

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

#### AFFIRMATIVE ACTION

Ms. MOSELEY-BRAUN. Mr. President, I want to associate myself and actually commend Senator COHEN for the statement he just made on the subject of affirmative action. I have had the pleasure of serving with Senator COHEN now since I came to the Senate 2 years ago. I have seen him in action, and I have been just overwhelmed and, frankly, very grateful that he brings to these issues, particularly the hot-button issues and issues pertaining to race, a sensibility, a level-headedness, fairness, and a perspective that is just so important to have in this body.

It is because of the work of Senator COHEN and, frankly, many of the other Senators who approach these issues with a perspective that relates to the interests of our community, that makes it easier to address these issues here than might otherwise occur.

I come to the floor, Mr. President, though, because I just left a meeting of the Finance Committee in which the committee voted to repeal a section of the Tax Code which provided for minority and female ownership of broadcast media. The argument around the repeal had come up because of a particular deal that was talked about in the newspapers, one that has been debated as to whether or not it was a good deal or fair deal.

The point is that by its action, in my opinion, the committee has essentially cemented the glass ceiling that keeps women and minorities from participating as full partners in an important industry that really goes to the very heart of the character of our country.

I say that because, Mr. President, the section that was under review, section 1071, was originally adopted back at a time when the concern was over diversity of voices in the airwaves. The notion was that our entire community had an interest in hearing a multitude of voices so as to avoid the almost Orwellian Specter of a single point of view, a single voice being communicated to the American people over the airwaves.

And so this section was initially adopted in order to provide for openness, in order to provide for inclusion, in order to provide for diversity of voice in the airwaves. At the time, by the way, Mr. President, when the broadcast spectrums were initially instituted, they were essentially given away. There was no cost associated with them at the time.

As you can well imagine, Mr. President, at the time of the giveaway of these broadcast spectrums, no women got anything for free; no minorities were at the table. It was a situation in which you could almost say there was a 100-percent set-aside for white males who knew about broadcast spectrums and the opportunities they might provide.

Subsequently, Mr. President, the Congress decided that this section of the law that provided for openness and for inclusion and for diversity of voice should be amended to provide opportunity for women and minorities to have ownership of broadcast facilities. So the tax certificate approach was used as a way, really a tax way—it was not a set-aside in the sense we think of. It was a provision in the law that allowed for the private sector to diversify the airwaves, and allowed for the private-sector actors to come together and open up ownership so there would be this diversity of voices and so there would be diversity, in fact, in the ownership of broadcast facilities.

That section of the law has been with us for awhile, and it is almost disappointing, frankly, to note that in all the years since the 1980's, when this section was amended to include women and minorities, as of today women own about 3 percent of the entire broadcast industry—3 percent—and minorities own about 2 percent of that same industry.

So for all of this time and all of the effort, we still only were able to come up with a cumulative total of about 6 percent of the entire industry owned by women and minorities—a long way, I suggest, Mr. President, from achieving the kind of diversity of voice, the kind of diversity that was originally intended by this section.

However, apparently there was a deal announced in the newspapers that involved some high-profile actors in the broadcast field, and the House took it upon itself to target that specific deal—and I will use the name, the Viacom deal—to target that transaction as the basis upon which to repeal section 1071 and thereby constitute the first shot across the bow, if you will, on affirmative action.

The chairman of the committee was actually—it was kind of almost humorous because the chairman of the committee said he never expected that the first battle on affirmative action would come in the Finance Committee. But lo and behold, I guess by the law of unexpected consequences, it wound up there, and so we had to take up the issue of what about this section of the law? Is there some unfairness here? Should we maintain it or should we repeal it?

Mr. President, the question underlying this tax certificate issue was extension of health insurance for the self-employed. We all, I think, support that. People who are self-employed ought to be able to deduct their payments for health insurance just like anybody else. And we are just now restoring a partial effort in that regard. But the question before the committee was not just the reinstitution of the 25-percent deduction for health insurance. The question before the committee was how to pay for that. Do we pay for that through the repeal of this tiny step for women and minorities in the broadcast industry, do we pay for it with the re-

peal of section 1071, or do we find some other revenue sources?

