moynihan, Christopher Dodd.

Mr. RUDMAN addressed the Chair. The PRESIDING OFFICER. The Chair reminds the Senators that we

now are in an hour of debate, equally divided, on the motion to invoke closure on the conference report accompanying H.R. 3371.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, are we on the crime bill? We want to be sure any time used will not be counted against the crime bill time.

The PRESIDING OFFICER. The hour of debate is currently running.

Mr. THURMOND. We need every minute on this crime bill.

Mr. BIDEN. Mr. President, is the time equally controlled?

The PRESIDING OFFICER. The Senator is correct.

Mr. BIDEN. The Senator from Delaware is controlling one-half hour?

The PRESIDING OFFICER. Correct.

Mr. BIDEN. I yield 1 minute to my friend from New Hampshire for unrelated business.

TRIBUTE TO TOM MCINTYRE

Mr. RUDMAN. Mr. President, when Senator Tom McIntyre died in August, I lost a dear friend.

And New Hampshire, the U.S. Senate, and our country lost a good and faithful public servant.

We in New Hampshire remember Tom McIntyre with respect and pride—as a native son. Our Government flourishes best when our officials bring to the people's work a deeply rooted sense of place. Tom McIntyre, throughout his 16th years in the Senate, never lost his love for his home State, its people, its physical beauty, and its character.

We learned from Tip O'Neill that all politics is local. Tom McIntyre knew that all policy is local as well, because its effects are experienced by Americans at home where they live and work and play. So for Tom McIntyre a policy proposal's most demanding reality test was how it would work in practice at home.

Tom McIntyre also never lost touch with the values we prize in New England. He always saw himself as a moderate and was proud of it. And indeed, he was one of a distinguished tradition of moderate Senators of both parties whom New England proudly sent to Washington. Tom McIntyre—like George Aiken, Ed Muskie, Charles Tobey, Ralph Flanders, Margaret Chase Smith, and Ed Brooke—brought to the Senate a New Englander's hard work, independence, practicality, common sense, deliberate judgment, and disdain for pomposity.

And when ideological extremes tore at the heart of our country in the 1970's, Tom McIntyre, like these other quiet New Englanders in similar times of stress, defended the most basic American principles of tolerance, due process, and the right to be free of fear.

In doing so he helped restore the conscience, civility, and soul of the New England town meeting to a troubled America when we needed it most.

We in the Senate also remember Tom McIntyre with respect and pride—as a self-made legislator.

Tom McIntyre was not a professional politician. He had had no legislative experience when he was elected to the Senate in 1962. He was not a policy expert. He had not been schooled in the policy schools and institutes that have cropped up in recent decades.

He did bring to his Senate work his firsthand experience. Before we had a name for environmental policy, he had led a successful effort to stop the pollution of the beautiful Lake Winnepesaukee near his hometown of Laconia.

Before we had a name for the communications revolution, Tom McIntyre and his wife, Myrtle, had pioneered in bringing cable television to the mountain locked Laconia, even as television itself was in its infancy.

Before we had a budget crisis, let alone a name for it, Tom McIntyre balanced budgets as the mayor of Laconia with classic New England frugality and common sense. One of his favorite stories was about the time he opposed a request from the city fire department for a new firetruck with ladders higher than the highest buildings in Laconia.

And before we had a name for Soviet studies and arms control policy, Tom McIntyre had learned from his own personal experience about dealing with the Soviets. As a young artillery officer he and his unit had linked up with Soviet soldiers in Czechoslovakia at the end of the war. During the impromptu celebration of this historic moment, Major McIntyre noticed Soviet soldiers were smilingly about to heist his jeep. When they didn't respond to his requests to back off, he drew his .45, slammed it on the fender, and said in a clear loud voice: "Dammit, I said, 'Back Off.'" They did, and the celebration of their joint victory over nazism resumed.

So Tom McIntyre brought to the Senate what he had learned from these and other direct experiences with real problems. He also brought to the Senate his own good judgment, common sense, and nonideological practicality.

But he had to learn how to be a legislator. And he had to learn the old fashioned way—through hard work as a Senator.

When he was put on the Senate Banking Committee, he confessed his anxieties about his lack of training in economics or finance to Senator Paul Douglas who, of course, had been a distinguished economist at the University of Chicago. Douglas reassured him, saying: "Don't worry about it Tom. You will have the advantage of not having your mind cluttered up with a lot academic prejudices."

We in the Senate know how Tom developed into one of the Senate's most thoughtful and creative legislators in the field of banking. He chaired the key Subcommittee on Financial Institutions and helped bring into being familiar innovations that we now take for granted—NOW accounts and automatic cash machines.

As he did this work, the McIntyre and his subcommittee became the target of the powerful and willfully competing sectors of the banking industry. Each thought it could dominate and tilt Tom's work to its advantage. But he resisted them all and stood his ground as the people's own independent Senator as he did this extraordinarily consequential work.

His growth as a legislator on the Senate Armed Services Committee was even more impressive. At first he asked to serve there primarily to protect the Portsmouth Naval Shipyard. And he helped preserve that national asset against the shortsightedness of Robert McNamara and Adm. Hyman Rickover.

Otherwise he had little opportunity to shape policy on the Armed Services Committee during his first years. The committee was run firmly from the top of Chairman Richard Russell and one or two other senior Senators.

Tom later recounted his frustrations. He said that 1 day when Senator Russell was quietly consulting at the top of the table with Senator Smith and Senator Stennis on a matter, Tom raised his hand at the bottom of the committee table and asked the chairman: "Would you mind speaking a bit louder please, so Harry Byrd and I could hear what you are deciding up there." This passed for audacity from a junior member of the Senate Armed Services Committee in the 1960's.

But in 1969, Chairman John Stennis asked Tom McIntyre to undertake what proved to be his most consequential senatorial work when he asked Tom to chair a new Subcommittee on Military Research and Development. He protested that he "didn't have a Ph.D. from MIT," but he rolled up his sleeves and set out to learn how to do this work.

For 10 years Tom McIntyre pioneered congressional oversight of this most critical work in the Department of Defense—the seedbed of our military technological advantage in the crucial stages of the cold war and today. His judgments could not have been more consequential to our country's security. Troubled programs like the Patriot had to be made to work. Revolutionary technologies like cruise missiles had to be protected against hostile service interests. And Tom knew that if we invested in the wrong developments, we could make our country less secure by underfunding the necessary programs and by fueling the arms race.

Tom did this work quietly, usually in executive sessions. He annually built

consensus among his subcommittee colleagues who rarely agreed on little else—Barry Goldwater and John Culver, Robert Taft, and Harold Hughes, for example. Over 10 years his subcommittee reportedly unanimously 20,000 or so individual recommendations and divided only on a handful.

And Tom so earned the respect of his colleagues on the full Armed Services Committee that they endorsed his recommendations in all but a dozen times or so over a decade. And during this decade the full Senate accepted Tom McIntyre's on these thousands of judgments on all but five or so times. When he left the Senate he was the Congress' most respected and authoritative member regarding military technology.

For all these contributions, we in the Senate remember Tom McIntyre with special respect. We remember he developed a quiet authority, so that when Tom McIntyre spoke on the issues for which he was responsible, the Senate listened and was led.

Our country should also remember Tom McIntyre with respect and gratitude—as an American whose straightforward and unassuming service to our Republic mattered.

Our Government was designed to be directed by citizens, not professionals. And Tom McIntyre's work in the Senate demonstrates yet again that this is both proper and possible. He served in World War Two as a citizen-soldier. And he served in the Senate as a citizen-Senator. He did both jobs with a simple patriotism.

We have won the cold war. The old nuclear danger has eased. And Tom McIntyre is an unsung hero of both of these accomplishments which have made Americans safer tonight.

Finally, Mr. President, let me say that I personally remember Tom McIntyre not only with respect, but also with affection and gratitude—as a friend.

Tom was a role model for many of us in New Hampshire who entered public life in the 1960's. We did not have to be of his party or to share his views to learn from and value his easy good will, his forthrightness, his political courage, and his integrity.

In August, I joined his neighbors and other friends to honor him in St. Joseph's Church in Laconia, where he had worshiped as a boy. An old friend of mine, Larry Smith, gave the final eulogy. Larry had served as Tom's administrative assistant, had worked with him closely as a professional staff member of Senate Armed Services, and loved Tom McIntyre like a father.

Mr. President, I am unanimous content that Larry's eulogy be printed in the RECORD. He spoke for us all.

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

FOR OUR CHILDREN AND THEIR CHILDREN . . .
A EULOGY FOR SENATOR THOMAS J. MCINTYRE
(By Larry K. Smith, Administrative Assistant to former U.S. Senator Thomas J. McIntyre of New Hampshire)

Children wherever we live will ask us about Tom McIntyre and why they should remember him.

We might tell them about his remarkable Senatorial achievements—laws he wrote, debates he won, causes he championed.

But, above all, we should be sure to tell our children about Tom McIntyre's most profound legacy—a legacy of enduring values about public life.

We should be sure to tell our children that Tom McIntyre pursued politics primarily as a matter of public service.

He believed one should run for office not for personal gain, not out of a compulsion for celebrity, not to bolster one's ego, but basically as a duty, a civic responsibility. Politics, properly understood, is therefore a calling, not a career.

Robert Frost told us how he, as a New Hampshire lad, loved to climb birch trees—up a "snow-white truck toward Heaven till the tree could bear no more . . ." Frost remembered, "This climb will be good both going and coming back."

Washington is filled with driven ambitions who find only climbing good.

But anyone who knew Tom McIntyre well understood that he went to Washington, not to climb, but to serve. And his heart was always here in New Hampshire—here in Laconia. And he agreed with Frost, "One could do worse than being a swinger of birches."

We should also tell our children that Tom McIntyre mastered the art of practical politics as a public responsibility.

He believed that if an office is worth standing for, then it is worth running for—to win. If a cause is worth believing in, then it is worth working for—to prevail. The deeper one's convictions about a cause, the greater one's obligation to be effective. There is no room in this tradition for political kibitzers, dilettantes, or summer candidates.

And Tom and Myrtle McIntyre's campaigns over the years still stand as models of the practical political art.

We should also tell our children that Tom McIntyre's legacy values integrity—inists on integrity.

To him, it meant telling the truth. It meant keeping one's word. It meant standing up for one's conviction even at personal cost. It meant respecting public office as a public trust with standards of ethics and appearance higher than even those set by law.

And let us celebrate today that throughout thirty years of rock-'n-sock-'n New Hampshire politics, Tom McIntyre's good name and the public's confidence in his integrity met these high standards.

We should also tell our children that Tom McIntyre valued the free competition of ideas.

For two hundred years Americans have understood that a diversity of interests and a competition of ideas are crucial to our liberty.

So Tom McIntyre spent his own earned political capital to try to build a two-party system. He recruited young talents all over New Hampshire and helped them into the fray. Many are here today to honor him.

He also defended the integrity of this political competition. He opposed those who would stifle the free contest of ideas, those who would emulsify the two parties, those who would insist on having two parties in name, but one party in fact.

Let's also tell our children that Tom McIntyre's legacy includes a politics of civility.

Civility—a fancy word—for Tom McIntyre's politics of good cheer and gentleness. His campaigns—for all their seriousness and sense of purpose—were fun. He campaigned with élan, with a twinkle, and with an Irish song.

He also taught us to think well of others until there is a reason not to. He tried his best not to use "mean words" in his campaigns.

So Tom McIntyre's politics was not a politics of fear which appealed to our darker sides. It was not a politics of anger which took pleasure in inflicting pain. It was not a politics of paranoia unable to distinguish between friends and foe. It was not a politics of vengeance which made all adversaries into enemies.

Think of his friendships with Norris Cotton and with Warren Rudman. Their mutual respect transcended political differences. Their friendships were models of civility that gentled debates and campaigns.

And we should also be sure to tell our children Tom McIntyre valued practicality.

Because Tom McIntyre was a practical man. He knew that the true test of public policy is whether it works in practice.

He loved to tell Washington how he, as Mayor of Laconia, rejected the fire department's request for a ladder truck several stories higher than the town's highest building.

Such pragmatism was for centuries America's central philosophic tradition. Only recently have theoreticians without practical experience begun to dominate policy making. This may have made Tom McIntyre's practicality rather unfashionable in some Washington seminars and drawing rooms.

But he was right. And we need to tell our children.

The great Irish poet, W.B. Yeats (and Tom McIntyre loved his Irish poets), summed it up:

God guard me from those thoughts men think
In the mind alone.
He that sings a lasting song
Thinks in a marrow bone.

Finally, above all, let's tell our children that the passionate center of Tom McIntyre's political legacy was his moral courage to defend the soul of our Republic—our freedom—abroad and here at home.

He, along with millions of others, did this in uniform.

And here in New Hampshire in the 1970s, his ringing defenses of the rule of law, the right of the other fellow to be heard, and the right of all Americans to be free of fear of intimidation were New Englander's love of liberty in full flower.

And to do this required grit. It required true grit, because others sat in silence.

Tom McIntyre's moral courage was all the more remarkable because he, unlike many politicians, found no joy in a fight, and because he, unlike the ideologues, lacked their bracing self-certainty.

These public values—service, effectiveness, integrity, the competition of ideas, civility, practicality and a passion for liberty—I invite you now to add your own favorite—were, of course, not invented by Tom McIntyre. He never wrote them out. He would be the first to tell us how he did not measure up to these standards. Nonetheless, they were the heart of his witness as a public person and the core of his beliefs as a private man.

And these are not partisan values. They are above party and above personal political

persuasion. In this respect, we are all republicans; we are all democrats.

Henry Adams said, "No one can tell where a teacher's influence stops." This legacy of Tom McIntyre is similarly enduring, because it is a set of values larger than his career, yet nurtured and enhanced by his efforts to realize them.

So when we go home today and our children ask us about Tom McIntyre, let's tell them about his legacy of values. Let's sing these lasting songs in a marrow bone to them, because these are values for our children.

They live for all the children of New Hampshire, and for their children * * * and for their children * * * and for their children.

PRIVILEGE OF THE FLOOR

Mr. THURMOND. Mr. President, I ask unanimous consent that Beverly Gastright of my staff be allowed the full privilege of the floor on this crime bill.

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

THE OMNIBUS CRIME CONTROL ACT—CONFERENCE REPORT

CLOSURE MOTION

The Senate continued with the consideration of the motion.

Mr. BIDEN. As they say in the vernacular, "this is it." This is it. We have been working on this crime bill, this conference report, which has been held hostage for 300 days by the opponents.

Mr. President, this is the final, final moment for us to decide whether we are going to do anything about crime this year.

The Senator for whom I have an enormous amount of respect, Senator KASSEBAUM, said something earlier unrelated to the crime bill just a moment ago. As we concluded debate on attempting to invoke cloture on the education bill, she was summing up—I have enormous respect for her—she said something that maybe is a Freudian slip that slipped into the jargon and I think the subconscious shoes of my colleague.

She said, well, we did not get the education bill, but maybe next time we can get a consensus that we have a real majority for the education bill.

There were 59 votes for the education bill. Where I come from, that is a real majority. If there is 100 votes, it is 59 percent. If there are 59 votes, that is almost 60 percent of the vote. I call that a real majority.

What our Republican friends have done in these waning days on important issues—and I will stick to my issue of crime here—they have redefined what constitutes a real majority. They have done it legally under the rules. They have said that for the last 300 days, notwithstanding the fact that I believe 57 Senators on the floor of the U.S. Senate believe strongly that we

should free the crime bill, that we should enact the death penalty, that we should reform habeas corpus, that we should provide help for local police officers, that we should deal with violence against women, and that we should deal with violence against children. Notwithstanding that, 56 or 57, depending how many are present today, U.S. Senators think we should do that. Notwithstanding the fact that the House of Representatives voted, finally, for this conference report, a majority of them. For refusing to allow the American people, for refusing to allow the police, for refusing to allow the citizens of this country the overwhelming and undeniable beneficial impact of this significant legislation for 300 days, this has been held hostage.

Sarah Brady is standing outside these doors. She worked for years on a simple, little, tiny provision of the law that many of our States have already, which says that we do not want felons buying guns. It is against the law for felons, convicted felons, to buy guns.

So, she came up with an idea and said, look, you saw what happened to my husband when he got shot with Ronald Reagan. We have to do something about crazy people walking in and buying guns. She wants to have a computer check so that gun dealer can press a button and look and see whether or not the person giving them their driver's license to buy the gun is a convicted felon. What an outrageous notion.

But since most States do not have those laws, or that capacity at the moment, she said until they do, somebody should have to wait 7 days to buy a handgun, so they can run a check.

They can pick up the phone and call the local police and say, hey, is John Doe down here a felon? Because that provision, the so-called Brady bill, is in this 500-page crime bill, undeniably the toughest crime bill in the history of this country. I have the presidents and the chief executive officers of every major police organization in America in my office, as I speak, in my conference room. They have been there since 5 o'clock last night, since 5 o'clock. We negotiated with the administration—they acting as the mediator.

They came to me and said, "Look, Joe, we are for the conference report, but we need a crime bill. Our folks are in trouble. So, Joe, are you willing to compromise even further than the crime bill is?" I said "Yes." They said, "We make a proposal, a former proposal, to you." To the best of my knowledge it has never been done and no chairman of any committee has ever agreed to this before, to the best of my knowledge. They said, "Would you agree to let us be the mediator, to literally sit in and mediate between you and the Justice Department?" And I said "Yes."

So last night until 2 o'clock in the morning, Mr. President, I sat in my regular office and I waited to be called in by these nine police chiefs and presidents. This is of the National Association of Police Organizations, the chiefs of police, the Fraternal Order of Police. I will get the whole list of them. And I went in and they said, "Would you compromise on this? The attorneys general say this is not good enough." "OK, I will compromise on that."

We went back and forth like that, me sitting there as chairman of the Judiciary Committee in my office, waiting on call in my office for these police organizations to say to me, "OK, Joe, come on back in now. The Justice Department just stepped out. How about this?" They end up at 2:30 in the morning and they said, "OK, here is what we police think is a legitimate compromise," and they laid it on the table. I have been selling that compromise to the Members of the House and others since we met. As I speak, my understanding is—and I am going to ask my staff to get up right now and go call, please—my understanding is that the Justice Department will not compromise. You know why, Mr. President, what is this all about?

You are going to hear from my friend—whom I have an inordinate amount of respect for, truly he is my friend—from South Carolina, Senator THURMOND, that this is about habeas corpus. I believe it is about habeas corpus with him, but it is not habeas corpus, Mr. President. This is about Sarah Brady and her drive to do something about keeping the guns outside of the hands of felons. It was about the NRA. That is what this is about.

I agreed with the attorneys general and with these police officers. I will give you the list: National Association of Police Organizations, NAPO, second largest in America; National Fraternal Order of Police, the largest in America; National Brotherhood of Police Officers; International Union of Police Associations; National Troopers coalition; Police Executive Research Foundation; National Organization of Black Law Enforcement Executives; Major City Chiefs; and the Federal Law Enforcement Officers Association.

Their presidents or chief executives have been in my office since 5 o'clock last night. Some of them openly endorsed President Bush, the organizations, the troopers. Some of them have openly endorsed Governor Clinton, NAPO. Some have not endorsed anybody. These guys are not in there for politics. They are in there because they are crying for help. They flew in from around the country, sitting in my office until 2 o'clock in the morning. Finally, a little after 12, we bought them five pizzas, the first thing they had eaten. They care about this. They care about this. I have tried.

I am just told that the Attorney General's office rejected the offer the po-

lice put forward to them last night—to me and to them.

Mr. President, the point I want to make here is this is not about habeas corpus. What this is about is guns, guns and the power of the NRA. And we may very well fall three or four votes short of getting a supermajority.

The insistence for 300 days on the part of my Republican friends and the administration, for 300 days. In the meantime, what happened in the 300 days, Mr. President?

Well, there have been 20,978 murders in America, carnage, pure, simple carnage. There have been 90,528 rapes in the last 300 days, Mr. President. There have been 584,089 robberies, Mr. President. There have been 928,091 aggravated assaults, Mr. President, and there have been 1,623,687 violent crimes since the filibuster began 310 days ago.

Mr. President, it is against my political interest to say this, but I agreed, over the howling objections of my friends on the left, to take out of this bill the one objection they say exists with regard to the bill—habeas corpus, the so-called taking provisions in the bill. I agreed to drop it. I had heard for 200 days that the reason this was a bad bill was the provision in this bill that the House has passed, the Senate had passed and needs 4 votes to be put on the President's desk. If they let us vote up or down, it does not need any more votes to be put on the President's desk.

I agreed to drop it. I went over to the House side and got agreement from my friends on the House side to drop it. And we heard a whole raft of new objections. Mr. President, 310 days ago this filibuster began. Three hundred ten days ago there were 1,623,687 fewer violent crimes committed in America.

Mr. President, I am not suggesting to you or anyone within earshot of my voice that had this conference report been the law, there would not be any crime in America. But I am testifying to you that I believe with every fiber of my being, just as the police in America, believe, had this been law, there would have been fewer, would have been fewer.

Mr. President, my friends now, as we say, in my State, having found religion after a year of objecting, came forward and now agree with the Biden proposal in the bill to fund local police officers. So we have no fight about that. They say they are for the Brady bill now. They say that.

But, Mr. President, in this compromise we had when they sent me back a compromise, that would be something other than what we have before us, so we could all unanimously agree on something, guess what, a little change in the Brady bill. The Brady bill up there makes sure that the police are indemnified, so if the police officer, when a gun dealer calls and says, "Could we sell this gun to John Doe?" The police officer, in good faith, looks

down the list and says, "No, you cannot sell to John Doe." It turns out later you could have. It was the wrong Doe, and the John Doe that went in to buy the gun could have bought the gun. We all thought that the police officer should be held harmless on that.

My friends, riding around, knocking on doors saying it is a police officer knocking down the door in good faith, there should be compensation, but they do not want compensation for a police officer who makes a mistake if, in fact, he says to a gun dealer when he looks down the record, "No, you cannot sell to that person."

So they say we are for Brady. I am not talking about my colleague here; I am talking about the Justice Department. They said we are for Brady, but a little change, we do not want to indemnify police that way. Guess what that does, Mr. President? It puts an overwhelming burden on the cop when in doubt to say, "Sell." When in doubt say, "Sell." When it is close, say, "Sell."

Mr. President, this is about guns. But you know the worst part of it is—as you and I know, I have been a Senator for 20 years. To the chagrin of my constituents, I am not known as gun control Senator. I am viewed as an anti-gun-control Senator. But even I, Mr. President, recognizing the right of the second amendment, the right for people to bear arms, do not see how any legitimate person is going to be hurt by the existence of a system that says unless we can check quickly you have to wait up to 7 days to be able to buy a handgun so we can find out whether you are a felon.

Mr. President, my State of Delaware probably has as many gun owners per capita as any State in the United States of America, I would guess.

I do not know that for a fact. Big hunting State—duck hunting, bird hunting; big State hunting.

In my State, we found ourselves in the situation where we invoked such a law at the State level. And guess what? In the first 3 months people came in—I do not have the exact figures. I ask unanimous consent that I may be permitted to submit the exact figures.

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

Mr. BIDEN. Out of the first 1,369 people, something like that, who came in to buy a gun under our new law, 10 percent were convicted felons. One out of ten of them who walked in the door—no, I am sorry, it is the first 1,063 people that came in—the number not eligible to buy guns was 10 percent. One out of ten of them, roughly 106 of them, when they looked down the list, they said, oh, this guy is a convicted felon.

So, Mr. President, these laws work. What Sarah Brady has been pouring her heart and soul out to get passed, with the strong support of leaders like Senator METZENBAUM and Senator

MITCHELL and Senator DOLE and others, Senator KOHL, Congressperson SCHUMER on the House side, what 70 percent of the American people support, what a majority of the NRA membership, I am told, supports, but we are stopping an entire crime bill because of that.

Mr. President, it seems like I have made this speech 10 times too many times. I must tell you, I am disheartened. I have worked for years, and in this case on this legislation I have never worked any harder for the past 2 years, to get a tough crime bill passed. It contains capital punishment—a lot of people do not like my position being for capital punishment. It contains significant restrictions on habeas corpus, further willing to restrict them. It contains significant help for local law enforcement.

You know the only thing we know about crime and violence in America for certain is we know that if there are more cops standing on the street, there is less violence. We think we know a lot of other things, but that is the only thing we know with absolute certainty.

And guess what, Mr. President? As this wave of violence—I would like to be able to walk up and have every member—I do not know a single person sitting up in the gallery. I do not know a single American or visitor sitting up in the gallery. I do not know one of them. But I would be willing to bet if we opened up the mike and allowed them to march down here, you would not find one Democrat, Republican, liberal, conservative, crazy right, crazy left, middle, to walk down and stand at this microphone, look at you and look at the American people on C-SPAN and say, "No, America is a safer place today than it was 5 years ago."

I am willing to bet you, you would not find a single person.

Mr. President, here we are, because the NRA does not like the Brady bill, I am required to get a supermajority to do something to make it a little bit safer.

In the last 10 years, Mr. President, that this wave of violence has increased, do you know how many officers have increased on the streets in 10 years? One percent.

We provide help in here, Mr. President, for local law enforcement.

And by the way, I know you will hear my friends say, "Look, law enforcement, that is a local problem, because of local crimes." Drugs are not a local problem, Mr. President. They are grown overseas. They come in through the ports of New York and New Orleans and Wilmington, DE, and California. They come across the border. And they spawn violence; 71,000 murders, Mr. President, since President Bush took office; 71,000 Americans murdered.

What do we do? Well, we insist on the Senate rules and procedures that we require a supermajority in order to be

able to remain sure that—I would like my friend, when he stands up—and I am going to save the remainder of my time—to explain to me, other than habeas corpus, what does he object to in this bill? If it is habeas corpus he objects to, I will drop all the habeas corpus out of it, take it all out, every bit of it, take it out and let us pass the bill without it.

I reserve the remainder of my time. The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield myself such time as may be required.

The PRESIDING OFFICER. The Senator is recognized.

Mr. THURMOND. Mr. President, once again, instead of considering a true crime bill which the prosecutors, police, and victims can all support, the majority party has seen fit to drag out the lifeless remains of a crime bill twice rejected by the Senate.

I have remained strongly committed to passing a true crime bill despite the political objectives of the majority party. In fact, I continued to work with my colleagues to try and resolve our differences as did Attorney General William Barr. Negotiations, it seems, were complete when the Attorney General and I agreed to a compromise with Senator BIDEN. This compromise was to have included the Senate passed Brady bill, the President's death penalty title, a middle-of-the-road compromise on habeas corpus, and all of the funding proposed for additional law enforcement. According to the Attorney General, he and Senator BIDEN had negotiated a package that both agreed was an acceptable basis for compromise.

