

As for the claim that national service is—quoting one of the critics—“coerced volunteerism,” I would suggest that critics ask any of the more than 200,000 people who requested applications for last year’s AmeriCorps Program or the 20,000 that were selected and are now serving, whether they were coerced. National service is not coercion any more than was the Montgomery GI bill which provides educational benefits for hundreds of thousands of young Americans who serve and have served in our Nation’s All-Volunteer Force.

Instead, like the Montgomery GI bill, national service is an opportunity, an opportunity that young people all over America have said they want. Nothing is more evident of that than the overwhelming number of applications. I think we will see even more of the applications in the years to come, assuming this program continues.

As for the benefits of service, and to me this must be the way we judge the program more than any other judgment, although there are, really, as I said, three parts to the program, service is the No. 1 part. In my State alone the excellent works that have been performed by these young people is very impressive. In Georgia, national service participants are working in Atlanta area schools as teaching assistants, tutors, and mentors. They are aiding police in developing a community-oriented police program in Albany, GA. They are helping create an emergency 911 network in Douglas and Coffee County. They are identifying local environmental programs in Decatur, GA, and developing plans to engage youth in solving them. They are tutoring hundreds and thousands of young people every day in elementary school. They are also in some of the rural areas that I visited. They do not have any foreign language teachers in the schools there and they have found that with the immigration that is growing in our State and other States, these young people who are in school that cannot speak English need help. In many cases, in a couple of the rural communities, that help is coming from national service participants who have a second language and who are able to be the only ones in the community that can really communicate with the newly arrived legal immigrants in our school.

All of these efforts are duplicated in national service programs nationwide. From aiding the American Red Cross and providing food and clothing for California flood victims to building homes for needy families in the poorest sections of Miami, with Habitat for Humanity.

In conclusion, Mr. President, national service provides a triple payback in valuable service to the community. Higher skills and lower debts for our young people for attending colleges or getting advanced education after high school and a much stronger sense that we are all in the American enterprise

together, bound by mutual respect and mutual obligation.

In the Peace Corps Program in my State the participants begin each day with a chant announcing their readiness to serve, to earn, and to learn. That, Mr. President, is the most eloquent summary of the concept of national service that I think we can offer: To serve, to earn, and to learn.

I urge all Senators to listen to our young people, to visit these programs, to make sure that the criticism of the programs—which is welcome—make sure it is constructive, to make sure we look at whether we are really getting service in the communities where they are serving, rather than simply oppose this program as another governmental program.

I urge all Senators to particularly talk to our young people, listen to them, and see what they say about what they are doing in serving and earning and learning and continuing to give them a chance in this regard. There is room for improvement in the program. There is room for constructive criticism. There is room, perhaps, to even critique the program in a way that would affect the budget. In my view, blind opposition to this exciting concept is simply not the way to go at this point in time.

I think the main measure must be whether we are getting service from these young people and whether they are helping the communities, helping young people, helping those in need. It is my hope that if this program works and I believe it is working, that it will be viewed in the future as not simply an addition to the way we deliver services to those in need in our country and in our communities but rather in lieu of some of the existing programs.

I can think of no better way to deliver social services in this Nation to those in need. We are going to continue to have people in need. We are going to continue to have community demands that cannot be met with nominal funding. I can think of no better way than unleashing the energy, enthusiasm, and idealism of tens of thousands of America’s young people in addressing these critical problems. To me this is the way we ought to begin thinking about shaping our social services.

At this point in time this program is in addition to the existing programs. We should look at it more and more as a substitute to some of the programs and a supplement to others.

I thank the Chair. I know the Senator from New Hampshire would like to speak. I yield the floor.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

END DELAY ON UNFUNDED MANDATES LEGISLATION

Mr. SMITH. Thank you, Mr. President.

Mr. President, the bill that has been before the Senate for 8 days now basi-

cally has been delayed and stalled, is very important business for the people of the United States of America and certainly many communities around the country who suffer from the unfunded mandates that they have to comply with.

I want to discuss that legislation today for a few minutes and also to say that I sincerely hope that in the very near future, hopefully some time early next week, that we will be able to pass that legislation and get it on through the House and the Senate and get it to the President. Hopefully he will sign it. This is a major piece of legislation that the majority, overwhelming majority of the American people support.