Mr. President, it was, frankly, reflected in the President's budget, and a number of the members of the committee were interested in other alternative revenue sources such as a revenue source coming from those Americans who renounce their U.S. citizenship to avoid paying taxes. That provision, had we just changed the law a little bit for those billionaires that renounce their American citizenship to avoid paying taxes, would have raised twice the money, two times the money that would have been raised by repealing section 1071.

Unfortunately—and this is why I have taken the floor this afternoon—the committee decided it was going to go ahead and repeal section 1071 nonetheless, that somehow or another this was affirmative action gone amok, that somehow or another there was some problem with this section, that is, it was open to abuse and fraud alike.

The fact is, the facts do not show that. The facts show that those few minorities and those few women who participate in the broadcast industry in an ownership capacity got there in large part because of the existence of this statute that made it, frankly, financially worthwhile for sellers to sell to them. People would sell to minorities and people would sell to women precisely because they knew that there would be some tax deferral by virtue of the ownership of these tax certificates.

To the extent the door was open or the window was open or the ceiling was cracked just a little bit, what the committee did this afternoon was to seal over the crack in the glass ceiling, to shut the window on minority ownership, to close the door on women who would own in this area, and to really seal them in and make it more difficult than before, in spite of the limited success we have had so far.

I would like to review, just for a moment, some of the numbers. I have used percentages, but just so you get a sense of it: Of the 11,586 broadcast stations—11,586 broadcast stations, 420—420 are owned by women, and 323 are owned by minorities.

With regard to television stations, of the 1,342 television stations operating in the United States, 26 are owned by women and out of that number 31 are owned by minorities. I can break the figures down further and I certainly intend to do that at some point in the future. But the point is, of this huge industry, there is just a little bit of diversity of ownership. And the committee this afternoon decided to get rid of that.

In radio, out of 10,244 radio stations, some 394 are owned by women and 292 are owned by minorities.

It would be one thing if we were just talking about ownership, and that certainly is the issue. But think what that says about the whole notion of diversity of voice. If, to the extent we have

minority ownership at all, to the extent we have female ownership at all, if we foreclose it and make that more difficult, then I fear we are doing a disservice to all of the American people who would benefit from the opportunity to share in the diversity of viewpoint, the diversity of voice, the diversity of opinion, the diversity of conversation, the diversity of perspective that is brought to this broadcast industry, which communicates information to all of us, by the presence of women and minorities in the field.

I listened to the majority leader a moment ago as he was speaking. I want to say this at the outset: I did not hear all of his comments, but I did hear some. One of the statements was the race counting game had gone too far. I daresay, if anything, that almost casts this debate in the wrong light altogether. No one is in favor of unfairness. No one wants to be unfair to white males. No one wants to be unfair to black males, black women, white women, Asian, Hispanic—you can go down the list and divide us up any number of ways. But the bottom line is we are all Americans. We are in this together and we will rise and we will sink as a Nation together. And to the extent we define ourselves as a community with coherent interests, with interests that come together, we will succeed as a Nation. We will not allow ourselves to be divided up and pitted against each other in this no-win, lose-lose game—I submit a cynical political game that suggests that race counting has any role in any of this.

That is not what affirmative action is about. I think Senator COHEN's remarks on this point were very well taken. Affirmative action is not about race counting. It is not about quotas. What it is about is the total community recognizing the value of opening up opportunity so the face of opportunity in America is everybody's face; so it is not just white males who are given broadcast spectrum, but now it is the face of black people, brown people, women, and all kinds of groups that were not previously included in the definition.

When we talked about the American dream 100 years ago, it had a particular meaning. It meant white male, period. I was reminded women in this country just got the vote 75 years ago. So even though an American of African descent—the emancipation happened over 100 years—as a woman, as an African-American woman, I still would not have been even able to vote until 75 years ago.