Unfortunately, the Democrats have retreated and distanced themselves from what we believed to be an accepted compromise. Instead of debating a tough bill, or the compromise we thought had been agreed to, we are once again considering the conference report. This bill is not an anti-crime bill. It is a pro-crime bill.

For example, the most troubling provision in this bill is the habeas corpus language. Senator BIDEN has stated that it is the most contentious area of negotiations. The language in the conference report would reverse over 14 Supreme Court decisions favorable to law enforcement. This provision will throw the prison doors wide open for thousands of dangerous criminals throughout the Nation. Standing alone, this provision is enough to compel the Senate to reject this conference report.

Thirty-one State attorneys general, 16 Republicans and 15 Democrats, wrote President Bush urging him to "protect the American people" and veto this bill. They wrote that any bill containing this habeas proposal, and I quote: "cannot be described accurately

as an anti-crime bill but would instead be a pro-crime bill and particularly a pro-convicted murderer bill".

Mr. BIDEN. Will the Senator yield for a question?

Mr. THURMOND. Mr. President, I will not yield. I will let him respond later if he wants to.

Mr. President, although this conference report sounds tough, it is not. Another example of this is the death penalty. Although the bill authorizes the death penalty for over 50 Federal offenses, the trial procedures make it extremely unlikely that the death penalty would ever be imposed. Furthermore, the habeas proposal contained in this report renders the death penalty meaningless since virtually no sentences will be implemented.

The House crime bill, as well as the President's bill, responded to some of the serious problems caused through application of the exclusionary rule. Both provide that when an officer acts in good faith compliance with the fourth amendment, any evidence obtained therefrom will be admissible as evidence in a criminal trial.

The conference report rejects this important measure and instead rolls back court decisions to the detriment of law enforcement and prosecutors. It substantially narrows the current good faith exception to the exclusionary rule. It is yet another provision which expands the rights of criminals.

Unbelievably, this report contains a broad provision which mandates automatic reversal of criminal convictions based on improper admission of a defendant's statements or confession at trial. This new rule applies even in cases where it is shown beyond a reasonable doubt that the error was harmless and could not have affected the outcome of the case. It overturns the Supreme Court case of *Arizona versus Fulminante*. This case involved a man who took his 11-year-old stepdaughter into a desert, choked her, sexually assaulted her, and then shot her in the head after forcing her to beg for her life. According to the Department of Justice, the result of this procriminal provision will be the release of an untold number of murderers like Fulminante. The decision of the Democrats to include this measure in their bill reflects an arbitrary determination to free criminals solely on the basis of technicalities.

If convicted criminals are unable to avail themselves of this bill's new loopholes to overturn their convictions, this bill still lets them out of prison early. Believe it or not, this bill reduces the sentences of violent offenders if they participate in drug treatment programs.

This report also drops several provisions aimed at fighting sexual violence and increasing victims' rights. It also drops several mandatory minimum penalties. Mandatory restitution re-

requirements for victims of rape, child molestation, and other crimes were dropped. Finally, mandatory HIV testing for rapists was dropped.

Mr. President, a few weeks ago, a young mother named Pamela Basu was brutally murdered in suburban Maryland when she was dragged to her death by two young men who stole her car. It was a heinous offense which focused the Nation's attention on the need to crack down on depraved killers. Yet, if this conference report becomes law it will impede the investigation and prosecution of this and other cases. For example, her assailants apparently confessed to the crime. Yet, if convicted, the admissibility of confessions provision contained in this bill could be asserted to overturn their convictions regardless of whether there was other overwhelming evidence of guilt. Critical evidence proving the killers' guilt was discovered at the scene of the crime. Yet, the type of change to the exclusionary rule this bill proposes could result in the evidence being thrown out or their convictions overturned on mere technicalities. Finally, Maryland has the death penalty. This bill's habeas corpus provision will certainly play a role in whether the death penalty is even sought. Even if the prosecutors seek the death penalty and a jury sees fit to impose it, this bill's habeas corpus proposal will virtually guarantee that the sentence will never be carried out.

Mr. President, I have discussed the Basu case to make a point that these procriminal provisions are real. These will affect real cases where men and women have been murdered or assaulted. Given the violent crime crisis we now face, can this Congress afford to pass a bill which will expand the rights of criminals? The measures I have discussed have the potential to affect virtually every single violent crime investigation and prosecution in this country. Long after all of the additional money authorized by this bill runs out—if it is ever appropriated—the procriminal provisions contained in this bill will still be on the books. As a result, more criminals will walk free, more violent offenders will have their convictions set aside on mere technicalities, and more victims will be outraged. This bill furthers the liberal agenda where technicalities take precedence over the issue of whether a criminal is actually guilty of the crime he has been convicted of. No, Mr. President, this is not a tough crime bill.

In closing, many of the supporters of this conference report have stated that we oppose this report because it contains the Senate-passed Brady language. Yet, a fact that seems to have been missed by my colleagues is that, while I am the Senator leading this opposition, I am also one of the Senators who voted in favor of the Senate-passed Brady provision. The notion that I

would oppose a bill simply because it contains this provision is wrong.

The Senate must not permit this bill to pass. It is a bad bill. It is a bad deal for victims, law enforcement, and the other good people of America. I urge my colleagues to vote against cloture on the conference report.

The PRESIDING OFFICER. The chair informs all Senators that the Senator from South Carolina has 20 minutes remaining. The Senator from Delaware has 7 minutes remaining.

Mr. THURMOND. I reserve the remainder of my time.

Mr. BIDEN. Mr. President, I ask unanimous consent that we be able to extend the time for debate by 10 minutes to be equally divided.

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

UNANIMOUS-CONSENT REQUEST

Mr. BIDEN. Mr. President, I yield myself 30 seconds.

Mr. President, assume what the Senator from South Carolina says is correct, and I disagree with it all. But if he is correct, I stand here now and I ask unanimous consent that we remove from the conference report all provisions relating to habeas corpus and all provisions relating to Fulminante.

The PRESIDING OFFICER. Is there objection? The Senator from South Carolina.

Mr. THURMOND. Mr. President, the need to enact true provisions on habeas corpus is extremely important. We cannot pass a bill without a tough, strong habeas corpus reform proposal. That is the main trouble with the death penalty now.

For instance, in my State a man was on death row for over 11 years—

The PRESIDING OFFICER. Does the Senator object? Does the Senator reserve the right to object and so does object?

Mr. THURMOND. Yes. I object, Mr. President.

Mr. BIDEN. Mr. President, I yield myself an additional 30 seconds.

Mr. President, as we say in other forums, I think the answer speaks for itself.

You just heard why. You heard this whole long speech. The reason why this is a procriminal bill is because of habeas corpus and Fulminante. I said let us drop it. Guess what—what does that leave? What is it that they do not like?

Mr. President, sitting in the gallery are those police officers I talked about. One I left out was Bud Meeks, the head of the Sheriffs Association. I have never known them all to be grouped as a bunch of whacko liberals. I ask you to ask yourself this question. I say to my colleagues: Why, if this is procriminal, does every single police organization of America—not only support it but badly want it?

I yield to my friend from Tennessee, who I thank so much for canceling three major State engagements today

to come back here because he felt this was so important.

I thank him for that and I yield him 4 minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. GORE. Mr. President, I want to thank the distinguished chairman of the committee for yielding me time. May I say in response to his kind comment that there was no question in my mind about being here for this vote. This is one of the most important votes of this entire session of Congress.

We have seen records for violent crime in each of the last 2 years—1990 set a record, 1991 set another record. And the Senator from Delaware has worked for an incredibly long period of time, with great skill and energy, with police officers all across this country and experts on crime all across this country, to come up with the toughest crime bill ever to come before the Congress of the United States.

It has to rise above politics. This is a measure that has to be passed.

So I am very pleased to be here. I will just say, very clearly, that I think a vote against this bill is a vote to refuse to help police officers across this country deal with the worst crime epidemic this Nation has ever seen.

This bill does what is needed. It ought to have strong bipartisan support because all of the provisions in this bill will go right down the drain unless we can get enough support from the other side of the aisle to help pass this legislation.

Another 71,000 Americans were murdered during the first 3 years of the current administration. That is not the fault of the administration. But the failure to do anything about it is the fault of the administration.

The chairman of this committee has been working diligently to put together a bipartisan coalition and craft a bill that will be extremely effective in dealing with this matter. By the end of this 4-year period, over 90,000 Americans will have been murdered. We are all familiar with how that compares on a per capita basis with every other nation in the world. What are we going to do about it? Murder, armed robbery, rape. There were over 100,000 reported rapes in the United States last year, and the experts tell us that for every 1 that was reported, there were another 6 that were not. When are we going to do something about it?

Crime among kids is escalating dramatically on any given day. And 135,000 children carry a gun into the classroom. Have you met with schoolchildren lately in some of the cities of this country and asked them: How many of you have been personally fearful of a loaded gun in your classroom? How many of them raised their hands? Sixth, seventh, eighth graders, ninth graders, tenth graders. What are we coming to when we can have a situation like that and no response to it?

Last year, more than 2,200 kids were murdered. The murder toll among such children is rising more than twice as fast as the overall total. And now among children in cities, do you know what the number one cause of death is? Murder. And we are sitting here debating these provisions that allegedly lead to the objections, and we say OK, we will take them out of the bill, and they say: No, no, no, we have some other problems.

The violent crime arrest rate for youth between 10 and 17 held fairly steady between 1980 and 1987, but it has risen dramatically during the last 3½ years.

This legislation provides an effective response to the crisis of crime in America. It provides the largest assistance ever to local police officers all across this country, major new funding for prosecutors and local police, increased penalties for crimes involving firearms, and the largest expansion of the Federal death penalty in the history of this country, including death penalty for drug kingpins, for the murders of law enforcement officers, for drive-by shootings and for terrorist killings and, yes, the Brady bill, a 5-day waiting period for handguns until an instant check system to prevent felons from getting their hands on guns is in place.

I was very pleased to work closely with the chairman of the committee, and with the majority leader, and with others to craft a compromise provision that I think is balanced and extremely effective. But it has more as well: New boot camps, and regional prisons to house drug offenders, new antigang, and rural crime programs, new antichild abuse measures, and much more.

Where the assistance to local law enforcement officers is concerned, this legislation will add 10,000 police officers and prosecutors to our streets and courtrooms in cities all across the United States. That is real help. That is a real response. That is an effective set of measures to do something about this problem.

By sharp contrast, the administration has proposed deep cuts to State and local law enforcement. They would remove 1,000 police officers from the frontlines under the provisions this President has sent to the Congress.

We want to go in the other direction. Military style boot camps as I said, drug treatment prisons, and other law enforcement programs will house 40,000 Federal, State, and local offenders. The drug emergency areas program will put 2,000 more police on the streets within that program, and 60,000 more drug addicts in treatment in the areas most ravaged by drugs and crime.

The police corps program is in this bill. That, too, will go down the drain unless we get enough votes from the other side to get the number we need

to pass it. The police corps program would recruit more than 20,000 young police officers to help beef up our war against crime.

This bill also has prison based drug programs that will treat more than 90,000 drug addicted State and local prisoners; aid to rural areas that will treat 10,000 hardcore addicts; antiyouth gang efforts to provide alternatives such as boys and girls clubs in hundreds of public housing projects. And, finally, Federal law enforcement will be boosted in this bill by 400 more DEA agents, 20 new State and local task forces, 1,000 more FBI agents, 900 more agents attacking the flow of drugs through our borders, and 350 more Federal prosecutors.

I plead with my colleagues on both sides of the aisle, pass this bill. Let us get tough with crime. This is the toughest anticrime bill we have ever had a chance to vote on. Do not play politics with it. Let us have a bipartisan vote to pass it.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. KOHL. Mr. President, I rise today to urge my colleagues to vote for cloture on this strong, balanced anticrime package crafted by Chairman BIDEN and others. This measure will create tougher laws, put more police on the street, and result in greater certainty of punishment. Moreover, it includes the Brady bill, which would help keep guns out of the hands of criminals and drug traffickers, and provide a cooling-off period for gun purchasers consumed by violent passion. It is undoubtedly the last clear chance we have this year to pass this crucial measure.

Six weeks ago a 15-year-old honor student named Alain Clamaco was shot to death outside his Northwest Washington home during the middle of the afternoon. He was shot five times—once in the head, twice in the chest, once in the right arm, and once in the back side. At the time of his death, he was mowing his lawn. He was not robbed; he was not assaulted; he was not carrying a weapon; in fact, he had no previous contact with the assailant—Sean Lee Qualls. It was a brutal, unprovoked act of violence. When homicide detectives asked Sean Lee Qualls why he shot Alain Clamaco, he told them it was because he "had an urge to do it."

This motive bears repeating: Sean Lee Qualls killed Alain Clamaco simply because he "had an urge to do it."

Many of us watched the family and friends of Alain Clamaco on television. We understood their grief, their loss, their feelings of helplessness. We understood it because the sad truth is that similar tragedies occur across America every day.

And while we did not see or hear or read much about the family or friends

of Sean Lee Qualls, we should feel saddened for them as well. Why? Because Sean Lee Qualls, a disturbed young man and drug abuser who should have never had a gun in the first place, is going to go to jail—as he should—for a very long time.

Of course, there is no panacea for the senseless violence. We all know that we need tougher laws; more police; more certainty of punishment. And, of course, nothing that we can do will ever make Alain Clamaco's family whole again. But there is a crucial step we can take now to reduce at least some of the carnage: We can enact the Brady bill.

Mr. President, more than 15 months ago the majority leader, AL GORE, and I took the original Brady bill and combined it with the best elements of the so-called Staggers amendment. Our compromise measure has three major components: A mandatory background check for all firearm purchases; a uniform 5-business-day waiting period for handgun buys that would remain in effect for at least 2½ years; and \$100 million for States to upgrade their computerized criminal history records.

The Mitchell-Kohl-Gore amendment enjoyed broad support: It was endorsed by everyone from Ronald Reagan to Bill Clinton and from HOWARD METZENBAUM—who has tirelessly led the fight in Congress for sane handgun laws—to the minority leader. Our amendment passed the Senate by an overwhelming 67-32 margin more than a year ago.

Yet during this same year—while Congress and the President remained at an impasse over the crime bill—firearms violence continued to rage in our cities and on our streets. In Killeen, TX, a troubled young man drove his truck into Luby's Cafeteria, pulled out his semiautomatic, sprayed pistol fire at a lunchtime crowd, and killed 23 people. At the University of Iowa, a deranged student, distraught over his failure to win an academic award, killed six people with a .38 caliber revolver. And last spring Los Angeles erupted, leaving more than 50 dead. All in all, in the 450 or so days that the President has played politics with the Brady bill and the crime bill, more than 17,000 Americans have been murdered by firearms.

Indeed, it may be more dangerous to live in a major American city than to serve our country in a foreign war. Fewer than 300 Americans died during the Persian Gulf conflict, but 482 people were murdered last year in Washington, DC, alone.

I am not saying that all of these tragedies would have been averted had we enacted the Brady bill, but I am sure that at least a few of these lives would have been saved. And don't take my word for it, ask the NRA. It supports mandatory background checks, which the bill would impose. And in the past it has even endorsed a waiting

period. According to its 1976 publication entitled "On Firearms Control":

A waiting period could help in reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring weapons.

The NRA was right then; it is wrong now.

Mr. President, the measure before us gives Congress a chance to do something about this carnage. Chairman BIDEN has worked hard for this legislation; I will support it; and I hope it is signed into law.

But I want to make one more point to my colleagues who believe they can filibuster the crime bill as a way of stopping Brady: that strategy will fail. The Brady bill has the support of 90 percent of the American people and the endorsement of every major law enforcement organization. In the end, it is going to pass the Senate and it is going to become law. If not today, then tomorrow; if not tomorrow, then next week; if not next week, then next year.

Why? Because America will not sit still while criminals and drug traffickers continue to purchase much of their firepower over the counter. Just open your newspaper or turn on your TV and you will discover this sad fact: Never has the need for the Brady bill been so pressing and the consequence of its absence so regrettable.

So as votes are cast, consider this choice: Do you want to enact the Brady bill as a free-standing measure—or do you want to combine it with the death penalty, habeas corpus reform, and other tough criminal law provisions?

Mr. President, I urge my colleagues to vote for cloture.

Mr. GRASSLEY. Mr. President, if General Douglas MacArthur were here today, he might say, "Old crime bills never fade away; they just die." I had hoped that this crime bill would just fade away. The conference report has been forgotten, a relic of a conference committee that took the weaker version of Senate and House crime provisions. But instead of letting it fade away, this bill continues to be considered, despite the fact that it has no chance of ever becoming law.

This bill was a bad bill in November. It was a bad bill when it was killed earlier this year. And it is still a bad bill. The continuing crime spree across our country are much too great a match for the weak provisions of this bill.

A serious crime bill would not contain a weak exclusionary rule provision. If police act in good faith, the exclusionary rule will not deter police misconduct. This bill actually creates exceptions to a police officer's ability to rely on facially valid warrants, and will lead to unnecessary disputes regarding the warrant.

A serious crime bill would not contain weak habeas corpus provisions. This crime bill would expand opportunities for criminals to challenge their

convictions. And it would allow them to raise arguments from decisions that had not even been handed down at the time of their convictions. Habeas petitions take too long now; expanding the ability to file habeas petitions can only reduce the finality of judgment and show further disregard for victims of crime and their families. Moreover, the capital punishment provisions of this bill are illusory because of the bill's expansion of habeas availability.

The American people want action on fighting crime, not a charade that actually expands the rights of criminals. This bill is not worth voting on.

Mr. DOLE. Mr. President, my remarks will be short. We have been over this time and again.

And let me just say that I appreciate Senator BIDEN's offer to begin amending this bill on the floor, but it comes a bit too late.

The time to amend this bill was in the conference committee, and instead of asking for the help of Senator THURMOND, the administration, or any other Republican, the Democrat Majority rammed a bill through without any input from our side of the aisle.

Now that is their right. They have the majority. But part of being in the majority is taking responsibility for their actions.

So they have to take responsibility for taking a strong Senate-passed anticrime bill, and a strong House-passed anticrime bill and turning them into mush.

Go on down the line, from habeas corpus to the death penalty, and you will find that in almost every instance, the conference committee reported out the weakest provisions possible.

And, as others have said, just as important as what the conference bill contains is what it does not contain. Seventy tough, no-nonsense anticrime provisions were stripped from the bill.

For some reason that still escapes me, those provisions included a whole series of ones which increased penalties on those who assault women. These provisions included a doubling of maximum penalties for recidivist sex offenders, and HIV testing of defendants in sex offense cases with disclosure of test results to victims.

Mr. President, the sad fact is that Senator GORE and others would rather play the blame game, than sit down in good faith to negotiate a true anticrime bill which would help the American people.

Mr. SIMPSON. Mr. President, this conference committee report is a criminal rights bill, not a crime bill.

As I said on the floor 2 nights ago, President Bush has agreed to a crime bill compromise that was first suggested by a Democrat—but that it was the majority party—the Democrats—who later refused that compromise.

That compromise did have the Brady bill included as a part of it.

It is not the Republican Party or our fine President of the United States who is obstructing this process.

It is the majority party.

Today, we are going to be voting for the second time on whether to invoke cloture on motions to proceed to the conference committee bill. This is pure partisan politics, not legislating.

The series of votes we are having today are being used by the majority party—the Democrats—in a well orchestrated attempt to mislead the public and to shore up Governor Clinton's diminishing lead in the polls.

Let us not forget what we are about here.

Two nights ago, I introduced into the RECORD a copy of the letter from Attorney General Barr accepting a compromise on the crime bill—a compromise which included the gun control. Senator THURMOND has outlined that compromise today. It was once again rejected by our Judiciary Committee chairman.

The conference committee report is a compilation of the worst provisions from the respective Senate and House versions of the crime bill. It includes the worst habeas corpus provisions, the worst of the exclusionary rule provisions, the worst imaginable provisions regarding so-called coerced confessions. And, Mr. President, it incorporates the worst of all the various versions of the so-called Brady bill. That provisions, which the majority introduced separately this week, was not even close to the Dole-Mitchell compromise passed by the Senate.

My record is clear on the gun issue—I have always opposed gun control. My opposition to that shallow solution to crime control is especially dogged when the so-called solution—this conference committee bill—itself is nothing more than a shell of empty promises and it also expands, rather than restricts, the opportunities for criminals to abuse our system of justice.

Let's make no mistake about this: This debate and this cloture is about purely partisan politics. It is an attempt to pump up the Democrats' efforts to take over the White House by misleading the American public.

For over 2 months now, our leadership has been calling upon all Members to come forward with amendments to various bills in a timely manner and to move the appropriations bills promptly so that we can adjourn by October 3. Instead, we are engaging in this exercise—an exercise to generate the stuff for more 30-second spots and election year hype.

Instead, we will dedicate most of today to debating at least three separate motions to invoke cloture on matters that will not become law. In this case, we are rehashing a debate that the Senate has visited twice in the past year—first when the conference committee bill was railroaded through conference, and again a few months ago.

This conference committee bill is a total loser, Mr. President.

The Senate has already recognized that fact twice now. The American people are not being well served this day.

Mr. THURMOND. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Delaware has 1 minute. The Senator from South Carolina has 25 minutes.

Mr. THURMOND. Mr. President, I hold in my hands a letter written to the President of the United States on this very subject by 31 attorneys general; 15 are Democrats, 16 are Republicans. Here are their signatures, signing this letter, opposing this provision, opposing this bill.

I repeat, 31 States' attorneys general—16 Republicans, 15 Democrats—wrote President Bush strongly urging him to veto any bill which contained the habeas corpus provision as contained in this conference report.

They wrote that "any bill containing this weak proposal cannot be described accurately as an anticrime bill but would instead be a procriminal bill and particularly a proconvicted murderer bill." That is what the attorneys general of the States say about it.

Are we willing to listen to them? They are responsible for law enforcement in every State.

Now, the National Association of Attorneys General overwhelmingly passed a resolution urging President Bush to veto the conference report because it adopts provisions that weaken existing law. And here is what they said: "It broadens the range of circumstances in which the convictions of criminals will be reversed."

We certainly do not want to do that, and that is what this conference report does.

The National District Attorneys Association wrote that the conference report "does far more to advance the interests of convicted criminals than it does to protect the law-abiding citizens. In fact, passage of this bill is tantamount to handing the jailhouse keys to thousands of convicted State and Federal prisoners."

They urge the Senate "to reject this poor excuse for a crime control bill."

Now, who was I talking about? I was talking about the National District Attorneys Association that is all over the country—all the States. They went on record urging the President not to sign this bill and stating how dangerous it is.

Twelve Democratic district attorneys, 12 Democratic district attorneys alone wrote a separate letter urging that the conference report be vetoed—12 Democratic district attorneys wrote a separate letter in addition to joining in on the other, "because it contains provisions which would hamstring our efforts to combat crime." That is what they said. Do we want to pass a con-

ference report that will hamstring our efforts to combat crime? That is what the Democratic district attorneys said.

The Conference of Chief Justices, which represents the chief justices of our State supreme courts, oppose the habeas reform contained in the conference report because this is not true reform.

Now, that is the Conference of Chief Justices of the Nation—Conference of Chief Justices—the top judge in every State in the Nation, chief justices. They wrote opposing this matter. Who are we going to listen to?

Numerous victims organizations—and these are the people who have suffered; these are the victims who have suffered from criminals—have written letters opposing the conference report stating that "a vote for the cloture motion is a vote against crime victims. We support S. 2305." And that was the Republican proposal.

"We oppose the conference report." These are the victims of the Nation, people who have been robbed, people who have been raped, and people who have had assaults committed upon them. These victims organizations have gone on record as opposing this conference report.

Attorney General William Barr opposes the conference report stating that the conference report has "let down law enforcement, let down victims, and let down those in Congress who have voted for tough anticrime measures." The Attorney General of the United States. Is the Congress going to listen to him any? Attorney General Barr, what does he say? It lets down law enforcement. It lets down victims. It lets down those in Congress who have voted for tough anticrime measures.

The attorney general of California, for instance, and every single one of that State's 59 district attorneys wrote the Congress urging that this conference report be defeated. They wrote that the measure "provides convicted murderers more opportunities to challenge their convictions instead of less, forces victims and their families to endure more delay and litigation, and makes it more difficult for law enforcement to obtain finality in our criminal justice process."

Now, Mr. President, who are we going to listen to? These are the officials responsible for law enforcement—the attorneys general and all these people.

I want to quote this letter from the National District Attorneys Association. This is written to Honorable GEORGE MITCHELL, Honorable ROBERT DOLE, Honorable THOMAS FOLEY, and Honorable ROBERT MICHEL.

Mr. President, before I do this, how much time do we have remaining?

The PRESIDING OFFICER. The Senator has 15 minutes 15 seconds.

Mr. THURMOND. I yield 5 minutes to the distinguished Senator from Idaho.

Mr. CRAIG. I thank my colleague for yielding.

I stand in strong opposition and urge a "no" vote on the cloture motion as it relates to the crime bill conference.

Mr. President, let me speak specifically to a point in this crime bill that is open, often discussed, and found very contentious by many people. That is the issue of a 5-day waiting period on the purchase of a firearm and the instantaneous background check that is proposed within this legislation.

The reason I believe we ought to vote in opposition to cloture is that provision, yes, but, more importantly, language that was put into the conference, Mr. President, that the Senate never voted on and that the House never voted on, new language that no Senator unless he or she has read the fine print of the crime conference knows about.

Let me talk about it for a few moments, because what I am talking about is legislation that the chairman has blinked on and suggested that we can violate civil rights or that we can allow law enforcement officers in this country to violate the civil rights of American citizens and get away with it.

Now, we saw a city burn because it appeared that law enforcement officers had violated the civil rights of Rodney King. We saw a city go down in ashes and a Nation erupt because civil rights were apparently violated.

Let me read the language. "A law enforcement officer or other persons responsible for providing criminal history, background information pursuant to this subsection shall not be liable in an action at law for damages for failure—for failure—to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section."

In other words, if they choose to arbitrarily not find the necessary information or cause information not to flow during this background check period that would clear that individual, they are not liable. They are not within the law. They do not have to adhere to the civil rights of that citizen under the Constitution.

Now, I do not know another law of the land we would want to support that would arbitrarily deny someone their civil rights, even as onerous as some of us may believe those rights to be.

I know that a lot of people do not believe in the second amendment rights to our Constitution or they believe that they are malleable or that we can adjust them or change them around a little bit. I disagree with that. I think those rights are absolute. But here we are saying to the law enforcement community, you can blink. We are saying to the local sheriff or the chief of police, if you really do not want guns in your community, you can find a way to disallow it through this method.