I do not understand why we are delaying it. Apparently there seems to be, based on those we talk with, a great number of people on the other side of the aisle who say they support the bill yet when it came down to signing the petition for cloture, we did not get much help at all. Indeed, we only had one vote. I find a strange inconsistency here that those who say they support the legislation cannot bring themselves to bring the legislation to a vote. I think sometimes we get criticized here for not being able to accomplish anything and the American people look at this and say, why is it that a Senator, perhaps my own Senator, would say, “I am for this bill but I do not want us to vote on it.”

When we get criticized out there in the public, we really should not wonder why that happens. There is nothing wrong with debate. All Senators have every right to debate this legislation as long as they wish. Certainly, I stand here today before one of the most historic desks in the U.S. Senate. This desk belonged to Daniel Webster, one of the few original desks in the Senate.

Daniel Webster, of course, at one time represented New Hampshire in the House, was born in New Hampshire, and represented Massachusetts in the U.S. Senate, one of the greatest orators of the pre-Civil War time. He certainly stood on the floor of the U.S. Senate before this desk and debated many of the great issues of the day and, I am sure, frustrated a lot of people on the other side. That is the way it should be. That is what the Senate is. There is nothing wrong with that. I do not criticize that in any way.

I will say that this is an issue, the unfunded mandate issue, that is so overwhelmingly supported by the people in this country—I hesitate to say this, but I think it is true—that the American people, I think, are going to exact a price from those who delay it. I think they do it under grave risks.

This legislation places, very interestingly, increased and added responsibilities on those who want to create the new mandate. It would also increase the cost of an existing one. In other words, they must get an estimate of the cost of the new requirement to both State and local government and the private sector and provide the

funds needed for the State and local governments to comply with the change. So it puts the responsibility on those who want to produce the mandates.

It is a very important piece of legislation that is going to provide not only relief from the unfunded mandates—but it is also going to provide relief for the taxpayers, the local and State taxpayers who have to pay for this when the Federal Government puts the mandate in and does not fund it. Those are the people who are going to benefit from this bill. Those are the people who need relief. When we pass a piece of legislation without funding it and insist that the local community pay for it, what has to happen? Money does not come from heaven. It has to come from the taxpayers. It is extracted involuntarily from those taxpayers in those local communities.

These local communities, Mr. President, all over the country are speaking out to us saying, "Pass this bill." It is enthusiastically endorsed by the U.S. Conference of Mayors, National League of Cities, Council of State Governments, National School Boards Association, U.S. Chamber of Commerce, National Governors Association—and on and on—National Association of Counties.

This information has been stated on the floor during the debate, but it is interesting, one quote comes from John Motley, the vice president of NFIB, who strongly supports S. 1, who said:

It was not the cities and States who paid roughly \$10 billion in unfunded mandates during the 1980's. It was the taxpayers, small business owners as well as everybody else. In June 1994, a poll of all NFIB members resulted in a resounding 90 percent vote against unfunded mandates.

Even the Democratic Governor, who is the chairman of the National Governors Association, Gov. Howard Dean, said:

We begin the 104th Congress with S. 1, the Unfunded Mandate Relief Act of 1995, which is a major priority for all State and local officials. We have reviewed the new bill, drafted in full consultation with all our organizations, and strongly support its enactment.

So it is bipartisan support that we have—support from communities, from selectmen, from mayors, from Governors, from taxpayers all across America in every State and hamlet. It is one of the most overwhelmingly supported pieces of legislation in recent time. Yet, here it is bottled up in the U.S. Senate for 8 days. We are essentially doing no business today, other than debating it and offering amendments. We are in morning business, which means we do not have to debate it. I choose to debate it because I think it is important. That is why I am here. The majority leader, to his credit, sought on the floor last evening to get support to bring this thing to a head, and I hope that this will happen in the next few days and that we will see a vote.