So the face of the American dream is changed. The face of the American dream now is a multiplicity of people. It is a multiplicity of faces. It is an inclusive face. It includes everybody. It includes everybody who subscribes to the ideals and the values that define us as Americans.

I submit that this debate about affirmative action goes to the heart of what we mean by who is included in

this American dream. It goes to the heart of whether or not opportunity is going to be open to all Americans or just some Americans; whether or not we are going to begin to try to undo and fix some of the persistent problems that we have in our society by providing some support and some help to those who have previously been excluded.

It is for that reason, again, I am very distressed by what happened in the committee this afternoon. I am very distressed by the assault on affirmative action. I am very distressed, frankly, by the tenor that this conversation has taken—happily, so far, outside of this Chamber. I hope here in the Senate we will have a more reasoned debate about what are the real issues here, and not allow ourselves to get separated and inflamed, and not allow for the hot button appeals to pass and prejudice to succeed.

I hope in this body we will take it upon ourselves to look at the facts and make our decisions based on reality and not myths, preconceptions, diversions, and misinformation; make our decision based on what is actually going on in our country and what direction do we want to take.

I think in Senator COHEN's remarks—and I would like to take a point there to make the next step and talk about the next point—he talked about people having a sense of opportunity, of being able to rise to the highest level of their ability.

Certainly, ability and merit and excellence are concepts that are important and dear to all of us. But the question becomes to what extent do those who feel they are denied inclusion—to what extent do we not exacerbate, make worse the hopelessness that besets all too many of our communities, that besets all too many of our people? To what extent do we not exacerbate the notion that you can rise just so far but you cannot go any further; the notion the glass ceiling is there, intact; that a woman can only go so far, that a minority can only go so far in maintaining the institutions and the systems that by their operation create whole communities of disaffection? By maintaining those institutions, I believe we buy into and build up and give succor to the hopelessness that is beginning to erode the very foundations of our national character.

I submit this debate is going to be one of those turning debates, one of those critical debates that will direct the future direction of our country as we go into the next millennium which, as you know, is only 5 years from now. As we go into this next century, the question before us today—whether it is in a debate as specific and as complex as 1071 and the operation of a section of the Tax Code, or if the debate is on something more general and straightforward that people can grasp onto—the question becomes, for this body, how shall we proceed in this debate? Shall we allow it to become the kind of

hot button race-baiting prejudicial kind of inflammatory debate that pits us against each other, inflames passions, distorts the debate, ignores the facts, and plays into myths and prejudices and fears? Or, instead of playing into people's fear, do we play to and direct our comments and our conversation and our decisions to the hopes of the American people that the American dream really is still alive; and that it lives not just for white males, but it lives for black males and black women and brown males and brown women and men and women of every stripe and description who call themselves Americans?

That is what this debate is about. I know the issue is going to come back to the floor time and time again. I am making extemporaneous remarks right now about it. But I was drawn to come to the floor this afternoon in large part in response to some of the things that were being said earlier.

I just submit to you that I hope that as we go down this road it will be a road we go down together and that we can appeal to, as Abraham Lincoln said, the "higher angels" of our nature and which address what is in the best interests of our country as a whole. And, therein, I think we will find a correct answer as to what to do about the issue of affirmative action.

Thank you.

Mr. FEINGOLD. Mr. President, let me first of all say that I am very glad coming down here I have the opportunity to hear the statements of both the Senator from Maine and the junior Senator from Illinois about the issue of affirmative action. It is again encouraging to see the U.S. Senate acting in a bipartisan manner to ask the questions that have to be asked about certain aspects of the so-called Republican contract that we are going to carefully examine the record of affirmative action and other such issues and make sure that in our haste to address some genuine public frustration that we do not destroy some of the things that have been done in the last 20 or 30 years that actually have helped people and made this country a fairer place.

So I appreciate that.

#### EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCIS-SIONS ACT

The Senate continued with the consideration of the bill.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, thank you.

Mr. President, the pending business before us I assume is the Kassebaum amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. FEINGOLD. Mr. President, the purpose of the Kassebaum amendment is to overturn the President's Executive order saying in effect that Federal