Another provision says neither a local government nor any employee of the Federal Government or any State or local government responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages for failure to prevent, for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

"There may be a lot of ways to interpret it. I have given you my interpretation. It so happens that attorneys—and I am not one—who are professionals in this area, who hold themselves up to be experts in this area of the law, say that this Senator is absolutely correct.

That is why, Mr. President, we did not vote on this provision in this Senate. That is why the House never voted on it. That is why staff people got together in the conference and conjured up their neat idea that said, "Here is another avenue for disallowing the process to work."

So, in other words, a 5-day waiting period under this law, and a national instant background check under this law, says to those who are responsible for carrying the law out, "If you fail in your actions, you are not liable," and a failure enacted is a denial of a civil right in this country, a constitutional right under the second amendment.

That is why I am in opposition. But I thought our Senators really ought to know what the fine print says. Sometimes it is not wise to read the fine print of a conference report.

But let me suggest that, in the closing days of this session as we are in a rush to get out of here, is it not interesting that we have had so many opportunities to bring up this conference report, and now that Senators are anxious to go home to campaign, it is now time to pass it. It is now time to get it out. Let me suggest, Mr. President, that you and I do not want to intentionally create a law that allows law enforcement officers to act, without liability, to violate the civil rights of the citizens of this country.

A yes vote would do just that.

Mr. GRAMM. Mr. President, I yield myself 10 minutes.

Mr. President, I want to go back to the beginning and basically give a summary of how we arrived where we are and what the choice is. This issue has been debated many times. Rather than debating it all again, I just want to hit the high points.

First of all, 1,237 days ago today the President asked Congress to pass the Nation's toughest and most comprehensive crime bill. That crime bill reinstated a workable death penalty at the Federal level, had over 70 strong law enforcement provisions related to minimum mandatory sentencing and other anticrime measures, sought to end the endless delays in carrying out justice, sought to eliminate the situa-

tion where violent criminals walked the streets because of a technical error in filling out reports, and, in fact, sought to deal with a crisis that faced our bleeding nation as criminals preyed off the health, happiness, and lives of other citizens. That was 1,237 days ago today.

Today, we have yet to pass such a crime bill. We have certainly not passed the President's bill, and we are today looking at a conference report on a product that is totally different from the President's bill.

When we considered the crime bill in the Senate, we adopted many provisions, including 52 tough anticrime provisions. But when the Democrats who run this committee in the Senate and the Democrats who run the committee of jurisdiction in the House met together and wrote the final bill, they dropped some 70 House and Senate provisions that were aimed at grabbing criminals by the throat and not letting them go to get a better grip. I do not want to go through the whole 70. I have done that on another occasion. I simply want to talk about three.

I offered on the floor of the Senate the requirement that, if you are convicted of selling drugs to a minor, no matter who your daddy is or how society may have done you wrong, if you are convicted in the Federal system, you are going to the Federal penitentiary, and you are going to serve every day of 10 years in prison.

The second part of the amendment was, if you got out of prison and you did it again, if you went back and sold drugs to a child again, you got life imprisonment without parole. That amendment was adopted on the floor of the U.S. Senate. That amendment was dropped in conference and is not in this bill; that amendment and 69 others like it.

Another provision that was part of this bill was the so-called three-timer loser provision. What it said is, if a criminal goes out and commits a violent crime or a drug felony, not once, not twice, but three times they are convicted of a violent crime or a drug felony, we decide that maybe the time has come to protect society by putting this person in prison for life.

That amendment was offered on the floor of the Senate, and it was adopted by the Senate. But what happened to it? That provision and 69 others like it were dropped out of this bill in conference.

Amendments were offered to deal with guns, to deal with violent criminals who use guns. The amendments said, if you possess a firearm during the commission of a violent crime or a drug felony, whether you use the gun or not, you are going to prison if you are convicted of possessing that gun independent of the crime you commit other than having the gun, you are going to prison on the gun violation for

10 years, and you are going to serve every single day of 10 years in prison.

If you fire the firearm in the commission of a violent crime or drug felony with the intent to do bodily harm, the amendment says you are going to prison, not 10 years, but 20 years, and you are going to serve every single day of 20 years in the Federal penitentiary.

The amendments further said, if you kill somebody with a firearm during the commission of a violent crime or a drug felony, at a minimum, you are going to spend the rest of your life in prison with no parole, and, in aggravated cases, you are going to be put to death.

Guess what happened to those provisions? The provisions I offered here on the floor of the Senate were adopted overwhelmingly, and yet when the bill came back from conference, they and 67 other provisions were dropped from this bill. In fact, if you go through the Senate bill and the House bill and you look at each one of those bills, almost every grab the criminal by the throat provision was dropped and every soft provision was maintained.

I want to go back over—I know our dear colleague from South Carolina did it once. But I want to be sure that people understand that this bill is not an anticrime bill. You don't have to take just my word. You also have the word of the Senator from South Carolina.

Might I say, Mr. President, I do not know of any man in America who is more committed to protecting law-abiding citizens and grabbing criminals by the throat than our distinguished colleague from South Carolina. I want to thank him for his leadership on this issue. I want to express to him my disappointment that we do not yet have the crime bill that the American people want and need.

When this bill that is before us came out of conference and came to the floor of the Senate for a vote, 31 State attorneys general, 16 of them Republicans and 15 of them Democrats, wrote the President urging him to veto this bill. In fact, the National Association of Attorneys General overwhelmingly passed a resolution urging the President to veto this bill. Let me just read a few things they said.

They said: "This bill weakens existing law, broadens the range of circumstances in which convictions of criminals will be reversed." And then in the letter that they wrote about the bill, they said the following things: the bill "does far more to advance the interests of convicted criminals than it does to protect the law-abiding citizens. In fact, passage of this bill is tantamount to handing the jailhouse keys to thousands of convicted State and Federal prisoners." They go on to say: "Reject this poor excuse for a crime bill."

Mr. President, I cannot understand why we cannot have bipartisanship in

passing a crime bill. I know an effort has been made. I know the distinguished chairman and Senator THURMOND sat in meetings for months trying to work out a crime bill. I am not trying to impugn the efforts that anybody has undertaken. A lot of good people tried to get something done. The bottom line is that it did not get done. We have before us a bill that is not an anticrime bill, but a bill that actually, in an incredible move, overturns some 22 Supreme Court decisions that, in the last 30 years or so, have strengthened law enforcement.

Mr. President, what are we doing in the name of a crime bill overturning court decisions that have strengthened law enforcement? We ought to be passing laws to help the cops on the beat who are trying to protect law-abiding citizens.

So there is only one way we can get to that: Reject this conference report, and then let us, even in the waning hours of this session, sit down and try to work out a real anticrime bill.

I urge my colleagues to vote no.

Mr. THURMOND. Mr. President, I yield 2 minutes to the Senator from Washington.

Mr. GORTON. Mr. President, our good friend and distinguished Senator from Delaware, the chairman of the Judiciary Committee, I regret to say, made a number of mistakes in connection with the bill which is before us now.

I believe his primary mistake to have been his failure to represent the position carefully thought out and voted upon over an extended period of time by the Senate, with respect to the most controversial issues connected with this bill.

Not only did he fail to represent that position, but he excluded the administration and Members of the Republican Party from any effective voice in writing this proposal. And it is presented to us on a take it or leave it basis. He can hardly expect the support of those who have been excluded from the process and whose views, when they were the views of a majority here in this body, have been ignored and rejected.

Most particularly, in the view of this Senator, he made a terrible mistake in rendering appeals and habeas corpus petitions on behalf of convicted persons more and not less complicated. He has reversed numerous decisions of the Supreme Court of the United States, which lead to both finality and to justice. As a consequence, he has the opinion of the National Association of Attorneys General, an organization of which this Senator was once President, who very substantially opposed to this bill, as not being one which improves the criminal code but which inhibits the search for justice.

For those reasons, regrettably, this cloture motion should be defeated, and we should start over again with a clean slate next year.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from South Carolina has 1 minute, 23 seconds. The Senator from Delaware has 58 seconds.

Mr. BIDEN. Mr. President, I have been authorized by the leader to use up to 3 minutes of his leader time. So I assume I will have 3 minutes, 58 seconds.

I will respond to the last comment made.

Mr. THURMOND. Mr. President, I want to ask a question. Can someone else use the leader time, or do the leaders have to use it?

The PRESIDING OFFICER. The leaders are authorized to use their time, but the time can be used by others.

Mr. THURMOND. Would he have to be here to authorize that in person?

The PRESIDING OFFICER. The practice of the Senate is for the leader to be able to authorize it and for other Senators to be able to make that assertion without the leader being present.

Mr. THURMOND. We have already extended the time 10 minutes, I believe. We are ready to vote as soon as we can. How did the Chair rule on that?

The PRESIDING OFFICER. That the Senator from Delaware has 3 minutes of the leader time and 58 seconds of his own.

Mr. BIDEN. To my friend from the State of Washington, this legislation has had the most sought after views and effort of any piece of legislation anyone has ever had up here. I have met literally, over 300 or 400 hours, with every single Republican who wished to meet with me, with 16 different Republican Senators, 12 in the leadership office with Senator DOLE, with every single police organization in the country, with the leaders of the National District Attorneys Association, with the people sitting right here, with the Attorney General himself, personally, and with his representative for more time than the Senator from Washington has ever been near the Justice Department. I guarantee you that no piece of legislation has had the views of the U.S. Senate more than this one, No. 1.

No. 2. My friend from Texas, Senator GRAMM, says that he is disappointed that his tough gun provisions and sentencing did not get in. He did not mean it, probably, but his legislation weakened the gun law, because he allows increased penalties to run concurrent with other sentences. The Federal Sentencing Commission points out that the Senator's position weakened the penalties on gun laws, because they run concurrently and do not run as they do now, which is that you get convicted of one crime, of a gun crime, and it gets laid on top of your first conviction.

No. 3. Mr. President, you heard all this talk from the attorneys general

and others, allegedly, disregarding that all of the police officers and their organizations support this crime bill—every single one. If that is the concern, I want my friend from South Carolina to listen, because I am about to propound a unanimous-consent request, if the concern is that habeas corpus is so terrible in this bill, and that is what weakens it and makes this a procriminal bill, because that is what the attorneys general say, nothing else, I point out to my friend from the State of Washington and my friend from the State of South Carolina.

UNANIMOUS-CONSENT REQUEST

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of a concurrent resolution to correct the enrollment of H.R. 3371, the crime bill, that would strike title II, the habeas corpus provisions, from the crime bill; that there be no debate or amendments in order on the concurrent resolution; that the Senate proceed to vote without any intervening action or debate on the adoption of the concurrent resolution prior to the vote on cloture on the adoption of the conference report.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Reserving the right to object, I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to ask my distinguished colleague whether he would be willing to accept a compromise that he reached with the Attorney General. That bill would include, as I understand—and we cannot amend a conference report, but we can introduce another bill today, if he will agree.

Mr. BIDEN. Mr. President, is there objection to my unanimous-consent request?

The PRESIDING OFFICER. Is there objection?

Mr. SYMMS. Reserving the right to object, until we know more about what it is, yes. If the two Senators want to work something else out, I object now, and I will suggest the absence of a quorum.

Mr. THURMOND addressed the Chair. The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I ask my distinguished colleague this: You worked with the Attorney General on the bill, and we understood you reached an agreement.

Mr. BIDEN. Not so.

Mr. THURMOND. He says you did.

Mr. BIDEN. No, he does not.

Mr. THURMOND. We will go from here. Would you agree that you and I introduce another bill today—listen now—that would include the Senate passed Brady provision, the administration's death penalty, no exclusionary rule, the power to make a habeas

corpus proposal, and all the money for law enforcement. Would you agree to join me in introducing such a bill today?

The PRESIDING OFFICER. The time allotted to the Senator has expired. The Senator from Delaware has 1 minute and 10 seconds.

Mr. BIDEN. The answer is "no."
Mr. THURMOND. There you go. I knew that would be the answer.

Mr. BIDEN. Mr. President, with the remaining time I have, the Attorney General and I reached no agreement on that. I never said we reached an agreement on that, No. 1, and No. 2, I want to point out that last night the police mediating the agreement of the Attorney General and me to reach a compromise in this reached the solution and came up like mediators do with a proposal. We agreed to pursue it. The Attorney General concluded he could not live with it. Therefore, the old sticking point is habeas corpus. I agreed to drop it out, if it is so bad. It is not so bad. But I did it anyway. If it is so bad drop it out of the bill. I made that proposal. Within the rules I am able to do that. Obviously, they did not want to do that.

This is all about guns, Mr. President. We have 55 to 57 votes for this. We have been prevented for 300 days. There has been a filibuster to prevent us from voting on a tough crime bill.

I yield back my time.
Mr. THURMOND. Mr. President, I understand the time out.

I ask unanimous consent to print two letters here from the Attorney General in the RECORD confirming that agreement.

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

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, September 25, 1992.
Hon. JOSEPH R. BIDEN, JR.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you outlined with me orally Wednesday night, and as further discussed yesterday, the following are the elements of a possible compromise crime bill:

1. The President's death penalty provision (set forth in the Gekas amendment passed by the House this Congress) plus a provision on jury instructions—attached at Tab A;
2. The Powell Commission habeas corpus provisions (set forth in the Hyde amendment passed by the House in 1990);
3. Your authorization provisions (see attachment at Tab B) plus the equal funding for habeas provision (section 208 of the conference report) as you and I discussed;
4. The Mitchell/Dole waiting period provision from the conference report (Title V Subtitle A) with proposed new section 18 U.S.C. 2222(a)(7)(B) deleted, so that proposed new section 18 U.S.C. 2222(a)(7) now reads:
“(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages for failure to prevent the sale of transfer of a handgun to

a person whose receipt or possession of the handgun is unlawful under this section.”; and

5. No other provisions will be included in the package unless mutually agreed upon by us.

This letter will confirm, as you were told yesterday, that this package would be acceptable to the Administration.

Sincerely,
WILLIAM P. BARR,
Attorney General.

COMPROMISE LANGUAGE ON IMPOSITION OF DEATH PENALTY

On page 30 of S. 2305, line one, after “factors,” add the following:
“In weighing aggravating and mitigating factors, the jury, or if there is no jury, the court, shall consider both statutory and non-statutory mitigating factors, and any member of the jury who finds the existence of a mitigating factor and any member of the jury who finds the existence of a mitigating factor as provided in subsections (c) and (d) may consider the factor regardless of the concurrence or non-concurrence of other members of the jury concerning the establishment of the factor.”

On page 30 of S. 2305, line ten, after “warrants,” add the following:
“The jury shall be further instructed that the court will impose a sentence other than death that is authorized by law if the jury does not recommend a sentence of death. The jury shall be informed of the sentences other than death that are authorized by law for the offense or offenses for which the death penalty is sought, including the fact that life imprisonment without possibility of release is an authorized sentence.”

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1991 CONFERENCE REPORT TO ACCOMPANY H.R. 3371

Program	Authorization	Body	S. 2305
Brady bill	\$100,000,000	Senate	No.
National Child Protection Act (S 911)	20,000,000	do	Yes (S 741)
Safe Streets (S 1101)	1,000,000,000	do	Yes (S 901)
Drug Identification (S 1121)	2,000,000	House	Yes (S 1288)
DOJ Community Substance Abuse Prevention (S 1131)	15,000,000	do	Yes (S 1067)
Coop-On-the-Beat (S 1151)	150,000,000	do	Yes (S 961)
Drug Testing Upon Arrest (S 1161)	100,000,000	do	Yes (S 1054)
Midsouth Resettlement (S 1181)	2,850,000	do	No.
Juvenile Drug Trafficking and Gang Prevention (S 1191)	100,000,000	Senate	Yes (S 911)
Tampa Centers (S 1195)	50,000,000	House	Yes (S 955)
Alternative Punishment for Young Offenders (S 1198)	200,000,000	do	Yes (S 523)
Law Enforcement Family Support (S 1201)	5,000,000	do	Yes (S 933)
Poker Chips (S 1231)	100,000,000	Senate	Yes (S 935)
Law Enforcement Scholarships (S 1241)	30,000,000	do	Yes (S 942)
Federal Law Enforcement Agencies (S 1301)	345,000,000	do	Yes (S 1402)
DOJ	100,500,000		
FBI	92,000,000		
INS	45,000,000		
U.S. Attorneys	45,000,000		
U.S. Marshals	10,000,000		
DOJ	15,000,000		
U.S. Courts	23,000,000		
Federal Defender Service	12,000,000		
U.S. Attorney's Office	35,000,000	Senate	Yes (S 1284)
Drug Treatment in Federal Prisons (S 1404)	such sums	do	No.
Regional Prisons (S 1405)	700,000,000	do	No.
Boot Camps (S 1406)	150,000,000	do	No.
Residential Substance Abuse Treatment for Prisoners (S 1421)	100,000,000	House	Yes (S 1063)
Mandatory Literacy (S 1422)	10,000,000	Senate	Yes (S 994)
Rural Law Enforcement (S 1501)	50,000,000	do	Yes (S 1054)

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1991 CONFERENCE REPORT TO ACCOMPANY H.R. 3371—Continued

Program	Authorization	Body	S. 2305
Rural Drug Enforcement Training (S 1504)	1,000,000	do	Yes (S 1053)
Rural Drug Prevention (S 1511)	25,000,000	do	Yes (S 1055)
Drug Emergency Areas (S 1507)	300,000,000	House	Yes (S 1061)
Missing Advertisers Payments (S 1701)	1,000,000	Senate	Yes (S 991)
Safe Schools (S 2301)	100,000,000	House	Yes (S 1289)

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, September 25, 1992.

Hon. JOSEPH R. BIDEN, JR.,
Chairman, Committee on the Judiciary, United States Senate, Washington, DC.

DEAR MR. CHAIRMAN: I received your letter of September 25. I must disagree with your recounting of events.

First, your statement that the Administration never showed any willingness to move beyond our first position on habeas is simply not true. We have come a long way. We dropped “full and fair” and court time limits.

I must also disagree with your characterization of our September 23 evening discussion as you merely offering to try to sell my best offer. On the contrary, we negotiated a package that we both agreed was an acceptable basis for compromise and would actively try to sell to our principals. In this context, you specifically agreed to accept “pure” Powell as part of the package. Further you insisted that we drop court time limits on habeas in return for the President's death penalty, which I agreed to.

It certainly was not my understanding that you would wait to hear back from me before discussing the compromise package with your colleagues. My recollection, as confirmed by your staff the next morning, was that we would both simultaneously try to sell this 4-point compromise to our principals. And I did that.

I certainly don't recall anything about a 12:00 noon deadline, and, in any event, I understand that Jim Baker placed his first call to you before noon and placed a second call at 12:30; these and further calls were not returned by you to Mr. Baker until late in the day. In any case, I cannot understand how a deal that would have been acceptable at 12:00 noon would not be acceptable shortly thereafter.

Your counterproposal seems to be a hardline retreat of positions you took much earlier in the negotiations. Your counterproposal on habeas is one that you know is unacceptable; it is precisely the same proposal that you acknowledged Wednesday afternoon could not be a basis for compromise.

I urge you to proceed with the 4-point compromise we crafted Wednesday night and which the Administration has accepted. It reflects a true compromise, and it is certainly the best chance to get any legislation passed. There is little doubt that, if the leadership permits a vote on this package, it would pass both houses by substantial margins.

I urge you to move forward with the package we agreed upon Wednesday night.
Sincerely,
WILLIAM P. BARR,
Attorney General.

Mr. BIDEN. Mr. President, I ask unanimous consent that the statements of Dewey Stokes, president, National Fraternal Order of Police, and Sarah Brady be printed in the RECORD.

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

[Transcription of Crime Press Conference, Oct. 1, 1992]
STATEMENT OF DEWEY STOKES, PRESIDENT, NATIONAL FRATERNAL ORDER OF POLICE
 Since November, when this went into what I call gridlock seventeen thousand people have died, many more wounded, and I asked the Congress, those Senators, to look in the eyes, the victims, the victims of these crimes. Sarah Brady is a victim of this crime. How can four of you deny two hundred and fifty-five million Americans, the right to bring about crime control and a crime bill that will stop some of the violence in America. How can you do that? Whoever you are, whether you are Republican or Democrat, you are elected to represent the people of the United States. At every poll, even the NRA poll of the membership, says we want the Brady Bill. We don't see any impediment. It does not deprive them of the right to own a firearm, under no circumstances. It gives us the right to make sure that those people who buy a firearm are not a convicted felon and are not mentally incompetent. And to stop a crime bill that is going to protect our people our law enforcement officers on the streets the highways and the institutions of this country is repulsive to me, and it should be to the American people. I would ask you to ask them, "Call those Senators. Give us the privilege and the right to listen to the vote of America."

STATEMENT OF SARAH BRADY
 The law enforcement community and I started about six years ago working for the Brady bill. We have been to more press conferences together than you could shake a stick at. We have met all over the country and we've been fighting for one thing. During those six years, three Congresses, over 100,000 people have died, cops getting shot, I keep getting heckled, more cops died, and nothing has happened. And here we are at the very end of yet another Congress, where at the bitter end something has to happen, and I am going to be sure it does this time. I am tired of listening to excuses. I am tired of having to go back to the people all over this country who support us and say that politics as usual is keeping us from passing the Brady bill legislation that will save lives in this country. We're going to get it done this time. And tomorrow we have a sure-fire way of doing it. And I am going to say "Shame on any Member of Congress who keeps that from happening. "Shame" on any member of the administration that keeps that from happening. We have got to save lives today. Otherwise, we lost sixty five within the next twenty four hours, and sixty five more lives the next day, cops will continue to get shot, and I will continue to get heckled, but the lives cannot go on.

CLOTURE MOTION
 The PRESIDING OFFICER. The time for debate under the unanimous-consent agreement having expired, 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, hereby move to bring to a close the debate on the conference report to accompany H.R. 3371, the omnibus crime control bill:
 Kent Conrad, Herb Kohl, George Mitchell, David Pryor, Joe Biden, Wyche Fowler, Jeff Bingaman, Al Gore, Tom Daschle, Tim Wirth, Jim Sasser, Richard Bryan, Edward M. Kennedy, John F. Kerry, Daniel Moynihan, Christopher Dodd.

CALL OF THE ROLL
 The PRESIDING OFFICER. By unanimous consent the call of the roll, pursuant to rule XXII, is waived.

VOTE
 The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Omnibus Crime Control Act conference report accompanying H.R. 3371 shall be brought to a close? The yeas and nays are mandatory under the rule.
 The clerk will call the roll.
 The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nevada [Mr. REID] is necessarily absent.
 Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.
 The yeas and nays resulted—yeas 55, nays 43, as follows:

[Rollcall Vote No. 282 Leg.]
 YEAS—55

Adams	Exon	Metzenbaum
Akaka	Ford	Mikulski
Baucus	Fowler	Mitchell
Bentsen	Glema	Moynihan
Biden	Gore	Nunn
Bingaman	Graham	Pell
Boren	Harkin	Pryor
Bradley	Hollings	Riegle
Bryan	Inouye	Robb
Bumpers	Jeffords	Rockefeller
Burdick, Jocelyn	Kassabaum	Sanford
Byrd	Kennedy	Sarbanes
Chafee	Kerry	Sasser
Conrad	Kerry	Simon
Cranston	Kohl	Wellstone
Daschle	Lautenberg	Wirth
DeConcini	Leahy	Wofford
Dixon	Levin	
Dodd	Lieberman	

NAYS—43

Bond	Grassley	Pressler
Breaux	Hatch	Roth
Brown	Hatfield	Rudman
Burns	Heflin	Seymour
Coats	Helms	Shelby
Cochran	Johnston	Simpson
Cohen	Kasten	Smith
Craig	Lott	Specter
D'Amato	Lugar	Stevens
Danforth	Mack	Symms
Dole	McCaIn	Thurmond
Domenici	McConnell	Wallop
Garn	Murkowski	Warner
Gorton	Nickles	
Gramm	Packwood	

NOT VOTING—2

Durenberger	Reid
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The PRESIDING OFFICER (Mr. BRYAN). On this vote, the yeas are 55, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having

voted in the affirmative, the motion is rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. BIDEN. I move to lay that motion on the table.
 The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I am pleased to say righteousness prevailed on that vote. Although we did not pass a tough crime bill, I would like to thank my staff, who worked tirelessly in this endeavor. Manus Cooney provided able counsel, as did Thad Strom. Beverly Gastright and Krista Ellis also provided valuable assistance.

Mr. BIDEN. Mr. President, I ask unanimous consent to speak for 1 minute.
 The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I do not have a claim on righteousness. I am extremely disappointed we are going to adjourn without having done anything on the crime bill. I stand ready to work with my friend from South Carolina next year to try, once again, to get a crime bill.
 I thank my colleagues for their indulgence.

Several Senators addressed the Chair.
 The PRESIDING OFFICER. There is a regular order.

The Senator from South Carolina.
 Mr. THURMOND. Mr. President, I just want to say we can pass a crime bill today with what I understood had been agreed to with the Attorney General anyway. It would include the Brady bill, the Powell committee recommendation on habeas corpus, President Bush's death penalty bill, and all of the proposed funding. If the distinguished Senator from Delaware wants to work with me, we can get a bill today and pass it.

NATIONAL INSTITUTES OF HEALTH AUTHORIZATIONS
MOTION TO PROCEED

The PRESIDING OFFICER. There will now be 1 hour equally divided for debate on the motion to proceed to S. 2859.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I know the Senator from Massachusetts is anxious to move forward. I know the Senator from North Dakota and myself would like to say a few words. I do not know the subject she would like to speak about. I would like to speak about the defeat of this and the relationship to the Brady bill. She needs 3 minutes, and I need 10 minutes. Would the Senator from Massachusetts object to a unanimous-consent request?

Mr. KENNEDY. Mr. President, in my heart, I would be glad to accommodate.

The majority leader has set times to proceed. I am trying to conform with what he indicated to me.

Mr. METZENBAUM. He knew we were going to make this request. I just feel so strongly about what has just transpired that I would like to take a few minutes to express myself.

The PRESIDING OFFICER. As the Chair understands the parliamentary situation, it would require unanimous consent of the body to provide the time that is requested by the distinguished Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the regular order be set aside for a period of 3 minutes for the Senator from North Carolina [Mrs. BURDICK], and 10 minutes for the Senator from Ohio, with no intervening business and having no further impact upon the regular order as has been provided heretofore.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mrs. BURDICK addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mrs. BURDICK. Mr. President, I ask unanimous consent that I be recognized to speak for 3 minutes as in morning business.

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

THANKS FOR WARM WELCOME AND SUPPORT

Mrs. BURDICK. Mr. President, I want to thank each and every one of the Members of this distinguished body for the warm welcome and support I have received in my short time as a U.S. Senator.