In talking about unfunded mandates, it really is an interesting dichotomy, just the very fact that we are here to try to repeal unfunded mandates or to stop future unfunded mandates, as this bill specifically does, because we always hear experts, if you will, constitutional experts, telling us what the Founding Fathers intended or what they did not intend. It is always very interesting. I would be fascinated to see people like Thomas Jefferson and James Madison and George Washington and Alexander Hamilton, John Jay, and others come here and listen to the debate that goes on in this Chamber regarding what they thought these gentlemen really believed and what they were saying in the remarks that they made. It is interesting the way we twist and turn these remarks.

If you take them literally, there is not any doubt. Let us listen to Thomas Jefferson:

When all government, domestic and foreign, in little as in great things, shall be drawn to Washington as the center of all power, it will render powerless the checks provided of one government on another and will become as venal and oppressive as the government from which we separated.

It does not get any clearer than that. Jefferson was saying that we left England, we separated from the Government of England for this very reason. They created a government here where they did not want all of the power in Washington, and they made it very clear in the 10th amendment to the Constitution that all power would not be in Washington. Yet, here we are debating a bill that we want to pass to eliminate unfunded mandates which we really should not have in the first place. That is exactly where we are.

The 10th amendment is the constitutional embodiment of Jefferson's belief in a limited Federal Government, respectful of the rights of the States. How are we being respectful to the rights of the States, Mr. President, when we simply put unfunded mandates on them telling them they must do this without the money? That is not being respectful. With all due respect, that is being disrespectful. Of course it is being disrespectful, and we have been doing it to the States and the communities all across this country for years in education, environment, you name it, we have done it to them and they know it. That is why we have so much support, so much grassroots support from all over America, at the levels that I discussed, coming back and saying to us, "Get this off our backs, we are sick of it, we are tired of it. We want it off our backs."

What does the 10th amendment say? Again, we get all these interpretations. Let us read it. It is very simple:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectfully, or to the people.

Yet somebody somewhere along the line at some course in our history has come up with this terrible idea, stupid idea that this is wrong and that we

ought to be able to provide unfunded mandates to the States and communities. This is in direct conflict with the 10th amendment. But all these great legal scholars and constitutional scholars and probably some of our predecessors on the floor of this body thought otherwise and basically took the 10th amendment and tore it up as if it did not exist. And there it goes. So here we are now trying to get this corrected.

That is what went wrong. When did this start happening? We can go back to the New Deal. Ever since then, the Federal Government has increasingly encroached upon fiscal and constitutional prerogatives of the State and local governments. When you put a mandate on a State, on a community, you force the taxpayers to pay for it. That is where it comes from. The State and local government has no choice but to increase those taxes. So you are mandating a tax increase on a small community, whether it is in Indiana or New Hampshire or Georgia or West Virginia, or wherever.

This is exactly what Jefferson warned us against. Very clearly he warned us against it: Do not draw all the power to Washington, for the same reason they did not want all the power drawn to England or to a monarch or to a tyrant. They were afraid of it. They feared it. That is why they came here and built this country. That is why they wrote the Constitution, because they did fear it. That is why they disseminated the power among the three branches of government as they did, and between the States and the Federal Government.

These States were reluctant to create this country from the Constitution. The Federalist papers by Madison and Jay and Hamilton were particularly written to convince the people to write the Constitution. They had to be persuaded because they were afraid to give up their State and community rights. That is why the 10th amendment was put in the Constitution, my colleagues.

Unfunded Federal mandates impose enormous costs on the States. Nationwide examples are all over the place. The U.S. Conference of Mayors recently reported that the Clean Water Act alone mandated costs on the cities with populations greater than 30,000 more than \$3.6 billion in 1993.

Now, our opponents will say, "What's wrong with the Clean Water Act?" I am not opposed to cleaning up the water in the United States. I do not think there is a citizen in America who wants to drink dirty water or swim in dirty water. The issue is not that. The issue is should this Congress, this Government, pass laws that mandate that be done without providing the dollars? Did they ever stop to think that maybe a community of a few hundred people cannot raise that kind of money out of the taxpayers? It is not there.

That is what is wrong. That is why the American people voted the way

they did on November 8, 1994—because they are sick of it. They are sick of it. They want it changed. They made it very clear.