My husband served in the Senate throughout our 32 years of marriage, always putting North Dakota's interests first. I have tried during these short weeks to complete Quentin's unfinished business, to assist his excellent staff as they explore new challenges, and to represent North Dakota's interests in all matters before the Senate. I hope that in some small measure, I have met each of those goals.

My husband was the first Democrat North Dakotans ever elected to the U.S. House of Representatives. I am honored to be the first woman to represent North Dakota in Congress. My appointment also made history for being the first time three women have served in the U.S. Senate at the same time. I hope that the 103d Congress will find many more women seated in this body.

My great grandmother, Matilda Joslyn Gage, was an early suffragist and feminist theologian who fought on the front lines of the struggle for human freedom, dignity, and the vote for women. She had a motto: "There is a word sweeter than mother, home, or heaven. That word is liberty."

To further the goal of liberty and the cause of equal rights, I have asked to

be added as a cosponsor of the equal rights amendment, the Freedom of Choice Act, the Economic Equity Act, the Violence Against Women Act, and the Women's Health Equity Act. I am also proud to have cast my votes to override the President's vetoes of the Family and Medical Leave Act and the Pregnancy Counseling Act.

It is a tremendous honor for me to serve in this body. Once again, thank you.

The PRESIDING OFFICER. The Senator from Ohio is recognized pursuant to the unanimous-consent agreement.

Mr. METZENBAUM. Mr. President, I want to first commend my colleague, Senator BURDICK, for her remarks. More important, I wish to commend her for her able service. She has filled the shoes of our distinguished friend and colleague, Senator Quentin Burdick, and we are all very pleased and privileged to have had an opportunity to work with her.

She has attended to her duties properly and promptly and has been willing to stand up and be counted on the issues. I consider it a real privilege that I have had a chance to sit next to her during this period.

We are going to miss her.

Mr. KENNEDY. Mr. President, I, too, want to join in commending Senator BURDICK. As I mentioned on other occasions, I had a chance to serve with Senator Quentin Burdick for a considerable period of time, since he was an institution in the Senate when I first arrived here.

I have noticed over the period of these last days Senator BURDICK pouring over reports, reading majority and minority opinions about different parts of the legislation. That is something all of us are supposed to do. I notice Senator BURDICK developing a command of these complicated issues in a very thoughtful and studious way and bringing a very important and balanced judgment to these matters.

I, too, join in commending her and pay tribute to her and to the people of North Dakota for giving us the opportunity of serve with her.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the time taken up between Senator KENNEDY and myself in connection with Senator BURDICK's remarks not be charged against the time.

Mr. CONRAD. Will the Senator from Ohio yield for a brief comment?

Mr. METZENBAUM. Of course. I did not know the Senator was seeking the floor. I apologize.

Mr. CONRAD. I thank very much my colleague from Ohio.

I wanted to add my voice, Mr. President, to those who have spoken about my colleague, Senator BURDICK. It has been an absolute joy to have her join us in this Chamber. She has proved to be extraordinarily diligent in the work of the Senate, and I think we find a

true affection in this body for her. I only wish that her service in this Chamber were going to be longer because I think she has already demonstrated she is an outstanding Member of the Senate.

She is independent minded; she is strong; she is an advocate for our State; and I think she is the best kind of U.S. Senator. I thank the Chair, and I thank my colleague from Ohio.

OPPOSITION TO THE BRADY BILL

Mr. METZENBAUM. Mr. President, the American people have just suffered a tragic loss. Let us not kid ourselves. The conference report on the crime bill was killed because of opposition to the Brady bill.

The President and my colleagues on the other side of the aisle have used habeas corpus as a smokescreen. We have fiddled while felons continue to buy guns without any difficulty. We have fiddled while the police plead for the Brady bill. We have fiddled while the American people wonder why this commonsense measure cannot become law.

The most effective anticrime provision in the conference report is the Brady bill. It will keep guns out of the hands of felons. The Brady bill will save lives and be of tremendous help to the police of this country. They supported it wholeheartedly. This Congress, this Senate has let them down. My colleagues on the opposite side of the aisle and the President of the United States have turned their backs on the police of this country.

I fear that the President and his allies in the Senate would rather carry out the will of the National Rifle Association than carry out the will of the American people. The Brady bill passed the Senate by a 2-to-1 margin last year. Polls show that over 90 percent of the American people support this measure. Every single major law enforcement organization in the country supports the Brady bill. Four former Presidents—Presidents Reagan, Carter, Ford, and Nixon—support this measure. And you would be hard pressed to find a major newspaper anywhere in the country that opposes the Brady bill. There are not too many pieces of legislation that command that kind of support. But then there are not too many pieces of legislation that are as sensible as the Brady bill.

Here is a measure which can work and is supported by an overwhelming majority of the American people, by an overwhelming majority of gun owners, and by law enforcement. The American people are right to wonder why cannot this piece of legislation pass? Why cannot it be enacted into law?

The failure to enact the Brady bill is a textbook example of why the American people are losing their faith and confidence in our ability to address the Nation's problems.

The President has the failure of the Brady bill lying right on his doorstep. He opposed it. My colleagues on the other side of the aisle, with few exceptions, opposed it.

A well-funded, single issue, special interest group, the National Rifle Association, has turned this issue into a H-bomb test, and the President and many Members of Congress have shown themselves to be unwilling to stand up to this special interest group and do what is right for the American people.

Those who object to the Brady bill want to thwart the will of the overwhelming majority of our citizens. They would rather cave in to the wishes of the special interest extremists at the NRA than enact a special measure that will save lives and help the police.

NRA is wrong on this issue, and so is the President of the United States, dead wrong. But that is no surprise. The NRA has vehemently fought every reasonable piece of firearms legislation that has come down the pike. It does not matter to the NRA that the American people want the Brady bill. The NRA does not care that the vast majority of gun owners want the Brady bill. And the NRA does not even care that the police officers of this country are pleading with the Congress to enact the Brady bill so that they can feel just a little safer as they go about their job.

No; Mr. President, the NRA does not care what the cops think about this amendment. When the police officers plead for enactment of the Brady bill, time and time again the NRA responds by saying in essence that the cops do not know what they are talking about. The NRA's Washington lobbyists think they know better. That is absurd. Who do you think knows what is better for the cops on the street, the police officers themselves or the NRA's Washington lobbyists? We should have the courage to stand up to the NRA and do the right thing.

On September 28 of this year, former Presidents Reagan, Carter, Ford, and Nixon wrote a letter urging Senators to "put aside partisan politics and do what is right for the American people." The letter went on to say that these four former Presidents "strongly urge every Senator to stand up for the Nation's law enforcement community as well as for public safety by voting for the Brady bill and sending it immediately to President Bush, whom we urge to sign this important bill."

That letter from the last four Presidents of this country underlines the broad support for the Brady bill. The support is broad for the simple reason that the Brady bill makes sense and the American people want it to become the law of the land.

There is still time to enact the Brady bill. I call upon the President of the United States to send word to those who work with him on the other side of the aisle to join with us, let us pass the

Brady bill in the closing days of the session. We can do it if the President will put his shoulder to the wheel and prevail upon those who stand in the way of progress on this important subject. We can save lives.

Let us go out of the Senate in a blaze of glory knowing that we have passed the Brady bill and that the President of the United States has pitched in to help, not to deter its passage.

Mr. President, I thank my colleague from Massachusetts for devoting me this extra time. I yield the floor.

THE NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS OF 1992

CLOTURE MOTION

The PRESIDING OFFICER. Under the regular order, there will now be an hour for debate equally divided on the motion to invoke cloture on the motion to proceed to S. 2899, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to S. 2899, a bill to revise and extend programs of the National Institutes of Health:

Paul Simon, Harry Reid, Frank Lautenberg, George Mitchell, Carl Levin, Jim Sasser, Joe Biden, Daniel K. Inouye, Alan Cranston, Tom Harkin, Edward M. Kennedy, Howard Metzenbaum, John F. Kerry, Paul Wellstone, Jay Rockefeller, and Brock Adams.

Mr. KENNEDY, Mr. President, I yield myself such time as I might use.

Mr. President, the legislation now before the Senate to reauthorize the National Institutes of Health is a major opportunity to enhance America's leadership and excellence in biomedical research through the end of this century.

The pending bill is a modified version of the legislation that passed the Senate on June 4 by a vote of 85 to 12. It was vetoed by President Bush, and the House of Representatives failed by 14 votes to override the veto. Because this issue is so important, we are trying again, with compromises on several key issues, including fetal tissue transplantation research, in the hope that this important bill can be enacted into law this year.

This new bill is a good-faith effort to meet the concerns raised by the President in his veto message.

The most controversial issue continues to be fetal tissue transplantation research. The new bill gives the President's proposed tissue bank a year to become operational, starting from last May 19, the date of the President's Executive order establishing the bank. After May 19, 1993, researchers must continue to apply to the bank for tissue, but if the bank is unable to provide suitable material, the researchers

are then free to obtain it from other sources.

The new bill contains all the safeguards in the previous bill to prevent abuses in fetal tissue transplantation research. Under these safeguards, a clear separation is maintained between a woman's decision to have an abortion and her decision to donate the tissue for research.

Many of us have serious reservations about the tissue bank proposal, which would restrict tissue to what is available from spontaneous abortions and ectopic pregnancies. The administration's estimates of the amount and quality of the tissue that would be available from the bank under these limitations are extremely dubious, and may well bear no relationship to reality. Many NIH officials themselves are clearly blowing the whistle on the bank as a realistic option. They are obviously extremely upset over the way these estimates were prepared and furnished to Congress. There are serious doubts that the tissue will be suitable for research. A top NIH official is reported as saying that senior HHS officials, in fact, misrepresented the amount of tissue that could be collected for the bank each year.

A group of researchers at Columbia University who conducted a study of tissue obtained from all spontaneous abortion specimens at a large Manhattan hospital from 1974 to 1996 have stated categorically that the current NIH plan for the tissue bank cannot be expected to produce sufficient numbers of usable specimens of fetal tissue for research.

Our concern is that political ideology is overruling basic science, and that the research doctors at the NIH are being abused by the spin doctors at White House. NIH has earned enormous credibility with Congress, the country, and the world. Researchers are clearly distressed at what HHS is saying and doing in their name. If this tissue bank is the sham it now seems to be, then valuable research is being unconscionably delayed.

The compromise proposal in this legislation is eminently reasonable. We have given the administration the benefit of the doubt—for another year. If this tissue bank goes the way of the S&L banks, then beginning in May of 1993, scientists will finally have an effective source of tissue for their research. And the victims of Parkinson's disease, Alzheimer's disease, diabetes, spinal cord injuries, and other presently incurable afflictions will have the new hope that they deserve, and that has been unreasonably denied the past 5 years.

The issue is not whether abortion is legal or not. It is what happens after an abortion, and whether tissue from an abortion may be used to save another life, or must be simply thrown away.

This bill will not cause more abortions. Women do not have abortions in order to donate to research. After 5 years of debate and a thorough review of other research projects around the world, there is no evidence that such research is any incentive whatsoever to abortion.

The question is whether urgently needed medical research is to be carried out in accord with sound medical research priorities and public health priorities, or whether it is to be dictated by the most extreme zealots at the Republican Convention in Houston.

Every citizen has a stake in this legislation. Every family that has suffered the tragedy of Alzheimer's disease in a loved one has a stake in this legislation. Every family that has suffered from diabetes, or Parkinson's disease, or a spinal cord injury has a stake in this legislation, because research involving fetal tissue may hold the only hope of medical progress against these devastating afflictions. Those who delay such research because they want to play the rightwing politics of abortion are playing with real people's lives in every community in America.

In his other objections to the bill, the President opposed the levels of the authorizations, and the method of appointment of the Ethics Advisory Board. Our bill makes the following modifications to address these concerns.

First, the earlier bill contained 17 specific authorizations for fiscal year 1993, and authorized such sums as may be necessary for fiscal years 1994 through 1996. The administration objected to the specific levels, and 13 of the 17 have been modified to such sums as may be necessary for 1993.

Because of their special importance, four specific authorizations for 1993 were not changed, relating to breast cancer, other gynecological cancers, prostate cancer, and osteoporosis research.

Second, in the original legislation, if the Ethics Advisory Board found that proposed research was ethical and should proceed, the Secretary could not override the decision. In response to concerns that the Secretary should have the final say in such matters, a provision has been added to allow the Secretary to review the decision of the board and set it aside, if the Secretary finds that the Board's decision is arbitrary and capricious. This common and well-known standard of review will provide both the researchers and the Secretary with clear guidance on the course to be pursued.

The opposition to this legislation is also delaying another vital area of research and reform. The women's health provisions of this bill are critical. Progress is being made at the NIH because of the leadership of Dr. Bernadine Healy. But we have no guarantee that this progress will continue under future NIH Directors.

For many years, women have been shockingly neglected in clinical research. In 1985, the Public Health Service Task Force on Women's Health Issues released a report assessing the status of women's health. One of the task force's principal recommendations was that biomedical and behavioral research should be expended to assure adequate emphasis on diseases prevalent among women in all age groups.

The failure to include women as subjects of research at NIH has had serious consequences. Heart disease claims the greatest number of women's lives. Yet all of the major studies on the causes and prevention of heart disease have been limited to men.

A 1989 study of 22,000 physicians funded by the Heart, Lung, and Blood Institute found that aspirin prevents heart attacks in men. Doctors subsequently recommended that older men at increased risk for heart disease take an aspirin every other day. They specifically stated, however, that they could not offer women the same advice. That discrepancy is a shocking indictment and proof of blatant sexism in medical research that must be rooted out immediately.

In addition, no women were included in a major study that examined premature heart disease in 13,000 men over a period of 15 years. Nor were women included in the 15-year coronary primary prevention trial that studied the effects of lower cholesterol levels in 4,000 men, despite evidence that women's cholesterol levels typically increase after menopause and are affected by factors such as smoking or the use of oral contraceptives.

The lack of research on women's health has resulted in second rate care for women. Recent studies show that women receive less effective health care than men in many other ways, not just in treating heart disease.

This legislation establishes permanent statutory authority for the Office of Research on Women's Health to oversee new plans and policies for addressing women's health concerns in each of the NIH institutes. It specifically requires women to be included in research projects supported or conducted by the NIH.

More than 180,000 cases of breast cancer will be diagnosed in 1992, and 46,000 women die from the disease. Every 12 minutes a woman dies of breast cancer. One in every nine American women will develop breast cancer at some point in their lives. The incidence of breast cancer is lower in African-American women than among white women, but the death rate for breast cancer is higher than in white women. If we relegate breast cancer research to second-class status, we cannot effectively target strategies for prevention, cure, and treatment. We must develop new avenues of research and attract new investigators. Research funding must be in-

creased to support these efforts. New research initiatives are needed.

Ovarian cancer is the fifth leading cause of cancer death in women. Every year 20,000 new cases are diagnosed and 12,000 women die from the disease; 13,000 cases of cervical cancer are diagnosed each year and 6,000 women die from it.

NIH has not done enough in any of these areas. During fiscal year 1992, the National Cancer Institute will spend \$133 million on breast cancer research, \$32 million on cervical cancer research, \$10 million on uterine cancer research and \$20 million on ovarian cancer research. The NCI by-pass budget, reflecting the professional judgment of the National Cancer Institute, feels that a fiscal year 1993 budget of \$490 million is needed to continue progress in the prevention and treatment of breast and other gynecological cancers. The pending bill authorizes the National Cancer Institute to expand, intensify, and coordinate all these research efforts. The NCI would develop a comprehensive plan emphasizing prevention, early detection and treatment of breast cancer. It would submit to Congress a biennial report on all activities, a description of the plan, an assessment of its implementation, and an evaluation of the progress made in research on cancer in women.

The bill authorizes an additional \$25 million to expand breast cancer research activities and an additional \$76 million for ovarian, cervical, and other cancers of women's reproductive system.

Osteoporosis affects 24 million Americans. Its prevalence is expected to double in the next 30 years because of the aging of the population. It is responsible for over 1 million fractures a year in women. The rate of hip fractures is two to three times higher than for men. Spinal osteoporosis is eight times more likely to afflict women than men.

Currently, the annual cost of treating osteoporosis is \$10 billion. The average cost per hip fracture patient requiring hospitalization and institutionalization is approximately \$30,000. These costs are expected to increase as the baby boom generation retires. If current trends continue, the cost will reach \$30 billion a year in 30 years. The pending bill authorizes \$40 million to intensify basic, clinical, and behavioral research on osteoporosis and related bone disorders, and to establish an information clearinghouse to enhance the understanding of bone disorders by health professionals and the public.

These women's health provisions are essential to assure that the history of neglect of women's health will not be allowed to continue. The women of America deserve their fair share of health research conducted with Federal funds. They deserve a chance to participate in clinical trials. They deserve

a change to lead healthy and fulfilling lives. A veto of this bill would be unconscionable. It would elevate the ideological politics of extremists on abortion over the reality of the need to end the shocking discrimination that exists in women's health research.

This legislation is far more than lifting the ban on fetal tissue transplantation research, important as that is. In addition to the women's health initiatives, it also contains the following priorities:

A separate children's vaccine initiative to develop affordable new and improved vaccines for the prevention of other infectious diseases.

A study of the safety and effectiveness of HIV vaccines for treatment and prevention of HIV infection in women, infants, and children.

A program to increase the competitiveness of research proposals in states whose facilities have experienced low success rates in obtaining research awards from the NIH.

A prostate cancer research program to expand and strengthen this research at the NIH. A prostate cancer prevention program at the CDC will provide early detection, screening, and prevention services for high-risk and low-income individuals.

A child health research center program to speed the transfer of knowledge gained from basic research to clinical applications that will benefit the health of children. Centers for basic and clinical research on cardiovascular disease in children will also be established.

A juvenile arthritis program to expand research into the cause, diagnosis, early detection, control, treatment, and rehabilitation of children suffering from arthritis and related diseases.

New Federal policies will be developed on scientific misconduct, conflicts of interest, and prevention of retaliation against whistleblowers in connection with NIH research.

The past decade has confirmed the wisdom of funding for biomedical research. The NIH continues to produce impressive advances that improve the health of people everywhere. Over the past 2 years, we have witnessed tremendous growth in our understanding of disease. In areas such as the identification of the cystic fibrosis gene, NIH-supported research has resulted in numerous practical applications that bring the benefits of research to the bedside of the patient as rapidly as possible.

We all know the vital importance of biomedical research and the central role of the NIH. This major legislation should never have been vetoed in the first place. With these good-faith revisions, this compromise bill deserves to be enacted, and I urge the Senate to approve it by a margin sufficient to demonstrate that any veto would be overridden.

President Bush knows what is in this legislation. It would be an outrage if the President hides behind the 10-day period he has to sign it, and then pocket vetoes it to prevent Congress from acting to override the veto.

I want to, at the outset of this debate, commend the Senator from Washington for all of his work, particularly on the fetal transplantation issue. We have not been able to have an NIH bill that has dealt with that issue for a number of years, and I think to the greatest extent, the work that the Senator has done and the hearings that were held, helping to respond to many ideological issues and questions and to it in a responsible way, has added immeasurably to this very important phase of this particular legislation.

I also commend Senator MIKULSKI from Maryland, who was instrumental in fashioning and shaping the women's health package.

I thank the Senator from Washington.

Mr. ADAMS. Mr. President, I thank the chairman of the committee for his kind remarks and I express my appreciation to him for the great work he has done during this last year. I think that was a magnificent statement the chairman gave on the movement on women's health issues, in this Senate and on the particular importance of lifting the ban on fetal tissue transplantation research.

I agree completely that this should not be a political issue. I am hopeful that the Senator from Utah, who is my good friend, and who has been very cooperative on the committee, might help us pass this legislation. I hope in particular he would help with this cloture motion, so that we can pass legislation on behalf of the National Institutes of Health.

Many of my colleagues have come to me and asked, "Why do we have to take this bill up again when we adopted it 87 to 10 last April?"

Well, the reason is that the President vetoed this bill, and it is my understanding that the veto was primarily because of the fetal tissue transplantation research provision. I held the hearings, and I have dealt with the people most affected by this matter. I feel strongly about it. I have talked with many doctors about it and I have talked to the people who suffer from diseases. These people look forward with some hope to advancing this research—this is their only chance and only hope.

We have tried to compromise with the Senator from Utah, with this bill before us. I think it is a fair compromise, and I hope he supports us on this. I hope he supports it, because I would like to see 100 votes in support of this cloture motion.

Let me talk about why it is so vital that we pass this legislation today. Let me explain what the emergency is.

First, there are too many lives at stake. There are millions of Americans with juvenile diabetes, which can cause early blindness and early death; Parkinson's disease; Alzheimer's disease; spinal cord injuries; inborn genetic diseases; and they cannot wait for a cure any longer. People forget that the polio vaccine by Dr. Salk came from fetal tissue research.

I want to explain a case to show you why this research is important for people who are living today with these other diseases. It is absolutely vital that we pass this motion and the bill and that it not be vetoed.

I want to talk about Joan Samuelson for a moment. She has Parkinson's, and every day that we postpone lifting this ban, which was put in place by an administration official, not by the law, it means a greater loss of Joan's ability to speak and to move.

Let me spell it out for you so that you can understand. This is not an issue that is a theoretical thing. This is personal with me and with the people that have these diseases.

Joan first testified before the House committee in April 1990. She had full use of her right arm and partial use of her left arm. Today, she has no control over her left arm and is losing use of the so-called good right arm. Her only hope, her only chance, is fetal tissue transplantation research, which shows some promise with patients with Parkinson's disease.

I saw Mo Udall, our great colleague in the House of Representatives, just reduced to almost nothing by Parkinson's disease. His family was hopeful up to the day that this bill was vetoed that there might be an opportunity that he would be eligible for a fetal tissue transplantation. Believe me, these people are prepared to participate in this research. Otherwise, they will never be helped.

The second reason given—and I respect the fact that people have strong feelings on abortion, but this is not an abortion issue, as the chairman stated. We wanted to give the President's fetal tissue bank a chance to work.

That is why I hope everybody will vote for this cloture motion; vote "aye" because a new provision in the bill allows the bank to get up and be running by May 19, 1993.

This is a year after the President established the tissue bank by Executive order. At that time, researchers may apply for tissue from spontaneous or ectopic pregnancies from the bank.

So we have given the President what he wants. The compromise was, after 14 days, in this bill, and after this year of experimentation, to see if there is enough tissue, which we do not believe there is, and no doctor believes there is. If after 14 days there is no usable tissue available, researchers would be permitted to carry out the research with fetal tissue from other sources. That is a fair compromise.

This allows time for the President's bank to work; even though we do not believe it will, it gives that chance.

Senator HATCH has so well argued that it ought to have a chance. In the months before he died, Ted Weiss, our House colleague's staff uncovered NIH internal documents that revealed that the NIH officials themselves had serious reservations about using tissue from spontaneous abortions or ectopic pregnancies for transplantation into human beings.

But we have given the opportunity for this to happen even though people are dying and people will lose their lives every day we delay. I just hope that we can get on with this research and save lives. It is time to put ideology and politics aside so that critically important research can go forward and people can have some hope.

The compromise we are taking up today allows for the President's view to prevail. But if it is not scientifically feasible—what I am interested in here—after 1 year, if researchers cannot obtain tissue from the bank, after 14 days they can go to any other source for tissue. This heeds the recommendation of over 40 national medical, disease, scientific research organizations that say "Lift the ban."

I point out that the authors of this bill—and I am proud to be part of it—did not pick an arbitrary timeframe, as some suggested. In fact, we followed the recommendation of the President's own chief health policy officer. It was Assistant Secretary Mason who said:

NIH will move swiftly to establish the tissue bank and we anticipate that it will be in full operation in a matter of months.

The bill provides more than a few months for this tissue bank to become operational. It allows for a full year. I do not think we should have any problems with the President or his supporters. I just would like to hold him to his word and that of his own blue ribbon panel. His own panel said, "Lift this ban so that we can conduct research and we can move ahead and guard against any abuse this bill does."

I close by saying I urge my colleagues to vote again for cloture and for this bill. We voted 87 to 10. We should do it again. I hope this time it is 100 to nothing and we have cloture on this bill to proceed.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ADAMS. Mr. President, I inquire how much time is available.

The PRESIDING OFFICER. 7 minutes and 11 seconds.

Mr. WELLSTONE addressed the Chair.

Mr. ADAMS. The Senator from Utah, who, I assume, is in opposition to this, has not had an opportunity to use any of his time so the Senator will wait a moment.

Mr. WELLSTONE. Mr. President, if the Senator will yield, I talked to the

Senator from Utah. He said it will be all right for me to proceed.

Mr. ADAMS. I yield 4 minutes to Senator WELLSTONE.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 4 minutes.

Mr. WELLSTONE. Mr. President, I believe it is more critical than ever that we pass this NIH reauthorization bill, with its very important promise for millions of Americans who can benefit from its research programs.

There is so much here for people suffering from disease. The bill supports major initiatives in women's health. For the first time, there is a requirement that women be included in research projects supported or conducted by NIH. Previous investigations into AIDS, heart disease, and other life-threatening conditions have all but ignored how those diseases may develop differently in women, and the different responses women may have to potential therapies. We know, for example, that women who are HIV positive have a much shorter life span than men with HIV. We must use our resources to find out how we can intervene for these women, and, until we find a cure, at least understand the barriers to treating them, and how to overcome those barriers. Including women in NIH clinical trials will give us important new information that we can use to save lives.

The bill also expands funding for research into diseases that strike women exclusively. It would fund research efforts on breast cancer at \$575 million, an increase of \$325 million over last year, to expand, intensify, and coordinate research efforts on breast cancer, and to develop a comprehensive plan for the prevention, early detection and treatment of breast cancer. It authorizes \$40 million for research into osteoporosis, and \$75 million for ovarian cancer research. It gives permanent statutory authority for the Office of Research on Women's Health, a vital step in assuring that women's concerns will receive attention and funding.

There is also a program to recruit women into the fields of biomedical and behavioral research.

There are new programs for prostate cancer and for comprehensive AIDS research, and a formal process for ethical review and approval of research proposals. Many of our constituents around the country have made us aware over the last year of the rise in traumatic brain injury, and I have joined Senator KENNEDY and others in cosponsoring legislation that would develop prevention and assistance programs for people with TBI. The NIH bill would fund the Interagency Program for Trauma Research, which can make an important contribution to combating this new epidemic.

And the bill reauthorizes the critical ongoing research programs of the NIH,

that have contributed to making the United States the world leader in biomedical research. All of these are programs every one of us can be proud of: the National Cancer Institute; the National Heart, Lung and Blood Institute; the National Library of Medicine; the National Heart Institute; the National Institute on Aging.

But all of these programs are threatened because the bill also includes approval for research on the benefits of fetal tissue transplants. This research holds so much promise for people suffering from diabetes, Parkinson's disease, Alzheimer's disease, and other rare and otherwise incurable diseases.

We have argued and debated the merits of fetal tissue research for months now, and it is clear that this Senate understands very well that this is a health issue, a research issue, and not an abortion issue. We have made modification after modification, to address every imagined concern that has been raised.

Our effort today is an attempt to compromise with an administration that is so blinded by ideology it cannot see its way to helping seriously ill Americans who are in desperate need of help.

Since the Senate first passed this bill, with an overwhelming majority, and strong bipartisan support, the administration has tried several times to throw a roadblock in the way of progress. President Bush's proposal to establish a fetal tissue bank using only tissue from ectopic pregnancies was discredited by the very scientists he claimed supported it. A researcher from the University of Minnesota joined many other practicing scientists who let the New York Times know, last July, that their opinions had been publicly misrepresented, and that tissue from ectopic pregnancies is absolutely unreliable to sustain research. Ectopic pregnancies are discovered unpredictably, at a time of medical crisis. No regular lab can count on finding and collecting this tissue in a way that can sustain research.

However, the President has insisted on this approach, and the bill before us today recognizes his desired approach. NIH researchers have made it clear they want to explore the potential therapeutic value of fetal tissue transplants for people suffering from Parkinson's, Alzheimers, diabetes, and other crippling and life-threatening diseases. For 1 year from the date, the President established his tissue bank for tissue from ectopic pregnancies and spontaneous abortions, those researchers will be limited to using that tissue only.

After a year, if this tissue bank cannot fulfill a request for tissue within 14 days, scientists may then turn to using tissue from induced abortions.

This proposal is vitally important to the people with Parkinson's, Alz-

heimers, diabetes, and other chronic and crippling conditions, who have held out so much hope for the fetal tissue research program this Senate voted for in April, and sustained in conference. These people are not pro-choice or anti-choice. They do not see this issue as anything but what it is: an opportunity for this Government to use its vast research capabilities to make a real difference in the lives of suffering human beings.

This is a serious effort, Mr. President, by Senators with a range of opinions on many other issues, to come together for the good of Americans who depend on us to open the door to hope and a healthy life.

How ironic it is, and how tragic, that this legislation that holds out so much hope, especially for women, by recognizing their special health concerns, by elevating them to the status men have always enjoyed as research subjects with particular needs, has been obstructed and misconstrued by a President who is committed to denying women reproductive choice.

Let me be clear about this. I speak for some people who have been working very hard in the House and the Senate: Joan Samuelson with Parkinson's; Ann Udall whose father Mo Udall suffered from Parkinson's, and I speak for myself as well.

Both my parents had Parkinson's disease; both of them.

I remember very well that at the very end of my father's life, when he was about 80 years old, we went out to lunch. We went out to lunch at McDonald's. My father liked McDonald's because there were lots of bright colors and lots of children to look at. A close friend of mine, who taught at Carleton College, Michel Minot, came to McDonald's at the same time. Michel, at about the age of 38, had Parkinson's disease. It was a bad day for my father.

I have mentioned this before.

I decided that we would take my father out not through the front door, where he would have to go past Michel Minot, but out the back door. The reason for that was I did not want Michel to see his future.

I just want to make it crystal clear that those of us who speak in favor of the NIH reauthorization do so because we are vitally serious about the potential of this research for Parkinson's, Alzheimer's, diabetes, and many other diseases.

I want to say as clearly as I can, with as much eloquence as I can, with as much conviction as I can, and with as much emotion as I can, I cannot think of a more important vote than this. I hope that Senators will remain true to the votes most of us have cast in the past, so that the many citizens in this country who suffer from these diseases may have a chance to benefit from cures that could come for research involving fetal tissue transplants. I very

much hope that we will vote to stand behind our reauthorization of this program, and for cloture on proceeding to this bill.

Mr. President, women who are HIV positive have a much shorter lifespan than men with HIV, and we do not know why. But with the funds built into this budget we would do the research. As a matter of fact, we have not paid very much attention in our health care research priorities to the health care needs and circumstances of women in our country. But in this authorization bill, finally we focus more on breast cancer research, finally we focus more on effective early breast cancer detection programs, finally we focus more on research in ovarian cancer, finally we are taking a step toward research priorities that are responsive to women in our country.

I want every Senator who votes on this cloture motion to remember that. I want every Senator to remember that.

And then there is the other issue that we have been discussing on this floor, fetal tissue transplant research. Mr. President, the debate has already been covered so let me not go through the specifics. Let me make one simple compelling point. Those men and women with Alzheimer's and Parkinson's disease and diabetes are not pro-life and they are not pro-choice. They suffer from these diseases, and they have hoped that this research could make a difference in their lives, and they look for good public policy that will make a difference in their lives. And they do not want to see their hopes dashed or this research not take place because of overzealous ideological objections.

We compromised with the President of the United States on this issue. We have a different kind of tissue bank now set up. We do not think that ectopic pregnancies will really provide enough tissue to do the job, but we are willing to compromise and we are willing to give it a year to see.

Mr. President, I just say to every single Senator that this is probably one of the most important votes you are going to cast. Before you vote—and I hope you will vote for cloture—please remember women in this country. Please remember it is time to move forward. Please remember the people who suffer from these diseases. Please do not vote on the basis of some kind of ideological objection. Please be willing to compromise.

Mr. President, just to conclude my remarks, and one more time dedicating my remarks to Joan Samuelson, dedicating my remarks to Ann Udall, daughter of Mo Udall, and dedicating my remarks to my mother and father, who both had Parkinson's disease. I say to my colleagues I feel so strongly about this issue. Please vote for cloture. Please let us move forward with

some research that will give people who suffer from these diseases some hope. Please do not pour cold water on their hopes and their dreams. Please cast the vote for cloture.

I yield the remainder of my time.

Mr. HATCH. If the Senator needs additional time, I will be happy to yield additional time.

Mr. WELLSTONE. I thank the Senator from Utah. I am fine.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this bill has gone all the way through the Senate before. It passed overwhelmingly, went to the House. Everybody knew it was going to be vetoed. It passed in the House. The President then vetoed it, which he had to do. The veto was sustained by the House exactly the way I said it would be.

One of the strongest proponents of fetal tissue is standing right before you. His name is ORRIN HATCH, the Senator from Utah. But I predicted exactly what would happen, and that is what happened. I suggested that we have fetal tissue banks set up so we could use ectopic pregnancies and miscarriage tissue. The authorities tell me that there can be as much as 2,000 non-diseased tissue samples. That would be more than enough to take care of all of the fetal tissue research and transplantation that we could do each year without getting into this awful issue of abortion. I predicted all of that. And I happen to want the NIH bill to pass to boot.

But the people did not listen, and they did not listen on the basis that, well, fetal tissue research is so important that we have to fight this through. It is important. But we all know that the exercise here is exactly the same as the last. Yes, it would probably pass the Senate; it would certainly pass with more than 50 votes. Yes, it might go to the House. There it would probably pass. And, yes, I have to tell you the President would veto it again, and it would probably be a pocket veto. So why in the world are we doing this in these last few hours of the 102d Congress when I predicted that all of this was going to happen before? Why are we doing this, Mr. President? There has to be some logical reason. It cannot be because nobody on the proponents' side think they are going to get a bill. It cannot be as long as they keep the right to use aborted tissue in there. And that is what they have elected to do.

If they want a bill, they can get a bill. It will do much good for NIH and for this country as a whole, and I would like them to have that. If they want fetal tissue research, they can have it, and it would be authorized by none else than the full Congress of the United States, and it could give an imprimatur to fetal tissue research that it has never had before.

But, no, there is a desire to make abortion the issue by some on both sides. I am not going to name names, but there are some on both sides who want abortion to be the issue. I do not want it to be the issue. I would like to avoid those ethical and moral dilemmas. I would like to have fetal research go forward. I would like to have this body and the other body give its imprimatur and the full weight of the U.S. Congress in favor of fetal tissue research. I like that. I have been fighting for that.

But, no, the only reason for this exercise is so they can cause the President to veto this again and, I guess, get some political advantage out of that when they all know that he has to veto it, because he has taken that position. He does not believe that you need to use abortion tissue, that is, induced abortion tissue, for fetal tissue research, and science backs him up on that.

So what are we doing. We are here in another political exercise. Here we go again. We have the same situation here that we had this morning on the education bill. A debate and a bill with one fundamental purpose: A cynical attempt to provoke a veto by the President. And why? Because I guess they think on the other side that if you can provoke a veto and the President has to veto it, then it shows that he is insensitive to fetal tissue research.

That is pure and simple bunk. It is baloney. Because he has already, by Executive order, set up five fetal tissue banks. There are five of them being set up throughout America. And I have been informed by scientists that those five will produce at least half of all the fetal tissue necessary to do the scientific research in fetal tissue research.

Why only five? My gosh, it would be easy to set up 50 of them. That is the same thought by those who want to use induced aborted tissue, who I guess do not want the banks to work so they can have this issue. And they blame the President, they blame somebody like me who wants this research to go forward. That is a joke of all jokes.

I am dispirited by the fact that election year posturing has reached into an area that ought to be immune from the political thicket—the National Institutes of Health. This agency, a national pride, a national treasure, sometimes called the crown jewels of the U.S. Public Health Service should not be caught in the crossfire between forces on either side of one of the most explosive social issues of our time.

I am saddened that this body must once again consider reauthorizing legislation for the National Institutes of Health. It seems like only yesterday we were debating H.R. 2507—the predecessor to S. 2899. I would not be surprised if some of my colleagues have memorized many provisions in this bill

by now—then, again, I guess I would be surprised—given the numerous occasions on which we have had to revisit them. And, this needless waste of time is all because of the controversial ethical provisions that have persisted in the bills.

Let me review the many occasions we have considered NIH reauthorizing legislation during the 102d Congress. On November 12, 1991, during the Labor and Human Resources Committee hearing chaired by my colleague from Washington, I first raised the concern that the administration and many others had with fetal tissue transplantation research using tissue from induced abortion. Again, in committee, on February 4, 1992, I offered an amendment to resolve this particular problem precisely because of the veto threat. And again, on March 31 in this Chamber I rose to warn the Senate that the National Institutes of Health Reauthorization Act was on an unavoidable collision course with the President. On June 4, I discussed several objections that I believe the President would find with H.R. 2507 legislation were it to arrive on his desk in its current form. Finally, a couple of weeks ago on September 14—at a time when I had hope we could resolve the problems in this legislation—we started the predictably tragic process over again in the Labor Committee with S. 2899.

How many times must we vote on these contentious provisions in the reauthorization of the NIH?

What has our Nation gained from this deliberate and calculated confrontation? Congress, regrettably, has not passed legislation reauthorizing the National Institutes of Health since 1988. The reason we have not is because we allowed the ethical and moral issues to cloud the real issues. And I have to say both sides are responsible for that. It is absolutely tragic that today we are no closer to the goal of adopting reauthorizing legislation. As a result, the American citizens are the losers.

Unfortunately, for those of us who are genuinely concerned about advancing the agenda of women's health—and I am working very hard on a mammography bill right now; we have it written, now we have to get it through—we must now wait for yet another opportunity to advance this noble objective. Consequently, important research into the causes and prevention of breast and cervical cancer will be held hostage. There will now be further delays before we can ensure that there will be no discrimination in including women and minorities in clinical trials conducted or supported by the National Institutes of Health.

Moreover, I believe it is necessary that women and children be included in HIV vaccine therapy trials. It is my amendment that is in this bill. Women and children are clearly one of the fastest growing groups affected by HIV dis-

ease as evidenced by growing numbers of both reported AIDS cases and HIV prevalence data. This effort, too, has been stalled by an unwillingness of some in Congress to make reasonable compromises.

Applied research into terrible diseases afflicting American children are also held hostage. During the past few years, there have been unprecedented advances in the scientific investigation of inherited and acquired diseases afflicting children. Application of this research to infant mortality and genetic disorders such as cystic fibrosis, sickle cell anemia, mental retardation can result in improved treatment and care for the Nation's children. This applied research could be advanced by authorizing the expansion of children research centers.

The same could be said for juvenile arthritis. I am aware that of the 14 centers currently funded by the National Institute on Arthritis and Musculoskeletal and Skin Diseases—something I helped to put through here—three support research into this disease. But, establishing centers with a specific focus on juvenile arthritis would accelerate our efforts in this field.

Furthermore, vital research affecting men has been held hostage unnecessarily. I am speaking about prostate cancer. Prostate cancer is now the second most common cancer nationally and the leading cancer killer among men. In Utah, it is the most common cancer among men. Research into this terrible cancer needs to go forward.

Families, too, were affected by the politicization of the reauthorization bill. Each year about 10 to 15 percent of pregnancies result in miscarriages. These are tragic situations for parents who hope and plan for the rearing of their developing child. I had hoped to encourage Federal leadership into this area. I trust that the administration will utilize the research opportunities created by the President's Executive order to establish fetal tissue banks from exclusively spontaneous abortions and ectopic pregnancies to further investigate the causes of infertility leading to birth loss.

Let me reiterate once again that the most serious problems that plagued previous legislation still persist in S. 2899 as well.

The change in the provision regarding the ethics advisory boards is only cosmetic. The Department of Justice has stated that the provision in this bill clearly violates the appointments clause and is recommending a senior advisors veto on this provision alone.

So just do not blame the President on fetal tissue research, because he made a commitment to not allow induced abortion tissue. Do not blame him for that.

There is another very good reason, and that is because of the unconstitutionality of some very important provisions in this bill.

The new measures regarding fetal tissue banks only give a superficial appearance of change. This legislation would nullify the moratorium regardless of the success of the fetal tissue banks established by the President's Executive order.

Since the President's Executive order on fetal tissue banks, abortion advocates—those who want abortion—some researchers, and some Members of Congress have wasted needless energy trying to say that the banks will not work before they ever begin. Mr. President, the banks should be given a fair chance to work. The NIH has just this week funded the first five tissue banks.

We are told by abortion advocates that the legislation we are considering today is a compromise. It is nothing of the sort. It did not involve even one discussion with the other side—not even one discussion.

It is an understatement, in light of the serious health concerns faced by our citizens, to note that this is an instance where political maneuvering by some in an election year has clearly taken precedence over the health needs of our Nation.

Within minutes on the day that the House failed to override the President's veto on the first NIH bill, the Congressman from California, Congressman WAXMAN, rushed to his press conference to announce his new NIH bill. HENRY WAXMAN is a friend of mine. But within minutes, he went to a press conference to announce his new bill. Let me read one of his highly revealing quotes:

"Well, Mr. President, this bill is not going to go away. We plan to mark up the bill on a very fast schedule. We're going to get it to your desk before the Republican National Convention." He goes on to say: "We hope that we don't have to override the veto. But if we must, that is exactly what we'll do."

I have to say that Congressman WAXMAN called me and said he did not mean that to be used politically and he apologized and he pulled off before the convention. And I respect him for it. I care a great deal for him, and I care a great deal for his leadership and his ability in the health area.

But nevertheless how can you call it anything but political when we have already been through this whole routine. I have described everything that was going to happen, and it did. I will describe it again, and it will, except it will never get that far unless we keep people in the Senate well into next week and maybe the week after that.

Mr. Clinton, too, hurriedly jumped into the political fray, harshly criticized President's veto action even before he collected all the facts. Which I have been informed by even some of his friends that he often does.

His statement indicated that he thought that fetal tissue transplantation was used for breast cancer and osteoporosis.

That is indeed a tragedy that our election process would elevate the NIH bill to the politics of an election year. Anyone who thinks this bill is not politically motivated is not operating on all cylinders, or to put it another way, their elevator does not go to the top floor. This bill is not about abortion, freedom of research, or women's health; it is about high stakes presidential politics.

A sincere compromise? I should say not. This is a bill hastily thrown together to meet a 6-week political deadline. And, its flaws as we have seen are most evident. When, between Mr. WAXMAN's press conference and the introduction of the new bill, was there time allotted for cool reflection to correct the flaws of H.R. 2507? What hearings have been held? What meetings and negotiations have taken place?

I wonder when the day will come when we can finally lay aside the political and ethical encumbrances that have plagued this NIH reauthorizing legislation and get down to the work in serving the American people.

In my view, we should strip away the controversial and divisive ethical provisions relating ethics advisory boards and human fetal tissue transplantation and authorize the research programs benefiting women and men, children and families at the NIH. There is no reason to hold captive these individuals to the political gamesmanship over abortion.

Let this body be under no illusion: we face a choice today of what comes first: writing a bill to advance the medical research for our Nation, or political maneuvering that prevents the biomedical research needs of our country from being addressed in an appropriate fashion. As always, I continue to hope that we can move beyond ideologies and to reaffirm what the NIH stands for—the finest science in the world.

Despite my anguish, I take comfort in the fact that the NIH possesses the discretion to address most of my research concerns raised today through its existing research authorities. Similarly, Americans who suffer from tragic diseases should continue to place their hope in the NIH; it is the world's finest biomedical research institution in spite of this futile exercise. We can all be proud of this institution and its biomedical investigators for their noble research efforts.

Mr. President, I can only offer this on behalf of myself. I do not know if I can pull those off, if cloture is invoked. I do not know if I can pull those off who would have postcloture remarks and amendments. I do not know if I can. And I have worked very hard to come up with some simple solution that might get everybody off this kick and allow the President to sign the bill.

There are those who would like me to demand no less than 5 years to allow

the fetal tissue banks to work. There are those on the other side of this issue who disagree with me, who would go a year.

Some would go to 18 months. I believe, if the distinguished Senator from Massachusetts had his way he would probably go 18 months to allow the fetal tissue banks a chance to work. If they work you avoid the issue of abortion, the issue of ethics, the issue of a constant political battle. Then everybody can be happy and nobody has to get into this kind of a controversy again.

I have taken as much effort as I can to come up with a way to resolve this. I will say this. If the other side would agree to no less than 2 years from January 1, 1993 with appropriate language to give the fetal tissue research a real chance to work through these fetal tissue research banks already set up by NIH and an additional number that would have to be set up to make it work, that I would do everything in my power to add that as an amendment. That would get rid of this problem and get fetal tissue research the imprimatur it really needs—that is the support of both Houses of Congress—to make this thing work. But I guarantee I will not drop 1 minute below 2 years from January 1, 1993, on this issue. If that is so, we will just have to go to war and go to battle and let things fall the way they have to. And again who loses? The American people.

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

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

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts controls 2 minutes and 50 seconds.

Mr. KENNEDY. How much on the other side?

The PRESIDING OFFICER. Senator HATCH has 9 minutes, 50 seconds.

Mr. KENNEDY. Mr. President, I yield myself all of 2 minutes.

Mr. President, just so the Senate understands where we are, there were basically three items in the veto message by the President. One on the fact that he believes the fetal tissue bank would provide sufficient material so we would not need to move ahead with this program. The head of NIH, Bernadine Healy, estimated it would be 1 year to develop that bank. Assistant Secretary Mason said it would be 1 year to develop that bank. They have issued the executive orders as of last May to develop that bank.

We are prepared to take those that know the most, allegedly, about the time to prepare that bank—1 year the administration has basically said—and we were prepared to say all right, we will try it your way. We will try it your way. You heard Senator HATCH this afternoon say he believes there

will be sufficient material that will be developed.

However the principal source for that statement, which was referred to by Senator HATCH during the debate last spring, Dr. Berne, her work has been analyzed and reviewed and submitted in Science magazine of August of this year. It indicates there would not be sufficient material.

The opposition says there will be. We say all right, we will take you at your word. We will give you an opportunity to set up that system and if it does not work we want the research to go ahead in these areas of disease that can make a life-and-death difference to individuals. We have compromised on that.

Second, the administration has complained about our increasing various authorization levels. It is true we did increase over the President's budget from \$2 billion for the National Cancer Research Institute to \$2.2 billion. We did increase research for the National Heart Institute from \$1.2 billion to \$1.4 billion. We did increase research on the National Institute on Aging from \$407 million to \$500 million, and we did provide funding for the infertility research centers that were talked about here to \$20 million.

But we did something else. The President said we believe those increases in authorization are too much. In this budget of \$1.5 trillion you cannot find \$200 million for cancer, cannot find another \$200 million for heart, you cannot find another \$75 million for research on the—too much, they say.

We say all right, if you do not want to do that we retreat on that. We withdraw those. We say, "such sums as necessary," Mr. President. "Such sums as necessary." But we will not retreat on the women's health initiatives.

The President's budget has zero for breast cancer, we have \$325 million—I yield myself the remaining 56 seconds—zero for ovarian, we put \$75 million; zero for osteoporosis, we put \$40 million. We are not retreating on that. We have taken 13 authorizations out but we will not retreat on those.

I believe it is a pretty fair compromise. The final one is on the power of the Secretary on the recommendations of various ethical issues. We say the Secretary's authority will move ahead and be persuasive and controlling unless it is going to be capricious and arbitrary; capricious and arbitrary. It has been in the past with regards to this kind of research. And we do not believe there should be the power in any Secretary, ratified and approved by the Senate or not, that is going to put a political spin on medical and scientific research but can make a difference to the lives of children, elderly people, and women in this society.

We have compromised and I hope we will get the votes for cloture so we can pass this legislation.

The PRESIDING OFFICER. The time of the Senator has expired. Z

The Senator from Utah has 9½ minutes remaining.

Mr. HATCH. Mr. President, I suspect the Senator from Massachusetts really has not heard what I had to say. All that aside, I am willing to take this bill, the extra costs, the language that they have, including the unconstitutional language; I am willing to do everything in my power to see that this administration takes it. And I believe that some of us might be able to get that done.

I am willing to ask those right-to-life Senators, who feel very deeply about that particular issue, to allow this to go. I feel very deeply about the right to life. I suspect that all of us are prochoice when it comes to the life of the mother. There might be a few fringe people who would not be, but I cannot imagine anybody with brains not willing to have abortion for the life of the mother. I think all of us would be prochoice with regard to rape and incest.

The polls show a majority in this country would probably be prochoice with regard to fetal deformity. It is when you get beyond that that you get into all kinds of troubles and that is why we are in this ethical and moral dilemma.

As deeply as I feel about the right of that unborn child to live, I am willing right here and now to work out language to allow these fetal tissue banks to work for 2 years starting January 1. If they do, this debate is over, and we will never have to debate the moral and ethical issues again. We will all be pleased because we will have given imprimatur for fetal tissue research from both Houses of Congress from this day on. What a thing that would be, just for 2 years. If it does not work, we will have come a long way making it work and then they can use aborted tissue.

That is a tough thing for me to say today, but I will do that in the interest of compromise, in the interest of resolving this problem. Do not tell me that top authorities in this country say that these fetal tissue banks will not work. Bernadine Healy and her scientists out at NIH, which the distinguished Senator from Massachusetts has been saying is such a wonderful organization, and I am, too, she and her scientists out there have set up the tissue banks and the grant process over a 2-year period beginning shortly.

These are the experts at NIH and this is what they are doing: Dr. Jim Mason, who is no small person, who has had tremendous experience in health and public health at that, having headed CDC before becoming the No. 1 man in health at HHS, said there will be sufficient tissue from the bank to meet current research needs.

From the approximately 750,000 miscarriages annually in the U.S., we estimate

that only 1,500 will produce usable tissue. Our estimate of the amount of usable tissue from ectopic pregnancies is 500. The goal of the tissue bank is to collect enough tissue from these two sources for experimental implants aimed at altering the course of Parkinson's, diabetes and other disorders.

The figures by the National Institutes of Health back that up. The HHS legislative alert on the fetal tissue bank backs that up. A letter from C. Everett Koop, the former Surgeon General of the United States backs that up. A letter from Dr. Bernadine Healy, one of the leading women doctors in this country, now Director of NIH, backs that up. A letter from Timothy Jackson, Ph.D., from Stanford University backs that up; a letter from Christopher DeGiorgio, M.D., Thomas Murphy Goodwin, M.D., D. Alan Shawmon, M.D., UCLA School of Medicine backs that up; and others, which I ask unanimous consent to print in the RECORD.

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

WASHINGTON, DC, May 28, 1992.

THE PRESIDENT,

The White House, Washington, DC.

DEAR MR. PRESIDENT: I strongly endorse your recent Executive Order creating a Fetal Tissue Bank using tissue from ectopic pregnancies and spontaneous abortions. As the former Surgeon General, I share your commitment to find cures and treatments for such debilitating diseases as Parkinson's, diabetes and certain inherited disorders. When the ban on fetal tissue research was first instituted, I frequently told scientific colleagues that if I were engaged in that type of research, I could still pursue it because I would seek and find tissue from ectopic pregnancies and spontaneous abortions. That is essentially what the fetal tissue bank which you propose would do. Using tissue from induced abortions would be easier and more convenient, but a bank of tissue from spontaneous abortions and ectopic pregnancies will still permit orderly research. The argument that spontaneous abortions may be genetically imperfect is not one which holds up with ectopic pregnancies. Nor would they be infected.

Until new indications for fetal transplant are found, or the number of fetal specimens needed is vastly increased, the tissue bank will prevent the stagnation of research for the serious scientist in this very embryonic field.

Sincerely yours,

C. EVERETT KOOP, M.D., Sc.D.

NATIONAL INSTITUTES OF HEALTH,
Bethesda, MD.

Hon. ORRIN HATCH,

U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: I know the Senate will be considering the Conference Report on H.R. 2507. I would concur with the recommendation to the President to veto the Bill. I have several concerns. For example, the highly intrusive language of the bill micromanages some of NIH's important research programs. In the area on women's health, while I fully support the spirit and the goals listed in this section, the NIH is currently moving forward with aggressive programs on the health of women and minorities and their career development and on the inclusion of women and minorities in clinical trials. The Bill also imposes activi-

ties and a number of advisory committees, including an Ethics Board, on NIH that are costly, unnecessary and duplicative, and in some cases intrude on the existing authorities of the Secretary.

With regard to the fetal tissue transplantation moratorium, my own personal views are well known. However, in terms of the fetal tissue bank, I can state unequivocally as a physician and scientist that this approach is feasible and should be given a chance to prove its efficacy in terms of furthering one of the many needed research options for treatment of diseases such as diabetes, Parkinsons and certain inherited disorders.

I believe that such a bank with an established and NIH funded tissue procurement effort will provide a means to continue the transplantation research effort. In particular, harvesting tissue from ectopic pregnancies, which are life threatening to women, should be vigorously pursued. Such tissue is apt to be uninfected and more likely to be genetically normal. Furthermore, with existing echocardiographic diagnostic technology, ectopic pregnancies are being detected resulting in the opportunity for surgical removal of viable and intact fetal tissue in some of these cases. Indeed, in the case of the widely reported success story of the fetal tissue transplantation into a young child from Texas for a devastating disease called Hurlers syndrome, the source of the successful transplant was an ectopic pregnancy.