Now, from 1994 through 1998, the Conference of Mayors reports 10 Federal mandates that they studied—10, just 10 Federal mandates, unfunded some of them—will cost \$54 billion. The Clean Water Act alone is \$29.3 billion; Safe Drinking Water Act, \$8.6 billion, and RCRA, Resource Conservation and Recovery Act, \$5.5 billion—again, well intended pieces of legislation, some of which do a good job. But should it be mandated without the funds? The answer is no. That is what we are here talking about. That is what is being delayed. That is what the other side, our friends on the other side of the aisle are doing. They are delaying this bill to stop this stuff so it does not happen in the future.

Now, there was a Price Waterhouse survey that said counties are spending \$4.8 billion annually—1993, \$4.8 billion annually—to comply with just 12 of many unfunded mandates in Federal programs, and that they will spend \$33.7 billion over the next 5 years.

Let me give you a couple of examples in New Hampshire.

The city of Berlin, NH, economically depends on one business really for its livelihood, and that is a big paper mill—11,700 residents and declining. It is under an EPA order to construct a new \$18 million water supply system pursuant to this Safe Drinking Water Act, mandated \$18 million.

Berlin has problems with its water, and it is trying to correct them, and it needs the time to do that. Those citizens, many of whom I know personally, do not want to drink polluted water. But they cannot bond this amount of money within the time that is dictated to them by the EPA. They simply cannot do it. So they are facing fines of \$25,000 a day, a depressed community of 11,700 people facing \$25,000 a day fines for not complying with the regulations.

I might inquire of the Chair, has my time expired?

The PRESIDING OFFICER. It has. The Senator may seek additional time if he wishes to ask unanimous consent.

Mr. SMITH. I ask unanimous consent for an additional 10 minutes.

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

Mr. SMITH. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Here we are facing fines of \$25,000 a day, trying to fix \$18 million worth of problems. Does that make sense? Does it really make sense to fine these people to try to comply?

That is what an unfunded mandate does. Not only is it an unfunded mandate; it is fining for not complying with an unfunded mandate, which compounds it. It makes it worse. You cannot get \$25,000 a day from people who do not have jobs, who are worried about the mill closing. It just does not work. Yet, here we go. I have people in

those towns tell me, "Senator, why don't you have the Federal Government come up here and take over the town because it will be a lot easier. It will give us less headaches. You run it. You want to tell us what to do, so go ahead and run the town."

Rochester, NH, same thing—mandate under the Clean Water Act. I could mention numerous examples all over my State, and of course every Senator could mention similar horror stories all over America. Because of the enormous costs associated with the removal of these materials, for example, in Rochester, it has been forced to hire lawyers now to fight its case.

Oh, boy, there is always the opportunity to hire lawyers. Get the lawyers involved and stretch it out to cost even more. There is always a lawyer on either side to get a lot of money out of this thing. So we do not spend any money on cleanup; we spend it on lawyers rather than on cleanup, which makes it worse.

Why? You know why? Do you know why we have the lawyers involved in this? Because somebody back beginning approximately in the New Deal era, and built upon since then, has said that the 10th amendment ought to be torn up and thrown in the waste basket and ignored, and that we ought to put mandates on the people of America. That is why lawyers are fighting. And it is ironic that these same lawyers are the ones who are sworn to uphold the Constitution and to work under the Constitution.

I was a local official. I was a school board member for 6 years. I was the chairman of that same school board for 3 years. I know what it is like. I have seen what happened to my school district when an unfunded mandate came in that said: You will do this. I do not care what it costs, you will do it. That forces many small communities to go out and raise additional taxes on that mandate.

But again, we always get the debate off on whether or not what the mandate directs is good or bad. That is not the issue. In most cases, they are good. For example, handicapped children, absolutely, educating the handicapped, helping those people to get mainstreamed, absolutely supported by me and others. But should it be an unfunded mandate? If you want to mandate it, if that is what America wants, then fund it. Do not force a community that cannot pay for it to pay for it.

Do you really want to cut taxes for the middle class? That is what I hear the President say—cut taxes for the middle class. Then, Mr. President, when you get this bill, if you ever get it, if your party ever will let us get it to you, sign it and you are going to save hundreds of millions of dollars—hundreds of millions of dollars on middle-class Americans who carry the load.