NIH is committed to establishing the bank and determining its efficacy within one year of its initiation. We will report to the Secretary on the progress with the bank. Using this tissue we hope also to accelerate research to establish human fetal cell lines in laboratory cultures where they can be properly characterized, assured of being pathogen free, and in some cases genetically engineered to be of more therapeutic value.

NIH exists to find the best ways to enhance the health and quality of life of the American people. A simple extension of appropriation authorization would be the most effective way to continue our work.

Sincerely yours,

BERNADINE HEALY, M.D.,
Director.

STANFORD UNIVERSITY,
Stanford, CA, May 4, 1992.

President GEORGE BUSH,

The White House, Washington, DC.

DEAR MR. PRESIDENT: I am writing to express my support for your issuance of an executive order requiring the Secretary of Health and Human Services to establish a nonprofit registry, a tissue bank and cell lines, using tissue obtained from spontaneous abortions and ectopic pregnancies. Such a registry would represent a collaborative network between transplantation researchers and hospitals and might obviate the need to use tissue from elective abortions.

Elective abortions are, at best, morally problematic, and it is reasonable to suppose that the medical use of tissue from such abortions will tend to increase their numbers. No one ought to encourage or profit from the voluntary taking of a human life, however, and a wise social policy will take the necessary steps to protect the sanctity of human life at all of its stages.

I write not as a scientist but as an ethicist who is sensitive to both the medical needs of patients who might benefit from human fetal tissue transplantation research and the large-

er society who believe that this research may further legitimize the practice of elective abortion in the United States. This debate involves complex questions that are not easily resolved. I myself have been involved in early phases of this debate here at Stanford University.

On April 20, 1989 the Stanford University Medical Center's Committee on Ethics (on which I served along with nearly 50 other experts representing a multidisciplinary group) published its report on "The Ethical Use of Human Fetal Tissue in Medicine." Although the Majority of our committee approved the use of tissue from elective abortions—an opinion from which I dissented—we did recognize that tissue from this source differs from that taken from adult cadavers. For fetal tissue from elective abortion becomes available as the result of a mother's decision, implemented by a physician's actions, to end her pregnancy. This element of volition introduces a new ethical problem. Hence we agreed that "If tissue taken from spontaneous abortions could reasonably satisfy medical demands in both quantity and quality, it would be preferable to avoid the ethical problems of using the tissue from induced abortion" (New England Journal of Medicine, Vol. 320, No. 18, 1989).

Medically screened fetal tissue from spontaneous abortions, as well as from ectopic pregnancies, would be analogous to organ and tissue donations from adult cadavers. Therefore, such fetal tissue could serve as a noncontroversial source of possible highly beneficial transplants—assuming, again, that the tissue meets relevant criteria of quality and quantity. This general approach in conjunction with vital feasibility studies on the recovery, reservation, and transportation of tissue from spontaneous abortion and ectopic pregnancies was proposed by Orrin Hatch in the Senate recently. It is unfortunate that the Senate did not choose to pass his amendment.

Mr. President, an executive order to establish a network between hospitals and researchers to recover human fetal tissue from noncontroversial sources would, I believe, be consistent with the normative preference of the 1989 Stanford University Medical Center on Ethics. It should also meet the humanitarian concerns of biomedical researchers. (Virtually no one, regardless of whether he or she is "pro-life" or "pro-choice," wants people to suffer from tragic diseases.) In short, such an order should help satisfy all parties who hope for a constructive resolution to this very divisive situation. It is on this basis, and as an individual rather than as a representative of Stanford, that I make my appeal.

TIMOTHY P. JACKSON, Ph.D.,
Assistant Professor.

MAY 5, 1992.

The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing as a multidisciplinary group of physician-scientists who express our support of an executive order requiring the Secretary of Health and Human Services to develop programs to procure, maintain and transplant fetal tissue from spontaneous rather than elective abortions.

Your executive order would allow fetal tissue transplantation research to proceed without engaging in the abortion debate. There is consensus that the use of tissue from spontaneous abortions is ethically acceptable to virtually all. According to the

landmark paper by the Stanford Bioethics Committee in the New England Journal of Medicine, "If tissue from spontaneous abortions can satisfy the medical demands for both quantity and quality of tissue, it would be preferable to avoid the ethical problems of using induced abortions."

Substantial evidence exists that spontaneous abortions are an acceptable source of fetal tissue for transplantation. Although tissue from many spontaneous abortions is unsuitable for transplantation due to genetic abnormalities or infection, Byrne indicates that at least 5-7 percent of spontaneous abortions would yield tissue acceptable for transplantation. This compares favorably with the yield from elective abortions, which is 6-9%. Because the tissue will be cryopreserved and banked, safeguards can be established to screen for infection, which is necessary regardless of the source of the tissue (elective or spontaneous).

Mr. President, only a handful (less than 100) of transplants have been performed, and the long term efficacy and safety of fetal tissue transplantation have yet to be established. Is it not wise to use tissue from a source which is ethically acceptable to virtually all. A careful and thoughtful research based program using tissue from spontaneous abortions or ectopic pregnancy would be sufficient to establish efficacy and safety without alienating millions of Americans.

Sincerely,

CHRISTOPHER M. DEGIORGIO
M.D.,

Assistant Professor of Neurology and Neurosurgery, USC School of Medicine.

THOMAS MURPHY GOODWIN
M.D.,

Assistant Professor of Obstetrics and Gynecology, USC School of Medicine.

D. ALAN SHAWMON M.D.,

Associate Professor of Pediatric Neurology, UCLA School of Medicine.

THE UNIVERSITY OF NORTH
CAROLINA AT CHAPEL HILL,

Chapel Hill, NC, May 13, 1992.

President GEORGE BUSH,

The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing in regard to the National Institutes of Health Reauthorization Act of 1992. It is our understanding that you are likely to veto this legislation. We also are aware that the reason for your veto is because of the inclusion of the provision to use human fetal tissue from induced abortions in transplantation research and therapy, a matter which is highly controversial.

It is our opinion that the creation of a human fetal tissue registry, fetal tissue bank and fetal cell lines using tissue obtained from spontaneous abortions and ectopic pregnancies, which was defeated, had great merit. There is evidence that a proportion (5-7%) of spontaneous miscarriages will provide tissue appropriate for use in tissue transplantation research. There is a need to confirm this data and to determine if sufficient tissue can be collected from spontaneous pregnancy losses to recover the needed cells, a collaborative network of transplantation researchers and hospitals working under a properly funded research initiative could accomplish this.

One major advantage of such a project is that it will be free from the controversy that currently surrounds the use of tissue from induced abortions, a matter which seriously offends the ethical sensitivities of many people in our society.

We urge you to consider issuing an executive order requiring the Secretary of Health

and Human Services to establish a registry and tissue bank to provide cell lines from spontaneous abortions and ectopic pregnancies. This will be an important positive step that will facilitate much needed research and therapy for conditions that may benefit from transplantation of fetal cells.

The views expressed in this letter are our personal opinion and do not constitute an official position taken by this Medical School or this University.

Respectfully,

R.C. CEPALO,
WATSON A. BOWAS, JR.

THE UNIVERSITY OF TENNESSEE
MEDICAL CENTER AT KNOXVILLE,
May 13, 1992.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing as physicians who provide health care in an academic setting at our institution in Knoxville. This does not reflect the opinions necessarily of the University of Tennessee. We ask by your executive order that you direct the Secretary of Health and Human Services to develop and maintain tissue for fetal transplantation from spontaneous abortion and ectopic pregnancies rather than elective abortion.

We think that substantial scientific evidence exists that tissue obtained from spontaneous miscarriages would satisfy the needs of those studying fetal tissue transplantation. After screening for problems such as genetic abnormalities and viability, there is evidence to indicate that five to seven percent of such tissues have been found suitable. It is true that tissues from some spontaneous abortions are unsuitable for transplantation because of chromosomal disorders or infections. However, these problems should not detract from the fact that a reasonably high proportion of spontaneous abortion fetuses have normal undiseased tissue suitable for transplantation. There is therefore an untapped source of normal viable tissue from spontaneous abortions and ectopics. Only by attempts to culture organs and tissues from noncontroversial sources should this issue be resolved.

Although a relatively small number of transplants with fetal tissue have been tried to date, we can see the need for further research in this area. The long term efficacy and safety of this fetal transplantation has not been established, however. We therefore urge you to direct our government's efforts toward promoting fetal transplantation research in an ethically acceptable manner, avoiding the serious ethical problems of using elective abortion tissue.

Sincerely,

MICHAEL R. CAUDLE, M.D.,
Professor and Chairman, Department of Obstetrics and Gynecology.

WILLIAM M. HOLLS, M.D.,
Assistant Professor, Perinatologist, Department of Obstetrics and Gynecology.
(These are our personal opinions and not necessarily reflect those of the University of Tennessee.)

GEORGETOWN UNIVERSITY MEDICAL
CENTER,
Washington, DC, May 21, 1992.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We were pleased to learn of your recent executive order directing the Department of Health and Human

Services to establish a fetal tissue bank of spontaneously aborted tissue for research purposes. This is an area which we have been exploring and advocating for the past several years and we fully support the use of such fetal tissue for research. Somehow, in the heat of debate and controversy over abortion, this valuable source of human tissue has been overlooked. Thus, we support and applaud your decision, and the wisdom and the courage with which it was made.

Various studies, including our own, have shown that there is an untapped source of normal, viable fetal tissue derived from spontaneous abortions and ectopic pregnancies. These abortions most frequently occur in a hospital setting. Although it is true that tissues from some spontaneous abortions may be unsuitable for research because of genetic defects, viral or bacterial infection, or other problems, a reasonably high proportion of spontaneously aborted fetuses have normal, non diseased tissues, which are suitable for research.

Reliable data clearly indicate that 7-10% of all spontaneous abortions provide suitable sources of viable tissues. This translates into several thousands viable specimens for research needs each year. This volume may meet the current requirements for fetal tissue in research. Moreover, this percentage of fetal tissue compares favorably with the percentage available from the controversial source of induced abortions. What has been consistently overlooked in the fetal research debate is the fact that current techniques for induced abortions result in extensive damage to the fetal tissue, with the result that only 6-9% are suitable for research needs. Moreover, future development of birth control technologies are likely to further limit the amount of suitable fetal tissues.

Thus, the use of tissues derived from spontaneous abortions and ectopic pregnancies is a reasonable way to obviate the moral problems involving the use of tissues from elective abortions. It allows biomedical research to proceed, without offending the ethical sensitivities of society at large. Although a similar approach has been promoted by Senator ORRIN HATCH, it is indeed unfortunate that the collective wisdom underlying this legislation was not recognized. Your Executive Order, like Senator HATCH's proposed legislation, are founded on sound scientific grounds. We thank you, Mr. President, for your innovative leadership.

Yours sincerely,

MARIA MICHEJDA, M.D.,
Senior Staff Associate.
JOSEPH A. BELLANTI, M.D.,
Director.

[From the Washington Post, June 16, 1992]
ADVANCING RESEARCH, AVOIDING ETHICAL
PROBLEMS

Although a May 31 Post editorial claimed that tissue from elective or induced abortions is necessary for fetal tissue transplant research, Ignacio Madrazo and his group of researchers in Mexico City in 1990 reported obtaining and using tissue from spontaneous abortions in their pioneering Parkinson's research.

The Post editorial also said that tissue from tubal or ectopic pregnancies is generally infected or has other problems and that "that's why it aborts." Actually, a tubal or ectopic pregnancy is one in which the fetus grows outside the womb, cannot live long and must be removed in an operation to save the life of the mother. National Institutes of Health Director Bernadine Healy has written that "such tissue is apt to

be uninfected and more likely to be genetically normal."

Experts at NIH and in other parts of the U.S. Public Health Service have worked out a plan for a series of centers connected to major birthing centers in big cities to obtain, screen, preserve and distribute to researchers this tissue—about which there are no ethical questions and which will in no way encourage or justify elective abortions. This is being carried out under a directive from President Bush for a fetal tissue bank. As of June 12 we are beginning to advertise for proposals to operate these centers under contract.

While the bank should permit us to move ahead on research, we should be wary of claims that Parkinson's, Alzheimer's, diabetes and several inherited diseases are about to be cured by this work. I wish that were true. But even in terms of Parkinson's, where the work seems most advanced, what the preeminent Swedish researcher Olo Lindvall wrote last year is still true: "Although animal experimental data are very promising and clinical trials have given encouraging results * * * there exists at present no treatment for Parkinson's disease based on intracerebral transplantation."

There is even less progress with fetal tissue in diabetes. Nothing has been done in Alzheimer's disease in humans. (The disease remains such a mystery we would have to ask ourselves which tissue would we transplant and to where.)

We await the results of the attempt to arrest Hurler's syndrome in a child.

The federal government supports many varied studies of these diseases. With the fetal tissue bank eliminating an ethical question, it also will be supporting this further avenue of research, fetal tissue transplantation.

JAMES MASON,
U.S. Public Health Service.

WASHINGTON.

[From the Washington Post, May 30, 1992]

IN SUPPORT OF THE FETAL TISSUE BANK

As biomedical researchers who have closely followed the controversy about the Bush administration's ban on funding for transplanting tissues taken from induced abortions, we've been struck by the one-sided manner in which the press has reported on the issue. With few exceptions, the arguments of those who support the administration's policy have been given short shrift or have been distorted [op-ed, May 22].

About 750,000 spontaneous miscarriages occur annually in the United States, of which about 100,000 occur in hospitals, according to the Public Health Service. In addition, about 100,000 fetuses are removed surgically each year because of life-endangering ectopic pregnancies. The bulk of these tissues is unsuitable or not practically retrievable for transplant purposes, but that also is true for induced abortions—less than 10 percent of those produce usable tissue. The point is that these miscarriages and ectopic pregnancies that do result in viable, healthy and accessible tissue can more than meet research needs.

Fewer than 100 fetal tissue transplants have been performed in the United States. The U.S. Public Health Service estimates that the tissue bank could gather at least 2,000 usable fetal cadavers annually.

The feasibility of the tissue bank has been defended by some prominent advocates of fetal tissue research. Among them are two scientists on the 1988 NIH human fetal tissue transplantation research advisory panel. The

majority of that panel recommended lifting the moratorium on abortion-dependent research.

In a May 13 letter to President Bush, Prof. Robert C. Cefalo of the University of North Carolina, who voted with the majority, said that a federally operated bank for nonabortion fetal tissue had "great merit," adding, "There is evidence that a proportion (5 percent to 7 percent) of spontaneous miscarriages will provide tissue appropriate for use in tissue transplantation research." The letter was co-signed by a renowned pioneer in fetal surgery, Watson Bowles.

Likewise, NIH Director Bernadine Healy—who also voted with the majority—wrote, "I can state unequivocally as a physician and scientist that this approach is feasible and should be given a chance to prove its efficacy."

Former surgeon general C. Everett Koop wrote to the president to "strongly endorse" the feasibility of the tissue bank. Dr. Joseph A. Bellanti and Dr. Marcia Micheldt, of Georgetown University Medical Center wrote, "various studies, including our own, have shown that there is an untapped source of normal, viable fetal tissue derived from spontaneous abortions and ectopic pregnancies . . . a reasonably high proportion of spontaneously aborted fetuses have normal, nondiseased tissues, which are suitable for research."

It is perfectly rational for the president and other Americans—scientists included—who recognize the fetus as a member of the human family, to oppose government promotion of research that would create a societal dependence on induced abortions as a tissue source. There is a respectable medical opinion in support of the feasibility of the president's alternative approach. It should be given a chance to work.

KEITH A. CRUTCHER.
ROBERT WHITE.

(The writers are, respectively, a professor of neurosurgery at the University of Cincinnati Medical Center and a professor of neurosurgery at Case Western University Medical Center in Cleveland.)

[From Nature, Aug. 13, 1992]

FETAL TISSUE BANKS

SIR: Your News story "Researchers reject tissue banks" (Nature 357, 267, 1992) quotes Yale researchers who extrapolated data I supplied to Senator Orrin Hatch and that he and Senator Edward Kennedy used in a Senate debate on fetal tissues research on 31 March 1992. Unfortunately, the researchers erred in their computation.

The data Congress received come from a study of miscarriages conducted at three Manhattan hospitals between 1977 and 1981: I examined more than 3,500 normal, well-preserved specimens up to 28 weeks gestational age, and concluded that about 7 per cent of them would have been potentially suitable for transplant research.

Readers should be aware that the Yale research refers only Parkinson's disease, in which interest focuses mainly on fetal brains of a developmental age of 7-12 weeks—a small fraction of the potentially useful fetal material. Journalists who omit this detail mislead the reader, but the researchers themselves compound the difficulty by understating by half even the amount of material available for Parkinson's related transplant research. The Yale calculation, which you report, that "usable abortions occur, on the average, only 1.4 times a year at each hospital" is an error; in fact, about twice that number would be available for the limited purpose of Parkinson's research.

Our study remains the largest and most systematic inquiry so far into the pathology of miscarriages. The results indicate that enough tissue could be obtained to make the proposed tissue banks worthwhile (J. Byrne et al. Teratology 32, 297-315, 1985). Just how much, and under what conditions, would be determined by the new tissue bank programs.

Not everyone regards the tissue bank issue from a political perspective and, if it were taken out of politics, many researchers would support such a programme. Research using fetal tissue holds enormous promise, not only for transplantation, but also in cancer research, in developmental biology and in AIDS research.

Moreover, we are still far from understanding the causes of miscarriages, despite their common occurrence; there were an estimated 750,000 in the United States last year. Ectopic pregnancies are on the rise, yet their causes are still obscure. Much good will come from the wider availability of fetal tissue for research. The opportunity to use the tissue bank networks for new studies of fetal loss should not be lost.

JULIANNE BYRNE,
Boyne Research Foundation,
WASHINGTON, DC.

[From Science, July 17, 1992]

MISCARRIAGE STUDY

Joseph Palca's article "Banking for transplantation research" (News & Comment, 29 May, p. 1274) conveys a misleading impression regarding data on miscarriages for fetal tissue transplant research that I supplied to Congress. Palca states that I "made no attempt to determine whether viral or bacterial infection might make tissue that [I] classified as acceptable unsuitable for transplantation."

The study referred to (J. Byrne et al., Teratology 32, 297 (1985)) is the largest and most comprehensive to date on the pathology of miscarriages. From January 1977 to August 1981 I was the leader of a team that evaluated more than 3500 miscarriage specimens for evidence of gross disorganization and dysmorphology. The overall study goals concerned the genetic and environmental causes of miscarriage. Detecting infection was not an objective. I suspected then (and still do) that infection might be a casual factor in miscarriages, but attempts to obtain funding for a study were unsuccessful. Transplantation research was also not part of our study. We supplied different kinds of tissue to local investigators. They found this tissue suitable for their purposes which, 10 years ago, probably did not include transplantation.

The information given to Congress referred only to well-preserved specimens and did not include data on fetuses that had died some time before delivery. The data indicate that enough miscarriage tissue could be obtained for tissue banks (Byrne et al.). How much, and under what conditions, would be a probable subject to study by the new tissue bank program.

JULIANNE BYRNE,
Executive Director,
Boyne Research
Foundation, Wash-
ington, DC.

PUBLIC HEALTH SERVICE, OFFICE OF
THE ASSISTANT SECRETARY FOR
HEALTH.

Washington, DC, July 28, 1992.
To: The Secretary.
From: Assistant Secretary for Health.

Subject: New York Times Article on Fetal Tissue Bank—Information.

ISSUE

I would like to respond to the article by Philip Hitts in the Monday, July 27, New York Times which severely distorts and misrepresents the good faith efforts by the Administration to establish a fetal tissue bank.

DISCUSSION

The primary criticism of the article (copy attached) focuses on the estimates of the quantity of tissue from spontaneous abortions and ectopic pregnancies that the Department has estimated will be usable for transplantation and which will be the target of the fetal tissue bank's collection efforts.

First, I would like to state unequivocally that at no time was any attempt made to misrepresent or distort information about the feasibility and utility of the fetal tissue bank proposal. In fact, an extensive effort was made to collect the most recent and accurate scientific data.

The following are the allegations put forth in the article and our responses.

Allegation 1

The New York Times claims the Department misrepresented estimates of the quantity and quality of tissue from ectopic pregnancies and miscarriages.

Response

Memoranda from NIH, which were quoted extensively and out of context in the New York Times article, were neither ignored nor misrepresented by us. In fact, it was precisely this information which was the basis for our determination that only a small fraction of the total tissue from all spontaneous abortions and miscarriages will be usable for transplantation purposes. From the approximately 750,000 miscarriages annually in the U.S., we estimate that only 1,600 will produce usable tissue. Our estimate of the amount of usable tissue from ectopic pregnancies is 500. The goal of the tissue bank is to collect enough tissue from these two sources of tissue for experimental implants aimed at altering the course of Parkinson's, diabetes and other disorders.

Allegation 2

An anonymous NIH source quoted in the article claims that in order to retrieve all of the 1,600-2,000 fetal tissue specimens included in our estimate, it would be necessary to have a "SWAT team of highly trained professionals in every bedroom and every hospital in the United States."

Response

We intend to have a highly trained professional team at major medical centers where the majority of obstetrics cases are seen. This system, when fully operational, will allow us to access and collect a sufficient number of usable specimens from these sources.

Allegation 3

The article claims the fetal tissue bank will cost \$330 million per year.

Response

This estimate is based on the erroneous assumption that we will go to unreasonable extremes to retrieve every single usable fetus. Future costs will be largely determined by the level of effort needed to support scientifically meritorious research and therefore, I am unable to make specific cost projections at this time. Given that NIH has not received nor evaluated such proposals, it is not possible to determine the likely number of research projects nor can we predict the

course of scientific discovery. If we find that fetal cell transplantation does dramatically improve the condition of patients, who would argue with increased efforts to provide this relief? Both NIH and I remain unconvinced that in time, a fetal tissue bank will become obsolete as new and cost-effective cell and gene therapies are developed.

Allegation 4

The New York Times quotes unidentified sources as saying that 60-75 percent of fetal specimens will be contaminated and claims that half of the usable tissue will be expended for testing.

Response

The infection rate for fetal samples has been estimated by us at 50 percent. There have been on large scale studies to determine precisely the rate of infection but the first year of the bank will certainly provide valuable data on this point as well as contribute to studies about the causes of pregnancy loss. Further, modern technologies allow testing for infection on a very small number of cells.

Allegation 5

The article cites a Congressional Committee estimate that the number of fetuses that could be collected from the entire nation in a year would be 24. A Yale University researcher and critic of the fetal tissue bank has estimated that if the bank starts at six hospitals, 6 usable specimens could be retrieved.

Response

I would like to refute these pessimistic estimates by providing a simple illustrative example. One major medical center sees more than 1,000 cases of spontaneous pregnancy loss at greater than 9 weeks gestational age and over 450 ectopic pregnancies annually. This institution alone could provide about 50 usable specimens annually. Thus, with the participation of large institutions or networks of institutions, we expect significant numbers of specimens in the early stages of the bank.

Allegation 6

The New York Times article cites a source who claims that there will be at least a half a dozen scientific teams who will each want to carry out 20 fetal tissue transplants and that 2,000 samples will be needed in the first year.

Response

These projections are clearly exaggerated as only 60 transplants have been conducted in the last 30 years in the U.S. Given that transplantation research is in the early experimental stages, we are unable to predict what the actual level of future experimentation will be. A request for applications for the fetal tissue bank has already been published and 19 letters of intent have been received. We will fund approximately six centers in the first year.

CONCLUSION

The allegations made in the New York Times article are without merit. We remain confident that the bank will supply more than sufficient fetal tissue than is required for research needs. Without encouraging or justifying elective abortions, the bank will permit us to move ahead on responsible research attempts to help people with debilitating and deadly diseases.

JAMES O. MASON, M.D., Dr. P.H.

Mr. HATCH. Mr. President, we can resolve this problem, and why be tough about it? I would fight my guts out to

get this bill passed with the fetal tissue banks, given a reasonable chance of 2 years which is what NIH has set them up to do. We certainly will have fetal tissue that will be used in research from those banks in that period of time.

I will do that today, and I will go to the White House and tell them they have to do it. I will talk to my colleagues who feel otherwise about this particular offer. I cannot guarantee it, all I can say is I will do my very best. In the past, I think that has been pretty good on a lot of health legislation that has passed around here. But if they will not even take that, knowing that this is going to be filibustered if cloture is invoked, knowing that the President will veto it if they can go to a process all next week to get it there and knowing that that veto would be sustained, then who is being unreasonable in this matter?

I have to say, it is not I, and I would like to have the distinguished Senator from Massachusetts and I go arm in arm down the center to get this done as we have on so many other important health bills in the past. I would like to call on my friend HENRY WAXMAN over in the House, JOHN DINGELL and others, who are linemen in health matters in the House, tremendous people. I would like to call on them to go arm in arm and do a bipartisan effort and do what has to be done. If we can and pull that through, it will be a wonderful victory for fetal tissue research and the country as a whole. I cannot do anything less than that. I cannot argue for anything less than that. I do not think I have a chance with just anything less than that.

Frankly, it all comes down to, really what do we want, a political issue or do what is best for peoples health and lives? Do we really want this research to go forward? Do we really want to give our best to it? Do we really want to go down in defeat with NIH in the 102d Congress?

I do not blame the President. He is right to stand by his word. He is right to do what he said he would do. He is not going to have to do that unless we are willing to be in here another 1 or 2 weeks. It is a bona fide offer. I do not know if we can pull it off, but I would do my very best to get it done, and if we could, then it would be up to the House. If they do not want to take it, then that is the way life is. I reserve the remainder of my time.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. HATCH. How much time remains?

The PRESIDING OFFICER. Two minutes, 45 seconds.

Mr. HATCH. I yield a minute to my friend.

Mr. KENNEDY. I would like to ask that we have 4 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, I have to object to that.

Mr. KENNEDY. I will suggest the absence of a quorum.

Mr. HATCH. I will give him my time, how much time does the Senator need?

I yield all that time to Senator KENNEDY.

Mr. KENNEDY. Mr. President, so we have an understanding, effectively this legislation was passed 87 to 10 in the spring; in April, 85 to 12, bipartisan Republican and Democrat. The Senator from Utah has said a 2-year extension. The language which we had included in the legislation had a 1 year trial which was the language which Secretary Healy and Secretary Mason suggested. He has mentioned 2 years. I would be prepared to split the difference with what the Senator from Utah has suggested and what is in the bill and offer that as a joint amendment and let us pass that legislation right here this afternoon.

That will give 10 more months than the administration said would be necessary for the bank. We will split the difference. He made a proposal. I would make a recommendation to our colleagues who believe very deeply that everyday we delay action is a day that avoids careful important research.

Mr. HATCH. Mr. President, if the Senator will yield, I said what I would do. It would be a big undertaking on my part. I do not know if I could get it done, but 2 years from January 1 is the absolute best—a lot of people want more than that, but that is the best I can do.

Frankly, I know it will be a crime, I know the other side is willing to go to 18 months. It is a crime if we do not do 2 years. All I can do is offer the best I can do in good faith, do everything I possibly can to get it done and I cannot guarantee I can even at that, but I will do everything in my power and good faith to get it done. That is the best I can do. It would be a shame not to do it for 6 months.

Mr. KENNEDY. I ask for 20 seconds.

Mr. President, talk about compromise. It is a difficult compromise to say to those families of Alzheimer's and Parkinson's disease, we are going to delay it further. We took a halfway mark between what came out of the committee and what the Senator is offering. If he is not prepared to do that when we have 86 Members of this body who supported that position, I think the record will reflect who is prepared to move the process forward.

Mr. HATCH. I ask unanimous consent for 20 seconds.

The PRESIDING OFFICER. The Senator has 25 seconds remaining.

Mr. HATCH. Mr. President, the money for the grants that have already been made, and they clearly are not enough, has not even been given. This is not a calendar year situation, and it probably will not even get going until

next May. We are talking about the necessary time to give these banks the chance to work.

I am willing to do everything in my power for 2 years, with the right kind of legislative language—that is the two aspects of this offer—from January 1, 1993.

I thank the Chair.

Mr. SEYMOUR. Mr. President, I rise today to help end the needless suffering of millions of Americans from debilitating diseases such as Parkinson's, Alzheimer's, and Huntington's diseases. Striking the central nervous system, these diseases lead to severe brain damage, paralysis and eventually, death. Today, we have an opportunity to help save these lives, an opportunity to turn the tide of severe disability and give these individuals a chance to actively participate in the prime years of life. This opportunity is research.

In 1988, the administration placed a ban on Federal funding for fetal tissue transplantation research. Despite this ban, several medical institutions sought private donations to continue research in hopes of finding a cure to diseases such as Parkinson's and Alzheimer's. The results of their research have proved to be promising. At the University of Colorado, seven individuals suffering from Parkinson's participated in fetal cell implantation to reverse the damaging effects of their disease. Four of these patients experienced substantial improvement over time. Although this treatment has not proved to provide permanent relief researchers, including Dr. Moskowitz of the National Institutes of Health, believe that and expansion of this research may lead to a cure.

Mr. President, these diseases are both physically and emotionally excruciating—for the victim, for the family, and for their friends. Although the onset of Alzheimer's and Parkinson's is gradual, it is a slow and painful process, involving severe memory lapse, the inability to feed or dress oneself, the inability to walk, to move or to speak. Perhaps one of the most frightening affects of these diseases, is loneliness. Alzheimer's is so severe that the victims no longer know or recognize their families or friends. They cannot remember events, emotions, or thoughts that happened the day before, or even minutes before. They live in constant fear of the unknown.

Beyond lifting the ban on fetal tissue research and creating a tissue bank, this legislation reauthorizes all of the valuable programs under the National Institutes of Health. It is imperative that this legislation be passed before we recess this year. We can not allow these programs to go unfunded. This is perhaps one of the most important and intelligent health care investments we can make this year. We can help stop the onset of damaging diseases in our future if we invest in research today.

The time has come to stand and offer our support to allow this vital research opportunity to continue. Not only will it improve the lives of millions of Americans, but will save our health care dollars in the future. I ask my colleagues to join me in support of S. 2899.

Mr. REID. Mr. President, I rise today in support of the NIH reauthorization bill, specifically as it addresses an underrepresented group here in the U.S. Congress: women.

Two hundred years of a male-dominated legislature has left its mark on women in many areas, particularly in that of medical research. Traditionally, men have decided, and still do decide, what types of medical research get funded, and at what levels.

Men are in the majority in the Congress, men are in the majority in medical research. This means the needs of women are overlooked. I am here to speak for those women currently suffering from female-specific diseases, and for those who may have died from those diseases.

If men suffered from illnesses such as interstitial cystitis, multiple sclerosis, lupus, and osteoporosis at the same rate women do, I would wager that much more research would be done on these illnesses. Perhaps there would even be cures. I see this inequity as nothing less than medical sexism.

Last year, as a member of the Senate Appropriations Committee, I worked to secure \$50 million for breast cancer screening programs, more than \$200 million for research on breast, cervical, and ovarian cancer at the National Institutes of Health, and \$3 million for research on interstitial cystitis—a painful, debilitating disease affecting 500,000 Americans, of whom 90 percent are women. These appropriations, and they have been increased under this year's appropriations, were a significant step toward placing women's health on par with men's. Today, we are fortunate to have the opportunity to go a step further.

This bill provides permanent authority for an Office of Research on Women's Health within the Office of the NIH Director. This office will ensure that NIH complies with the congressional mandate of inclusion of women in clinical research and will coordinate among the institutes the various research projects involving women.

For too long, women have been excluded from research projects due to arbitrary considerations. Researchers believed that because women have a more complicated hormonal system, results of studies on women would be difficult to interpret and more costly to gather. Therefore, women have been considered a special case, and men have been considered the norm.

How can we consider a majority of the population as a special case? How can we refuse to test more than half our population because we say they are

not the norm? This makes no sense. It is blatant medical sexism. The bill requires clinical research equity in every institute to ensure that women and minorities are included as subjects in each project.

Millions of women have read the study suggesting an aspirin a day may prevent heart disease. Do they know the sample group was entirely male? In fact, we do not know whether an aspirin a day is harmful or beneficial to women with heart disease. It is patently unfair to assume that men and women do not differ in their response to aspirin or to ignore any difference as not technically significant. Heart disease claims the greatest number of women's lives in this country. Yet all major studies of causes and prevention has involved exclusively men.

Once again, women are left in the dark because of medical sexism.

Unfortunately, physicians have a poor understanding of the effects of aging on the development of disease in older women. One-third of women in America are post-menopausal and doctors are without the tools to treat the accompanying aging problems. This bill requires research on the aging process in women, especially on the effects of menopause and loss of ovarian hormones. Further, \$40 million is authorized for research of osteoporosis, a disease affecting one-third to one-half of postmenopausal women, and resulting in 50,000 deaths annually. In addition to research on osteoporosis, the effort shall include a study of Paget's disease and related bone disorders.

Information is the greatest necessity in women's health today. This bill establishes a clearinghouse and data bank to provide information on research and prevention activities in women's health. A registry is established to provide the sample pool and data for continuing research projects.

Despite our advances in technology, the number of women diagnosed with breast cancer each year has increased from 1 in 14 women, to 1 in 8, as reported yesterday. In my home State of Nevada alone, it is estimated that 200 women this year will die from breast cancer. This is unacceptable. This bill authorizes \$325 million for breast cancer research, prevention, education, and establishment of research centers; \$75 million is further provided for research in gynecological cancers. We must continue to provide the assistance needed to investigate and combat these pervasive, deadly diseases.

As I have said before, women have been underrepresented in positions that affect this Nation's health policy. Health problems unique to women have received inadequate attention. I intend to change that trend. I urge your support for this important legislation, for the health of our wives, daughters, mothers, and all American women.

I would like to address another section of this bill which provides for loan

repayment for those professionals researching within the NIH. After being in Washington for almost 9 years, I made my first visit to the National Institutes of Health. These Institutes are the world's foremost biomedical research facilities. I had developed over the years a respect and appreciation for the work done by the Institutes, but my personal tour closely showed how impressive and even exciting are these Institutes.

While visiting the National Institute of Neurological Disorders and Stroke [NINDS], the Director, Dr. Murray Goldstein, acquainted me with the evolution of a great discovery. Researchers came to him for permission to follow a course of study involving the use of corticosteroids to prevent paralysis resulting from trauma to the spine, as in the case of a car accident.

Initially, results showed no reduction in paralysis when corticosteroids were administered. The steroids were administered again in larger doses. Still no improvement. But, because the experiment had worked in cats, researchers at NINDS were not ready to give up hope. They administered the substance in mass quantities and found that if given to a trauma victim within an hour of injury, degeneration of the spine could be halted. Even more exciting, this treatment costs less than \$100. Less than \$100 to save someone from paralysis.

I could continue for hours about the seemingly miraculous medical discoveries made at NIH. While all the Institutes work on vastly different projects, I did encounter a recurring theme in every one I visited. Because NIH does not pay salaries comparable to those offered by private sector biomedical research facilities, the various Institutes frequently have difficulty recruiting scientists. When one considers the amount of debt amassed by both medical doctors and Ph.D.'s during their training, it comes as no surprise that recently graduated scientists cannot accept lower paying jobs offered by this biomedical research center.

Currently, NIH employs a very successful approach to attracting scientists to the facility to research in an area where shortages of researchers exist—specifically the area of AIDS investigation and research.

The AIDS Loan Repayment Program permits NIH to attract researchers to work in the area of AIDS, where a desperate shortage exists, by repaying each year of service to NIH a predetermined amount of the researchers' educational loans. This bill extends this excellent program to allow NIH to attract scientists in other areas where shortages of researchers exist, such as in the area of Alzheimer's disease, cancer and heart disease.

Extension of the AIDS Loan Repayment Program to other specialties takes on an even greater significance

when one considers that in 1990, 79 percent of all medical students borrowed to finance their education. The average debt in 1990 for medical students was \$46,224, and 30 percent had debt over \$50,000. Not surprisingly, debt levels for minority students were significantly higher than average.

As the National Institutes of Health is reauthorized this Congress, I sincerely urge my colleagues to support the finest biomedical research facility in the world, and in particular by ensuring that the Institutes remain capable of attracting research personnel. I also strongly recommend that each of my colleagues find time in their busy schedules to visit this impressive institution.

Mr. GORTON. Mr. President, I would like to express my support for the compromise provisions contained within S. 2899, the National Institutes of Health Revitalization Amendments of 1992.

Fetal tissue transplant research holds the promise of finding cures for crippling diseases such as Alzheimer's, Parkinson's disease, spinal cord injury, diabetes, and many other life threatening conditions. S. 2899 offers a sound approach to helping the thousands of people who suffer from these afflictions. Our continued delay on this necessary research is turning the hope and optimism of millions of ill Americans and their families into despair and resignation.

This legislation contains important safeguards and guidelines that prevent abuse of this research. It adopts the protections as recommended by the National Institutes of Health Task Force that ensure separation between research and the decision to perform an abortion.

It is critical that we do not ignore ethical guidelines or exploit this research in our haste to save lives. This bill will set forth necessary and ethical guidelines and regulations, as well as strict penalties for violations of those guidelines.

S. 2899 requires that consent to the abortion precede the consent to donate the fetal tissue. The mother may not be informed as to the identity of the individuals who will receive the tissue transplant, nor can she identify to whom the tissue will be donated. The recipient of the tissue must be informed by researchers that the tissue is human fetal tissue and the tissue may have been donated as a result of an induced abortion.

S. 2899 would require that the physician make known any interest that he may have in the research to be conducted with the donated tissue. Researchers and physicians may not contribute to any costs associated with the abortion. The bill prohibits the physician or researcher from altering the timing, method, or procedure used to terminate the pregnancy in order to obtain a better fetal tissue sample.

Procedural changes which may cause greater than minimal risk to the fetus or the pregnant woman are prohibited. Additionally, the bill will outlaw the purchase, sale or solicitation of fetal tissue. This legislation would assess fines, or mandate imprisonment for violations relating to this act.

In addition to these safeguards contained in the original version of this bill, H. R. 2507, this legislation will require researchers to first request tissue from the bank established under President Bush's executive order. If the bank is unable to supply tissue within 14 days, the researcher would be permitted to use tissue from other sources.

I believe that the safeguards contained within this legislation effectively prevent, and ultimately prohibit, potential abuse of fetal tissue research. S. 2899 will give Federal support to essential research that may help millions of suffering Americans.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired. By unanimous consent, 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, hereby move to bring to a close the debate on the motion to proceed to S. 2899, a bill to revise and extend programs of the National Institutes of Health:

Paul Simon, Harry Reid, Frank Lautenberg, George Mitchell, Carl Levin, Jim Sasser, Joe Biden, Daniel K. Inouye, Alan Cranston, Tom Harkin, Edward M. Kennedy, Howard Metzenbaum, John F. Kerry, Paul Wellstone, Jay Rockefeller, and Brock Adams.

CALL OF THE ROLL

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

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 2899, the NIH reauthorization, shall be brought to a close? The yeas and nays are required. The clerk will please call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

The yeas and nays resulted—yeas 85, nays 12, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—85

Adams	Garn	Mitchell
Alaska	Glenn	Moylhan
Baucus	Gorton	Murkowski
Bentsen	Graham	Nunn
Biden	Grassley	Packwood
Bligaman	Harkin	Pell
Bond	Hatfield	Pryor
Boron	Heflin	Reid
Bradley	Hollings	Robb
Breaux	Inouye	Roeckefeller
Brown	Jefords	Roth
Bryan	Johnston	Rudman
Bumpers	Kassebaum	Sanford
Burdick, Jocelyn	Kasten	Sarbanes
Byrd	Kennedy	Sasser
Chafee	Kerry	Seymour
Cochran	Kerry	Shelby
Cohen	Kohl	Simon
Conrad	Lautenberg	Simpson
Cranston	Leahy	Specter
Danforth	Levin	Stevens
Daschle	Lieberman	Thurmond
DeConcini	Lott	Wallop
Dixon	Lugar	Warner
Dodd	Mack	Wellstone
Dole	McCaIn	Wirth
Domenici	McConnell	Woford
Exon	Metzenbaum	
Fowler	Mikulski	

NAYS—12

Burns	Ford	Nickles
Coats	Gramm	Pressler
Craig	Hatch	Smith
D'Amato	Helms	Symms

NOT VOTING—3

Durenberger	Gore	Riegle
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The PRESIDING OFFICER (Mr. Ford). Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

Mr. KENNEDY. Mr. President, regular order. There has been no intervening business between the call of the roll on the cloture motion.

The PRESIDING OFFICER. The Senator from Massachusetts is correct.

Mr. SYMMS. Mr. President, I rise to take the floor, and I had a little bit of housekeeping I wanted to do before I commence my remarks to my colleagues. So I suggest the absence of a quorum.

Mr. KENNEDY. Regular order. I make the same point of order that was made before.

The PRESIDING OFFICER. There has been no intervening business, and the Senator from Massachusetts is correct.

Mr. SYMMS. Mr. President, I ask unanimous consent that I might speak as in morning business for 30 seconds to insert a speech into the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

WILLIAM J. AGEE ON RAIL TRANSPORTATION

Mr. SYMMS. Mr. President, on September 23, William J. Agee, the chairman and chief executive officer of Morrison Knudsen Corp., delivered the keynote address at the sixth annual Amer-

ican Railroad Conference in Chicago. That speech has garnered very wide acclaim in national print media and trade journals, and I take this opportunity to call it to the attention of my Senate colleagues.

My long time friend, Bill Agee, has turned the Morrison Knudsen Corp. into the Nation's leading rail transportation construction company, and in the process, Bill has himself become one of the Nation's leading authorities on the multimodal future of transportation in the United States. His remarks should be read carefully by Members of Congress, policymakers in the administration, and business men and women across the country planning the future of their business investments and growth opportunities.

Bill notes correctly that congestion is a fact of life today for passengers on many of our Nation's highways and at airports across the country. Rail transportation, particularly high-speed passenger rail service, can help solve those congestion problems in an economically and environmentally sound fashion.

I ask unanimous consent that Mr. Agee's speech be printed in the RECORD following my remarks, and I urge my colleagues and their staffs to use the few minutes it will take to read his important remarks.

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

A LOOK AT AMERICA'S RAIL INDUSTRY (Remarks by William J. Agee)

It's great to be in Chicago, to see so many friends and to spend some time together talking about America's rail industry.

As many of you know, railroads are a subject very dear to me and very dear to the entire Morrison-Knudsen family. Our company's heritage is steeped in America's rich railroad tradition. And we've made a commitment to carry that tradition forward into the next century.

So I'm very excited to be here and to have the chance to share with you my thoughts about where we've been, where we are and where we're going as an industry.

Chicago is an appropriate place to discuss these issues because it's been—perhaps more than any other city—the hub of America's transportation system. It's the center of our railway supply industry. And it's home to the country's premiere commuter rail system.

Early in our history, Chicago was a great staging ground for the builders of a new nation. Chicago witnessed the legendary struggles and triumphs of the men and women who built America's Railroads. And it was in large part as a result of their efforts that Chicago became one of the world's great commercial centers.

It was not far from here—during the last century—that a young aspiring politician was first captivated by rail's promise.

Abraham Lincoln was just beginning his political career when he was called to serve in the Blackhawk wars. It was there in the north woods of Illinois—as he watched armies of men and wagons mired in mud—that Lincoln was first inspired by a vision of railroads revolutionizing travel in Illinois and across the country.

Returning home, he made rail a campaign issue, speaking of railroads as a "never-failing source of communication" which "no other improvement can equal in utility."

We've come far since Lincoln's day. When travelers in America slogged along muddy roads. When commerce was slow and uncertain. When information moved at a wagon's pace.

Led by many of the people and companies represented in this room. We built the world's greatest system of railroads, highways and airports. And they helped revolutionize American travel, business, communications—and ultimately—our way of life.

Did we achieve some of the promise that Lincoln dreamed of? You bet. But have we been able to live up to his ideal of transportation as a "never-failing source of communication?" or even an almost-never-failing source of communication?

Clearly, the answer is no. Far from it.

Consider this: At the turn of the century, America's standard form of travel was the horse-drawn carriage. Average speed—about 11 miles per hour. Right now in New York City automobiles are averaging 6 miles per hour.

Now you have to ask yourself, is that progress?

What would Lincoln think if he hopped in a car and tried to get out to O'Hare today during rush hour? Sooner or later, he'd be missing the horse and wagon.

The average commuter in Los Angeles spends 4 hours and 20 minutes—each day—going back and forth to work. Some say people from southern California are laid-back. I think they're just constantly exhausted by the commute.

Each year, Americans are forced to waste 2 billion hours and 3 billion gallons of fuel sitting in traffic. By the end of the decade, that's going to cost us \$50 billion in lost wages and fuel.

It's no secret that America's transportation system is in crisis. Across the country—in our cities, towns and in the countryside—we're seeing aging roads and bridges deteriorate. At the same time, we're using them more and more. And—surprise, surprise—conditions are getting worse.

And there's no end in sight. Unless something changes, over the next 20 years, congestion on our freeways will more than quadruple. It will double on our non-freeway system. And it will increase tenfold in low population areas.

Things are so bad already in so many places, that it's hard to imagine what that kind of traffic would look like.

Let me give you an example. Recently, a group of experts was asked to figure out how much Florida would have to expand highway I-95 between Miami and Fort Lauderdale to handle traffic 28 years from now—in the year 2020. They concluded—no joke—that 44 lanes would just about do it.

Ladies and gentlemen, there's a serious message here. We can't go on paving over America and calling it progress.

Make no mistake, the stakes are high. We're not just talking about wasted time and wasted fuel; 68 cities are falling Federal air pollution standards for ozone and almost as many can't meet carbon monoxide guidelines. Over 100 suburban areas exceed the limits.

All told, that means 150 million Americans live in areas where the air quality is below acceptable levels. The American Lung Association estimates that the national health care bill for air pollution is \$40 billion per year.

So what's the alternative? How can we accommodate our growing transportation needs? The airlines? Well, I think we all know the answer to that one from hard experience.

Today, most airline passengers on trips of 1,000 miles or less spend more time on the ground than in the air. You know the routine. You sit on the runway at both ends. You have to commute to and from the airports. It adds up. A 2-hour flight from Denver to Chicago can consume half a work day, door to door.

The Federal Aviation Administration says that each year air travelers sit through 20,000 hours of flight delays, that costs us \$5 billion in wasted time and fuel. It would take an awful lot of complimentary drinks and honey-roasted peanuts to make up for that. Even if we could build more airports quickly enough—and we clearly can't—that's not the answer. The skies above our major airports already look like the San Diego freeway on a holiday weekend.

That brings us to rail. And as you know, the picture in our industry is quite different.

Unlike the highways and airports, railroads aren't overburdened. Without adding track, railroads are capable of carrying four times the traffic they do now. Rail is the only mode of transportation that offers us a way to immediately begin easing the pressure on our transportation system.

Rail also provides creative approaches to improving the way we use other modes of transportation. In fact, we've been doing it for years. We began piggy-backing trucks on trains a long time ago. Today it's become the rail industry's fastest-growing segment.

And as higher labor and insurance costs continue to change the economics of trucking, we're working with trucking industry leaders such as J. B. Hunt and Schneider National to offer even better door-to-door service.

But wait. If rail provides answers to many of our transportation problems. Why isn't it playing a big role in solving our transportation crisis today?

Everyone in this room knows the answer.

It's fact of life in our industry that, for far too long, rail has been a relatively national low priority. During the next 5 years, the United States plans to invest barely over 1 percent of our Federal transportation dollars in rail. That's one of what the European Community will invest in its rail network. Rail has been the Cinderella of the transportation family—the neglected stepchild. Highway building has been heavily subsidized while rail has been left largely to its own devices. Airport builders benefit from tax incentives. Trucking is given preferential treatment. But by and large rail has to pull its own weight.

None of this is news to you. The people in this room have had front row seats as America's rail industry struggled over the years to overcome neglect and underfunding—the result of this country's bias toward highways and airports.

The good news is that despite this inequitable treatment, the industry came through the 1980's in fairly good shape. Since deregulation 12 years ago, railroads have improved services and cut operating expenses. Revenue per mile increased significantly at the same time that the number of locomotives decreased by 25 percent. That's a major accomplishment in any industry.

During the 1980's, railroads invested more than \$30 billion in new and improved equipment and another \$100 billion in maintenance. Unproductive assets were shed and,

today, more than 200 new short line and regional railroads are operating profitably in facilities once slated for abandonment.

And the rail industry has been bringing new technologies to the market. As a result, various measures of output rose during the 1980's. Freight-car utilization up 13 percent. Operating efficiency up 51 percent. Fuel efficiency up 38 percent.

As individual businesses and as an industry we have a lot more to do if we are going to be competitive during the 1990's. We also have to continue improving operating ratios, cutting costs while increasing services and sustaining growth.

These are formidable challenges. But I believe that we are beginning to move in the right direction—as an industry and as a nation. I believe that in some very important respects we are in a position much like the one we were in during the 1950's.

Back then, America was emerging as a superpower in a world still recovering from War. We were just beginning to confront a host of dramatic changes that transformed life in the wake of the allied victory. It was a time of tremendous opportunity—and we were poised on the brink of unprecedented economic growth.

But President Eisenhower and congressional leaders from both parties recognized that this golden opportunity could be lost unless something was done about our roads, which had been badly neglected during the war years.

If you think about it, this scenario sounds familiar, doesn't it? America fresh from leading the forces of democracy to a historic victory. A new world order in the making. An uncertain promise of prosperity and growth in a transformed global economy. And the Nation confronting the urgent need to get its house in order to be able to realize the promise of this new era.

How did we respond in the 1950's.

We rolled up our sleeves and built a modern highway system that was the envy of the world. It wasn't easy and it didn't come cheap. But Government provided the vision and the financing through the Interstate Highway Act. And Americans across the country did the rest. And that great construction effort helped kick-start the most powerful economic engine the world has ever seen.

I'm optimistic about the future of the Nation and of our industry because I believe America will rise and seize this moment again. And I believe that—this time—our solution to the problem will focus on rail as the key transportation resource.

Last year, we took an important step in that direction by making a substantial national commitment to improving our transportation system. Congress passed, and the President signed into law, the Intermodal Surface Transportation Efficiency Act of 1991.

This legislation authorizes \$161 billion for rebuilding transportation systems across the country. But just as important, it puts in place a balanced, and much more promising, approach to transportation.

For the first time, cities and States will be able to use highway trust funds for intermodal transportation planning. That's important because, as you know, an intermodal system combines the various modes of transportation—road, air and rail—so that they work together efficiently.

I take this as a promising sign that American transportation and infrastructure policy is finally climbing out of its philosophical rut. For far too long, we've been stuck in

a rut in which highways and airlines and railroads were forced to fight each other every step of the way.

Rail had its hand tied in that fight, so it was really no contest. The results were good for builders of highways and airports, but they weren't very good—as we've seen—for the traveling public, American businesses or the national economy.

Our new approach proposes using rail, road and air travel in combinations that are more the result of informed planning rather than special interest lobbying.

I'm convinced that's good for rail. Why? Because on a level playing field, our industry's comparative advantages will allow us—finally—to bring rail's full value to America's transportation marketplace.

A national transportation policy based on the principle of intermodalism is good for rail because—guess what?—in much of the country, rail is the missing piece of the transportation puzzle. And under any truly intermodal system you can imagine, rail plays a central role.

And it's already beginning to happen.

Cities and States are taking advantage of their new-found freedom to establish priorities for intermodal systems. And local initiatives featuring rail are in the works across the country. Voters in Wisconsin, for example, recently amended their State constitution to invest State gasoline tax revenues in rail-passenger projects.

As you can see, I'm an optimist when it comes to our industry. But I also understand that—as in the past—there are no guarantees and no shortcuts on the way to a global class transportation system.

It won't come easy. It won't come cheap. And there are some fundamental challenges that we must accept if we are going to succeed.

First, we need to make sure that we fully restore balance to America's transportation and infrastructure policy. We've taken a first crucial step on the legislative front. Now we need the tools to unleash rail's potential.

We need tax exempt financing. We need relief from onerous red tape and work rules. In short, we need equal treatment with other modes of transportation.

At every level of government, when public transportation policy is being made, rail has to be represented. As we plan the transportation systems of the future, we have to take a close look at the comparative costs and benefits of various modes of transportation.

These objective factors—no special interest agendas—should form the basis of our national, State and local transportation plans.

We know the facts about trucks, for example. A twin axle rig can cause as much as \$1.80 in road damage, and yet the operator pays only 4 cents per mile in road-use taxes.

Compare that to rail. Unlike highways, railroad rights of way are privately built and maintained. Yet railroads recently got hit with tax increases while trucks continue to enjoy their sheltered status.

This inequitable treatment has got to stop. Our industry supports weight-distance user charges and I believe they should be seriously considered and in some cases adopted. In any case, the guiding principal should be fairness.

Let me say it loud and clear. All the American rail industry asks for is a fair shake. On an equal basis, on a level playing field, we'll compete with anyone, anywhere. Just don't expect us to stand by quietly when the game is rigged.

I believe that—ultimately—the greatest challenge facing the rail industry is commu-

nication. Now more than ever, we need to take the case for rail to the American public—to Washington, to the States and to the grassroots.

America needs to know about the many advantages that rail brings to the table. We have to tell people that the rail is a high tech industry that can provide productive jobs and serve as a catalyst for economic growth.