Unfunded Federal mandates encroach on the authority of the States in contravention of the 10th amendment.

So what is the solution? The solution has been proposed by my most distinguished colleague, the Senator from Idaho [Mr. KEMPTHORNE], himself a former mayor, who drafted this legislation, who traveled all over the country getting support for it and pulling this thing together and managing it so brilliantly in the Chamber. Some say he has only been here 2 years as a Senator. But he had several years as a mayor on the receiving end of these mandates. He knows what those mandates do to his tax base, as the mayor of Boise, ID, and he knows what it does to the tax base of every community that is impacted by one of those mandates.

This is a vital step. It will end a deplorable practice of Congress imposing unfunded mandates on State and local governments.

Now, S. 1, the bill which we are talking about, sets a tough standard. It is stuff. You bet it is. And it ought to be. We are trying to get back to the Constitution of the United States, which we have ignored. It needs to be tough. This bill provides that it shall not be in order for the Senate to even consider any bill, joint resolution, amendment, motion, or conference report that would increase the direct costs of Federal intergovernmental mandates by an amount that causes the \$50 million threshold to be exceeded unless the mandate is paid by the Federal Government.

That is the way it ought to be. We cannot even consider it, let alone pass it. That is how tough it is, and that is good. That is why it is being opposed by some on the other side, because some of our colleagues on the other side—not all—are responsible for the fact that we have these mandates in the first place, and they do not want them to go away. But the American people want them to go away.

Any bill that imposes an unfunded mandate above that threshold of \$50 million on State and/or local governments shall be out of order on the Senate floor. You cannot even get a chance to vote on it to pass it. That is tough. That is the way it should be.

There is a further step. I am going to support Senator HATCH's constitutional amendment to prohibit unfunded mandates on State and local governments unless two-thirds of the Houses of Congress decide to do so. And there again is another irony. We have a 10th amendment that says we cannot have unfunded mandates, in my opinion, yet we are now going to probably have to have a 27th or 28th amendment which says we are going to prohibit them.

That tells you where we are at in this country. It tells you that people in this country—some in this Congress—are willing to trash the Constitution of the United States of America. For what? Political gain? I do not know. How do you get political gain out of something the majority of the American people do not want by advocating it? It beats me.

It is unfortunate, and frankly ironic, that S. 1 has become necessary. Our Founding Fathers are probably spinning around in their graves right now. They created a limited Federal Government that would respect the rights of the States and here we are on the floor of the Senate, trying to gain back what the Founding Fathers never wanted to lose in the first place. They made that protection very explicit in that 10th amendment. Frankly, not only the Congress, the Supreme Court as well—let us not let the Supreme Court off the hook here—all these brilliant judges, scholars, over the years who have allowed this to happen. They are responsible, too. They have not afforded sufficient respect to the 10th amendment.

There have been some brilliant people who have served in Government since the Constitution was written, many of them. I stand at the desk of one of them, Daniel Webster. Henry Clay, John C. Calhoun—great orators, great Senators down through the years as well as others in the House and the Senate. And, frankly, out of politics—on the courts: brilliant people. But I have not yet met the match for Thomas Jefferson and James Madison and John Jay and others during that time, our forefathers, who wrote this brilliant document.

They knew what they were doing. They knew what they were doing. I think we made some terrible mistakes. The Senator from Idaho with this legislation is giving us the opportunity to correct some.

The Senator from Tennessee, who is a surgeon, who was talking about health care a while ago on floor when I was in the Chair—we are going to have to perform corrective surgery. And it is about time. It is about time. That is why the American people changed course on November 8. I hope this Senate will get the message and pass this legislation next week, get it through the House, and get it to the President of the United States so it will become the law—which it already should be under the 10th amendment.

In conclusion, we must never forget—and I think we have—that it was the States, there were only 13 at the time, but it was the States that created this Government. I used to teach history, so forgive me for a moment. The States created this Government. Without the large State-small State compromise, the Senate would not be here. The House would not be here. The Federal Government would not be here. They decided to give certain powers to the Federal Government and created that Government as a result. They never wanted the Federal Government to go beyond the specific powers they were given.

Let us get back to the Constitution. If we do the debate, the integrity of the debate is on our side, and we will win. I think we will. It is just going to take a little time. It is a little frustrating that Senators exercise the right that they have to delay and debate. If you

are going to delay to debate to make your point that is fine. If you are going to delay simply to stop the legislation, from us getting a chance to vote on it, I think that is wrong. Especially when you are trying to repeal something that is unconstitutional, in my opinion, to begin with.

Mr. President, I yield.

The PRESIDING OFFICER. The Senator from Pennsylvania.

FEDERALISM

Mr. SPECTER. Mr. President, I support Senate bill 1 to eliminate unfunded mandates to States and local government. There is no doubt about the onerous imposition of very expensive projects on State and local government which have been decreed out of Washington, DC, and the Federal Government. I think as a matter of fundamental fairness, if we decide something ought to be done as a matter of national policy, then we ought to be paying for it.

Many have spoken about the principle of federalism, which is the concept that the United States was founded on. It is to leave to the States all that was not specifically delegated to the Federal Government in the Constitution on the very obvious point of having the governmental unit closest to the people making the decision. Also, as a matter of federalism and the concept of federalism, the idea is to leave to local government as much as possible so the people closest to the problem may decide what they want to spend their money on.

We have within the bill presently on the floor the principle of the States leaving to local government the maximum amount possible without telling local government what ought to be done. So I think this is a sound bill. I look forward to its early passage as a signal to the American people that the mandate from the last election is being complied with. We have already enacted important legislation which imposes on every Member of the U.S. Senate and the U.S. House of Representatives the same obligations that any other American citizen bears. That is sound as a matter of basic fairness but also sound as part of the regulatory system so we may not overly burden American business and the American people when we have to comply with the same rules.

Mr. President, I now ask unanimous consent that I may make two brief statements as in morning business. There is no one else on the floor to speak to the bill.

The PRESIDING OFFICER. Without objection the Senator from Pennsylvania is recognized as in morning business.

Mr. SPECTER. I thank the Chair and I ask unanimous consent my following remarks be captioned: "Silvi Morton Specter."

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

SILVI MORTON SPECTER

Mr. SPECTER. Mr. President, last night I spoke briefly on the one-year anniversary of the birth of the next generation of the Specter family, on the birth date of my granddaughter, the first grandchild in our family, the daughter of my son Shanin Specter, and his wife, Tracey Pearl Specter. But I could not speak at any length because we were in the midst of working out the unanimous-consent agreement on the disposition of this bill. And as the hour grew late, when we had consecutive back-to-back votes as part of the efforts to reach an accommodation on the bill, I did secure the floor for a few minutes, at 11:25, but spoke only briefly because the managers of the bill were about to present the unanimous-consent agreement and there were many Senators on the floor at the time.

I now speak to an empty Chamber with the exception of the Presiding Officer. But this is a matter, I think, of importance beyond the birth date of one young woman in America because I speak about all of the children of America and Silvi Specter's generation.

We have a heavy burden, the Congress of the United States, and in the U.S. Senate, to see to it that adequate care and protection will be given to her generation. I focus on the balanced budget amendment which has now been reported out of the Judiciary Committee, which will seek to eliminate the deficit Federal spending which now approximates \$200 billion a year and a national debt which is climbing toward \$5 trillion.

We had debated the deficit and the national debt more in the 14 years-plus that I have been in the U.S. Senate than any other subject.

So frequently there has been agreement that the Federal Government ought to live within its means just as every other unit of government has to. The State governments, the city governments, the county governments, and for that matter any individual has to live within his or her means or they face bankruptcy. But at the same time we have continued to spend. The promise of the balanced budget amendment is to put the same discipline on Congress which every other governmental unit in the past has had and every private citizen has. I think that is very important for Silvi Specter's generation. Certainly, I would not think of borrowing on her account or using her credit card. But that is exactly what we are doing when we run up these deficits.

I think, too, about the primary duty of Government to protect its citizens and the strides which are yet to be made on crime control domestically and national defense on the international scene.