Gone are the days when railroads just meant heavy metal and brute power. They still have the muscle, but now they have the brains to match.

We have to tell America that today's advanced rail systems use some of the most sophisticated technologies around. That we are developing more and better applications—advanced light rail, very high speed rail, maglev technologies. And super-sophisticated parts such as computerized transit system components.

MK is working on one of the most exciting high tech projects in our history—Texas high speed rail. Anyone who's spent more than 10 minutes with me knows all about it.

It will be the Nation's first very high speed train, running from Dallas to Houston and capable of carrying 12,000 passengers a day at 200 miles per hour of comfortable speed. And it will become a part of a system connecting every major city in Texas.

I believe that 20-30 years from now, we'll have very high speed rail trains operating in 6 to 10 markets. And we'll have high speed rail trains such as the Amtrak Metroliner doing 150 miles per hour in 8 to 10 markets. In addition, we have the prospect of maglev trains running at over 300 miles per hour.

We as an industry are serving notice—the day of America lagging the rest of the world in rail technology are over.

We need to tell America that the rail industry can provide high tech transit to help accommodate new development and to complement roads and airports. That the transit systems of the future will use high speed rail to link urban centers to out-of-the-way regional airports.

We need to tell America that these intermodal systems will create regional "super hubs"—such as an O'Hare superhub right here outside Chicago. And much like the rail hubs of early American history, these modern day crossroads will help spur economic growth.

Imagine San Antonio as a super hub. A gateway to Mexico much like Hong Kong serves as a gateway to China. Like Hong Kong, the San Antonio-Monterey corridor would be transformed into a hotbed of entrepreneurial activity.

We have to tell America that we are developing new strategic alliances in order to maximize asset utilization and bring diverse resources to bear on today's increasingly complex projects.

MK has been fortunate to have the opportunity to form such an alliance with one of Illinois' favorite sons, Caterpillar. Together, we are introducing three new locomotives.

They include the world's first single-engine, 5,000 horse power locomotive with 25 percent more power than the industry's current heavy haulers. It will allow railroads to significantly boost tonnage hauled per unit. We're talking about three-for-four and sometimes two-for-three unit replacement ratios.

We have to tell America that rail is good for the environment. That rail is the environmentally-friendly transportation alternative.

This is a critical advantage—on one of the biggest issues of the 1990's, we're squarely on

the winning side. Environmental groups have been strong supporters of Texas high speed rail and I believe they will support us in other projects.

Locomotives account for 1 percent of all emissions into the air. And we are working on ways to decrease that further. By comparison, motor vehicles such as cars and trucks—on the other hand—cause over 30 percent of carbon dioxide pollution. They cause 40 to 60 percent of the hydrocarbon pollution. They cause 70 to 80 percent of the carbon monoxide pollution. Tracks emit 10 times more diesel particles and hydrocarbons and 3 times more nitrous oxide and carbon monoxide.

MK is teaming with Caterpillar to offer the first locomotive powered solely by clean-burning natural gas. This 1,200 horse power switcher that will help key regions of the country to comply with the Clean Air Act.

Now, these locomotives may not be an industry-wide solution, but they demonstrate how quickly we are able to adapt new technologies to do our part for a cleaner environment.

Ladies and gentlemen, despite all the serious challenges we face as an industry, we have a good story to tell. And we must take every possible opportunity to tell it.

Perhaps most importantly, we have to tell the American people that the Nation has arrived at a crossroads. One road takes us further along the previous path of ad hoc transportation policies that favor roads and airports. Given our experience, that's ultimately a slow road to nowhere.

The other road leads in an entirely different direction. Toward a transportation system that takes full advantage of today's promising rail technologies. Toward an intermodal intelligent transportation system second to none. Toward a transportation system that provides a solid foundation for America's economic development during the 1990's and beyond.

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

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

THE CABLE TELEVISION BILL

Mr. PRESSLER. Mr. President, I wish to state very clearly, as I have stated, that I shall retain my position on the cable television bill.

I was an original sponsor of that bill. I serve on the committee. I have worked closely with Senator DANFORTH. I believe I voted for that bill four or five times. And in the event of a Presidential veto, I shall continue that position.

I wanted to say that to clear the air, because there has been a great struggle over this bill. I know that. I have urged the President to sign the bill into law or to let the bill become law.

In my State of South Dakota, there are enormous issues regarding cable television. They are perhaps unique,

but we do need to get more public service programming. We do need to have more options for the pay-per-view people who are interested in sports. There is a whole host of issues, and I have spoken on those issues on this Senate floor many times. For me to change my vote at this point would run against my principles.

But I wanted to say that in a speech because there is a great struggle underway. There are a number of rumors about who is going to vote which way in the case of a veto override. I shall maintain my position.

I urge that the President sign the bill. I hope that he will do so in the next few hours.

I yield the floor.

Mr. WIRTH. Mr. President, I ask if I might speak for 10 minutes as if morning business.

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

Mr. WIRTH. Thank you Mr. President.

SETTING THE RECORD STRAIGHT ON IRAQ

Mr. WIRTH. Mr. President, Senator GORE apparently hit a raw nerve in his recent speech on our country's policy in Iraq and the Middle East overall.

In detailing the President's coziness toward Saddam, Senator GORE provided an accurate indictment of a foreign policy blunder.

The reaction last night on the Senate floor revealed how sensitive this matter is, and rightly so.

George Bush's attempt to befriend Saddam had many loyal supporters. Senator GORE's critique hit home. It seems to me that, to paraphrase Shakespeare, some "doth protest too much."

The record of the Bush administration's failed policy toward Iraq is clear. There is no dispute about that record. The only real issue is what this sad record says about the President's judgment—and common sense tells us what a devastating failure of judgment his policy represented.

What is so disturbing is the moral blindness which allowed an American President to stroke and coddle this vicious despot. In foreign affairs, where is the clear moral compass to steer this administration?

This moral blindness was clearly evident in the administration's handling, for example, of the Voice of America scandal. As many Senators, I am sure, will remember, the VOA broadcast an editorial on February 15, 1990, entitled "No More Secret Police." This editorial properly and accurately reflected American values.

Let me quote a few passages from what the Voice of America said:

A successful tyranny requires a strong, ruthless secret police force. A successful democracy requires the abolition of such a

force. That is the lesson the people of Eastern Europe have learned well in more than four decades of tyranny. * * * Secret police are also entrenched in other countries, such as China, North Korea, Iran, Iraq, Syria, Libya, Cuba and Albania. The rulers of these countries hold power by force and fear, not by consent of the governed. But as East Europeans demonstrated so dramatically in 1989, the tide of history is against such rulers. The 1990s should belong not to the dictators and secret police, but to the people.

And then the VOA announcer closed by stating "That was an editorial reflecting the views of the U.S. Government". He might also have added that the editorial reflected the values of the American people.

In any case, the announcer was soon proved wrong. Saddam took terrible offense that the VOA would broadcast such critical things about his police state and within 2 weeks Secretary of State Baker sent a cable to our Ambassador in Baghdad with instructions to apologize for this offensive language. Let me quote a few key passages from that cable, now declassified, dated February 27, 1990:

It is in no way U.S. Government policy to suggest that the government of Iraq is illegitimate or that the people of Iraq should or will revolt against the government of Iraq. We regret that the wording of the VOA editorial left it open to that incorrect interpretation.

The cable, signed by James Baker, now George Bush's campaign manager, added that the "Department believes that failure to clear the text of the editorial represents a violation of the understanding we have with USIA, and by extension, VOA. We intend to follow up."

And follow up they did, Mr. President. The next day, February 28, U.S. Ambassador April Glaspie sent a letter to Iraq's Foreign Minister, Tariq Aziz, stating:

I was surprised to learn from Undersecretary Hamdon on February 25 of the existence of a Voice of America editorial entitled "No More Secret Police." I conveyed your concern to my Government, and was immediately instructed to assure you that it is absolutely not United States policy to question the legitimacy of the Government of Iraq nor to intervene in any way in the domestic concerns of the Iraqi people and government.

My Government regrets that the wording of the editorial left it open to incorrect interpretation.

As Assistant Secretary Kelly told His Excellency the President on February 12, President Bush wants good relations with Iraq, relations built on confidence and trust, so that we can discuss a broad range of issues frankly and fruitfully. I am sorry that the Government of Iraq did not inform me of its concern about the editorial sooner, so that I could have provided you with the official assurance of our regret without delay.

Mr. President, not only did she apologize that the U.S. Government had the audacity to criticize tyrannical regimes, but our Ambassador apologized for not being able to apologize sooner.

As if this were not enough, a delegation then met with Saddam in Mosul,

Iraq in April 1990 and according to available transcripts confirmed in later press interviews further apologized for this indiscreet VOA editorial. It is no small irony, Mr. President, that this meeting took place in the Kurdish part of Iraq—an area devastated by Saddam's attempted genocide of the Kurds. All around that meeting site was ample evidence of vicious, brutal, violent repression, evidence of attempted genocide against the Kurds, evidence of the use of chemical weapons to kill innocent men, women, and children whose only crime was their heritage.

It would have been inconvenient to focus on genocide. The Reagan-Bush administration had, after all, vehemently opposed congressional efforts to pass the Prevention of Genocide Act in response to Saddam's brutal slaughter of the Kurdish people. Instead, the U.S. delegation to Saddam reportedly engaged in mutual criticism of the spoiled and conceited Western press and informed Saddam that the VOA official responsible for that outrageous assault on the moral credentials of the Iraqi despot would be fired.

Mr. President, there was nothing to apologize for in that VOA broadcast. Nothing at all. It rightly reflected American values. It stood up for freedom from tyranny. It stood up for democracy. The fact that our Government felt it necessary or even appropriate to apologize for the VOA defense of freedom speaks volumes about the moral blindness which led the administration to coddle Saddam right up to the invasion of Kuwait. And we have paid a high price for that blindness.

Also, Mr. President, how about George Bush's opposition to sanctions against Iraq right up until the invasion of Kuwait.

As late as July 27, 1990—4 days before the invasion—the Senate considered a Gramm-Dole amendment to gut meaningful sanctions against Iraq. The amendment, which had the support of the Bush administration, failed. One of our Republican colleagues, the junior Senator from Kansas, also voted on the 6-D amendment, but it well in that debate on Iraqi sanctions:

There is no one who feels more strongly than myself that food should not be used as a weapon. But * * * there comes a time when I think we have to stand up and be counted.

Had the Bush administration demonstrated the moral compass of the junior Senator from Kansas, had Bush stood up to Saddam earlier, had Bush's foreign policy reflected American values, we may well have succeeded in containing Saddam's aggression at home and abroad.

I ask unanimous consent that the full text of the VOA editorial, the State Department cable from Secretary Baker to the U.S. Embassy in Baghdad and the letter from Amba-

sador Glaspie to Tariq Aziz be printed in the RECORD immediately following my remarks.

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

[Voice of America, Feb. 15, 1990]

NO MORE SECRET POLICE

Announcer: Next, an editorial reflecting the views of the U.S. Government.

Voice: A successful tyranny requires a strong, ruthless secret police force. A successful democracy requires the abolition of such a force.

That is a lesson the people of Eastern Europe have learned well in more than four decades of tyranny. As East Europeans have replaced Communist regimes with moderate interim leaders, and begun to prepare for democratic elections, they have moved to dismantle secret police forces. In Czechoslovakia, the secret police headquarters building in Prague has been completely emptied. Secret police employees have been ordered to turn in their handguns and identity cards, and to stay at home until the new non-Communist Interior Minister decides what to do with them. They will no longer be kept busy spying on their fellow citizens—or engaging in even worse crimes.

The governments of Poland, Hungary, Bulgaria and East Germany are also looking for productive work for former members of the secret police. It is an especially large task in East Germany because the secret police, known as the Stasi, had about eighty-five thousand full-time employees, along with huge caches of weapons, scattered in buildings around the country. When the East German government suggested that it might replace the Stasi with another internal security agency, a crowd of demonstrators at the Stasi headquarters in East Berlin made it clear that no more secret police are wanted. Graffiti scrawled on the walls read: "Stasi, Gestapo, KGB, Securitate: all bloodsuckers."

In Romania, many people shed their blood to overthrow the Ceausescu tyranny. They had to fight against well-armed secret police, the dreaded Securitate, which fought to the bitter end to maintain its grasp on power. Romania's interim government has said it is committed to the complete disbanding of the Securitate, but many people are concerned that secret police are still active in the country. On a brief visit to Romania on Sunday (February 11) U.S. Secretary of State James Baker stressed the need to dismantle the secret police completely. Mr. Baker said the U.S. wants to help Romania, but such help will depend on the extent of internal reforms and on whether the elections planned for May are free and fair.

The Soviet Union has also made significant reforms in recent years, but the secret police apparatus, the KGB, remains a powerful and feared institution. Lasting change can come to the Soviet Union only when citizens no longer need to fear massive surveillance—and worse—from the KGB. Secret police are also entrenched in other countries, such as China, North Korea, Iran, Iraq, Syria, Libya, Cuba and Albania. The rulers of these countries hold power by force and fear, not by the consent of the governed. But as East Europeans demonstrated so dramatically in 1989, the tide of history is against such rulers. The 1990s should belong not to the dictators and secret police, but to the people.

Announcer: That was an editorial reflecting the views of the U.S. Government.

O 270810Z FEB90.

Fm: SECSTATE WASHDC.

To: AMEMBASSY BAGHDAD IMMEDIATE.
 Info: USIA WASHDC IMMEDIATE.
 E.O. 12958: DECL. OADR.
 Tags: PRLZ LZ
 Subject: Iraqi protest: VOA editorial.
 Ref: BAGHDAD 1150.

1. Confidential—entire text.
 2. Ambassador may respond to the Iraq protest (REPTTL) over February 15 VOA editorial by making the following points:
 It is in no way USG policy to suggest that the Government of Iraq is illegitimate or that the people of Iraq should or will revolt against the Government of Iraq.
 We regret that the wording of the VOA editorial left it open to that incorrect interpretation.

3. FYI: Department believes that failure to clear the text of the editorial represents a violation of the understanding we have with USA, and by extension, VOA. We intend to follow up.

BAKER.
 Declassified under the Freedom of Information Act 7/28/90.

EMBASSY OF THE
 UNITED STATES OF AMERICA,
 Baghdad, Iraq, February 23, 1990.
 His Excellency Deputy Prime Minister and
 Minister of Foreign Affairs TARIQ AZIZ,
 Baghdad, Iraq.

DEAR MR. MINISTER: I was surprised to learn from Undersecretary Hamdoun on February 25 of the existence of a Voice of America editorial entitled "No More Secret Police." I conveyed your concern to my Government, and was immediately instructed to assure you that it is absolutely not United States policy to question the legitimacy of the Government of Iraq nor to intervene in any way in the domestic concerns of the Iraqi people and government.

My Government regrets that the wording of the editorial left it open to incorrect interpretation.

As Assistant Secretary Kelly told His Excellency the President on February 12, President Bush wants good relations with Iraq, relations built on confidence and trust, so that we can discuss a broad range of issues frankly and fruitfully. I am sorry that the Government of Iraq did not inform me of its concern about the editorial sooner, so that I could have provided you with the official assurance of our regret without delay.

Respectfully,

APRIL GLASPIE,
 American Ambassador.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Wyoming (Mr. SIMPSON).

Mr. SIMPSON. Mr. President, I do not know how long the Senator from Colorado will remain in the Chamber but I hope he might do so. I will be saying some things about his remarks, including my own remarks from last night.

I would just like to review—and I welcome other Members to come forward, because I would enjoy the debate—some of the events that occurred last night here on the floor.

I had not finished my remarks last evening when my longtime friend, Senator DAVE PRYOR, came to the Senate floor to challenge some of my comments. DAVID PRYOR is a remarkable man. He is probably one of the most respected men in this Chamber. He is

fair, firm, kind—and the kind of person you would want on the Ethics Committee. That is where he served for so many years and did it with superb energy—so much energy that he placed his own health in jeopardy and he has recovered nicely and has indeed been in our prayers.

He was very concerned. There is no question about his concern. He was deeply moved, filled with angst, and I understand that so very clearly.

Before I could complete my address, we subsequently moved on to the transportation bill. So I would like to do that at this time.

Senator AL GORE made what was billed as a major foreign policy speech on Tuesday. It received tremendously wide media attention in both print and television. I want to reiterate this so that we have everything in order here as we review all of this: Not one Republican made any type of response on this floor to Senator GORE's speech until it was then entered into the CONGRESSIONAL RECORD by Senator WIRTH on September 29, 1992.

Last night it was alleged that I had violated Senate rule 19.2. We know what that rule is. We discussed that last night. The rule 19.2 states:

No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

What Senator GORE said about Senator DOLE and this Senator from Wyoming in his public speech Tuesday in the public record and domain is fair game. There is nothing wrong with that. You can say anything you want to about a colleague in public, and he did. And I will quote that in a minute.

But I would clearly point out that Senator GORE's statement, which later came into the official proceedings of the U.S. Senate, when it was placed in the CONGRESSIONAL RECORD, included a number of the most egregious and wholly erroneous characterizations of not just one U.S. Senator but five U.S. Senators, as a result of a visit to Iraq.

Not only did that traveling group include Senator DOLE and myself, as the Senator correctly indicated, but it also included Senator MURKOWSKI, Senator MCCLURE and Senator METZENBAUM.

Senator GORE accused us of delivering—I guess that meant all of us because 5 of us were there—at President Bush's personal request, so-called comforting news to Saddam Hussein. He characterized this as an official mission on behalf of the President. Accordingly, anyone who reads the RECORD could reasonably assume that we, according to Senator GORE, were part and parcel of the President's foreign policy. He characterized that as a policy of coddling tyrants, which Senator GORE said had been the hallmark of the administration's foreign policy.

Senator GORE said, and I quote from his speech which then became part of

the CONGRESSIONAL RECORD—please hear this—he said, "Yet, on April 12, at the personal request of George Bush, Senators BOB DOLE and ALAN SIMPSON, the No. 1 and No. 2 Republican leaders in the Senate, traveled to Baghdad and told Saddam Hussein that President Bush was still ready to veto any sanctions bill that Congress might pass. Furthermore they delivered 'again at Bush's personal request' and this is still the quotation 'the comforting news that the author of the offending Voice of America criticism had been fired that same day in an effort to please Saddam.'"

That is a direct quote from Senator GORE's speech which was placed in the CONGRESSIONAL RECORD by Senator WIRTH.

Based upon what we all know now about Saddam's deceit and tyranny, an unsuspecting reader of Senator GORE's speech might easily assume that we had given aid to an enemy. Surely there can be no more egregious violation of rule 19.2 than that. I deeply resent it, and I am offended by it.

Neither Senator WIRTH nor Senator GORE ever consulted with me prior to making such a statement concerning the motives of not one but five U.S. Senators. I have not the slightest difficulty accepting anything that the Senator from Tennessee wants to say about me in his recent speech at the Hyatt in Washington. But when it gets into the CONGRESSIONAL RECORD under the auspices of the Senator from Colorado, then it, too, is a violation of rule 19.2 without any question whatsoever, and a Parliamentarian has already determined that. That is where we are in this interesting little exercise.

At this point, I would like to note Senator BOB DOLE's response to Senator GORE's comments on this trip. I think it pretty well sets the record straight.

Senator DOLE said:

The delegation was bipartisan and included the senior Senate Democrat with that group. HOWARD METZENBAUM, Democrat of Ohio. The delegation did not go to the Middle East or Iraq at the "personal request of Bush" or the indirect request of Bush or with any reference to Bush at all. I made the decision to go based on the suggestion of other Middle East leaders, such as President Mubarak and King Hussein of Jordan and some of my colleagues and advisers. Senator METZENBAUM and others decided to accompany me entirely on their own. Having decided to go to Iraq, we did inform President Bush of our intention the night before we met with Saddam Hussein.

It would be well when making irresponsible statements to check with the sources, especially when those sources are your colleagues.

We went to the Middle East. We did not believe we would have any opportunity to see Saddam Hussein, and we went. I believe I can paraphrase what our fine Republican Leader said: With peace breaking out all over the world,

why not go to that part of the world and talk to the leaders there and talk about peace in that terribly historically, strife-torn region of the world? That excited us all. We went with excitement because the Berlin wall had come down, other things were happening, tyranny was being crushed all over Eastern Europe. It was a very exciting time.

The specific assertions in Senator GORE's speech about the delegation's trip are dead wrong. We delivered no message of any kind from President Bush about his intentions to veto any legislation. That is a fallacy. We delivered no message from President Bush about the Voice of America report, not one. Both topics were discussed, but not in the context of "delivering any message" from President Bush.

And remember, the only official transcript that came from our visit came from Iraqi radio. Iraqi radio sent the transcript of their version of our meeting to the national and international media which was hopped on pretty well with the case of the Senator from Wyoming because I referred to the media as "haughty, pampered, cynical," and many other interesting adjectives which I felt then, and still feel. And, indeed, in the context of those times when visiting with the press corps in that part of the world, it seemed almost disappointing to them, that perhaps there would not be a conflagration in that part of the world. They were almost saddened by that.

It was a strange reaction. They talked about, "Well, does this mean there will not be a great fireball against Israel?"—which is what Saddam Hussein had said. I said I think that is a stupid statement. We are here to discuss such issues and you can bet that we did. Certainly, Senator METZENBAUM did. I can assure you of that. He was powerful, persuasive, and excellent in his presentation.

Then we talked about conventional warfare in that part of the world and we hoped we could avoid that. We said it is all up to you, Saddam Hussein, as to whether we avoid conventional warfare in this part of the world. Then I shall never forget the words of Senator BOB DOLE. He said, "I have a daily reminder of the effects of war in my own body, and we are here to talk about peace."

That is what we talked about. Whatever transcript or information which came from that came from Iraqi radio or Iraqi television. You can only imagine what little twist they would have put on all that!

Mr. President, I ask unanimous consent to have printed in the RECORD excerpts of a letter I submitted to the Casper Star-Tribune which further discusses our visit with Saddam Hussein.

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

DEAR EDITOR: [The] transcript, issued by this deceitful government who we are warring with—describes in 15 small pages approximately one hour of what was in reality a three hour and fifteen minute meeting. At that meeting we discussed the gassing of the Kurds, the 150 foot "tube" cannon of "oil field equipment," the triggering devices for nuclear weaponry and the hanging of the English journalist. We asked all the questions any thoughtful American would have asked on that date in time. We also carried with us a letter signed by the five of us, and cleared with the President, setting out the perils in his future life if he were to continue his course of action in the world. Obviously that released transcript, supplied (not "leaked") by Iraqi officials—carefully avoids any form of criticism which we leveled in the face of Saddam. Our own tape recorders were confiscated by Saddam's guards in order that there be no other record of the meeting. We were all well aware that the room was being bugged because there were microphones physically present on the conference tables.

Most of that transcript is propaganda and nicely tailored to fit Saddam's needs. In addition, a second transcript which was read on Baghdad radio differs from the other printed transcript. My critical comments of some members of the press in that part of the world were that some were "haughty, pampered, cynical and with many of them trying to win the Pulitzer Prize." That comment was correctly reported and my colleagues have ever expressed that the entire remaining portion of the transcript was correct as to our full meeting. It had many omissions. The media failed to point out any of the realities of this pure propaganda piece and in many cases they simply believed all of it themselves—"hook, line and sinker"—as they attempted to convince others of its total authenticity. Thus, my passionate scrap with Jack Anderson. In this same vein, I would suggest that the media might spend much more of its time "analyzing" the CNN reports out of Baghdad. After all, the media seems compelled to spend an hour or so analyzing every State of the Union address, and many other major speeches made by the President, delivered in plain English. One might think they would put the crafty ploys and feints used by our wartime enemy to just as tough a test!

Sincerely,

ALAN K. SIMPSON,
U.S. Senator, Wyoming.

Mr. SIMPSON. The delegation delivered a tough, a plenty tough, message to the Iraqi dictator as detailed in our letter to Saddam Hussein, signed by all five members of the delegation, including our colleague, HOWARD METZENBAUM.

I ask unanimous consent that it be printed in the RECORD.

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

Mr. President, we would like to present to you a letter signed by the five of us. We have provided the translator with a copy, and perhaps it would be easier for us to have a discussion with you after the letter has been read. It's very short.

UNITED STATES SENATE DELEGATION,
April 12, 1990.
His Excellency SADDAM HUSSEIN,
President of the Republic of Iraq, Baghdad.

DEAR MR. PRESIDENT: We appreciate your willingness to receive us during your holy

month of Ramadan, particularly on such short notice.

We come to Baghdad, as a bipartisan delegation of the United States Senate, because of our belief that Iraq plays a key role in the Middle East. We would also like to see improved bilateral relations between our nations.

It is clear to us that we can never resolve the serious differences between our nations if we ignore them, or fail to take advantage of opportunities to communicate with each other clearly and candidly. For that reason, we believe it is important that you hear our very deep concerns about certain policies and activities of your Government, which stand as a major barrier to improved relations.

Your nation has just emerged from a long and costly war, which has generated concerns about your own security. But we cannot stress too firmly our conviction that your efforts to develop a nuclear, chemical and biological capability seriously jeopardize—rather than enhance—your security, potentially threaten other nations of the region, and provoke dangerous tensions throughout the Middle East. Your recent statements threatening to use chemical weapons against Israel have created anxiety among nations throughout the world. In your own interest and in the interest of peace in the Middle East, we urge you to reconsider pursuit of these dangerous programs and provocative assertions.

We must also express our profound distress at the alleged activities which led to the expulsion of an official of your diplomatic mission in the United States on charges that he was involved in a conspiracy to murder. We repeat: if our two nations are to have better relations, such activities as those alleged to have occurred must never happen again.

Finally, we urge you to become actively and constructively engaged in the peace process now underway involving Egypt, Israel, representatives of the Palestinian people, and the United States.

Mr. President, we thank you again for receiving us. We look forward to our exchange of views.

Sincerely yours,

JAMES A. McCLURE,
HOWARD M. METZENBAUM,
BOB DOLE,
ALAN K. SIMPSON,
FRANK H. MURKOWSKI.

Mr. SIMPSON. Mr. President, by the way, there is one more bit of evidence that proves that the handlers of the Clinton-Gore ticket are not doing their homework. Our Senate delegation did not meet with Hussein in Baghdad, as the Senator claimed in his rather tall tale of woe, but in Mosul, some 200 miles from Baghdad.

That is what happened, and the only discussion we had with President George Bush came in a telephone call, which we made from Jordan the night before we went to Baghdad where we landed. Then we were taken by Saddam Hussein's security people to Mosul which as I have said was some 200 miles away.

The only reason we visited with Saddam Hussein was because President Mubarak of Egypt asked, "What are you going to do after you leave here?"

Our leader, BOB DOLE, said that we were going to go see the King of Jordan