themes—human rights, democracy, and rejection of empire—prevail, they will help ensure that the Moscow summit is not an exercise in propitiation, but a realistically constructive undertaking.

Mr. President, I yield the floor.

LEGISLATIVE LINE-ITEM VETO ACT

The Senate continued with the consideration of the bill.

Mr. HATFIELD. Mr. President, I have listened to the debate so far on the line-item veto, the proposal which is before the Senate, and I have read the compromise language offered by the majority leader. I would like to commend the majority leader and those who worked with him, long-time supporters of the proposal, and the sponsors. This proposal, as is my assessment at least, is much improved over the previous proposals. This improvement comes from the inclusion of new entitlements and targeted tax breaks along with appropriations spending items.

As I have stated in the past, if the Congress is serious about attacking our annual deficits, it must expand its view beyond discretionary spending. Discretionary spending, Mr. President, accounts in 1995 for 36 percent of the total spending of our Government. The Congress cannot balance the budget, let alone reduce the national debt, by focusing on 36 percent of the total budget.

The proposal before us makes great strides by also including in its purview new entitlements and direct spending. Entitlement spending will make up 49 percent of the budget in 1995.

This proposal also includes targeted tax benefits as being subjected to a Presidential line-item veto. According to the Senate Budget Committee, it was projected that the Treasury will lose $453 billion in revenue through tax expenditures in 1995 alone. That number is twice the size of the projected budget deficit.

At a time when our country is fast approaching the debt ceiling limit of $4.9 trillion, which could occur as early as August, according to the Treasury Department, it is important to send the message that, to attack the deficit, there must be a shared commitment from all sectors of the Federal budget including entitlement spending and tax preferences. I commend the authors of this proposal for this improvement over earlier versions.

Now, while this proposal is greatly improved in some respects, it causes me grave concern in other areas. The point which causes me the greatest concern is the impact of the massive shift of power from the Congress to the executive branch which could occur under this bill.

I might say, Mr. President, it is totally contrary to historic Republicanism. This is some strange new doctrine, to suggest that we have to abdicate responsibility to the Chief Executive of this country. I do not care whether he is a Democrat or a Republican.

While many supporters of this legislation have attempted to address this concern during the debate, I must raise this issue again as I believe it should be of grave concern to all the Members of the Congress, the House, the Senate, Republican and Democrat.

Mr. President, the legislation would actually allow the President of the United States, with the support of only one-third of either body, to eliminate funding for myriad Federal spending, departments, and programs authorized and enacted by the Congress.

Supporters of this proposal continually highlight it as a way to get at the so-called pet projects of interest to individual Members or to individual States. I will point out, as I have done in the past, Members can exercise their rights under the rules to raise objections, offer amendments, and round up votes to defeat such proposals.

Members should identify provisions of appropriations bills and reports that they find objectionable and craft amendments to resolve those objections. Members should also encourage the President to come forward with a rescission proposal pursuant to title X of the Budget Act to strip that funding.

We have that power. We have those tools. It must also be highlighted that the line-item veto can also be used to reduce funding or even eliminate completely, funding for projects and agencies that I doubt few would call congressional pork.

Let me remind you, a President with one-third of either Chamber—hardly a majority—could effectively eliminate funding for an entire agency such as HUD, the Interior Department, the Education Department, the EPA—any Department. While some Members may argue in favor of such a move, I doubt that many of us would call these agencies pet projects. Do not forget, we have had Presidents offer and express a desire to abolish such departments. This is not a hypothetical situation—entire departments. President Reagan wanted to absolutely eliminate the Department of Education, the Department of Energy, and others. And we have heard that from other Presidents. That could happen. With a one-third vote of the House and the Senate, the President would prevail to eliminate entire departments. So do not get this idea that somehow what has been identified as pork here or pork there is the only target we have to worry about.

Now, while these examples may be extreme, a similar scenario was described by a Member during this debate. It was mentioned that on an issue such as ground-based missile defenses, a President may disagree on the line of funding, and this line-item veto would allow the President, with one-third of either Chamber, to simply line out all the funding for such a program.

At a time when many Members have raised concerns about funding levels of the military, are those same Members willing to defer to the judgment of whichever President occupies the White House regarding defense spending levels? The same point can be made regarding housing policy, nutrition programs, or spending to combat crime.

That is an awesome shift of power which some may be willing to relinquish to the executive branch of Government, but I am not. I am not as willing to bestow that type of power on the executive branch. The Framers of the Constitution were very concerned about the abuses of an Executive which possesses too much power. That is why the power to spend was placed in the branch of Government which is most accountable to and representative of each citizen, the Congress of the United States. The purse strings are placed here. In my opinion, the Framers were right on target. There are no sound reasons why the legislative branch should shift such an important constitutionally created responsibility to the Chief Executive.

Perhaps I am burdened by history, either by generation or by being a history buff, but I recall when a President of the United States wanted to usurp the power of the Supreme Court, a third coequal branch of Government. It was not just a little line item in an appropriations bill or a tax bill. He wanted to dominate the Supreme Court. That was called the Court-packing plan of Franklin D. Roosevelt. Thank God, there were enough Democrats at that time to join with the corpus guard of 17 Republicans to block that.

Nevertheless, it is illustrative of the kind of power that is a desire of the Chief Executive that has taken place in our history. Now we are going to say the President of the United States and one-third of the membership of this Congress, you make these vital, and important decisions.

And let us not forget when you had 17 Republicans here at one time in the Senate, and they called it the Cherokee Strip because the Democrats could not all sit on that side. They had a whole row, two rows of Democrats on this side, and the Republicans were huddled down here under Senator Charles McNary from Oregon trying to survive. You can imagine the kind of domination that Franklin Roosevelt had of the Congress that first term and part of the second term. Thank God, we had a Supreme Court. It was the only check and balance we had in our governmental system. That is just history, but it also makes me a little leery about ever handing too much power to any branch of Government.

I would also like to take a moment to explain what separate enrollments of bills would entail. While I understand that many Americans support the concept of a line-item veto, I think it is important to explain what that means in the context of separate enrollment.

Separate enrollment would take individual appropriations bills, as passed

by the House and the Senate, and separate these bills into thousands of individual bills for the President to sign or to veto. Apart from a reference to a bill number, these new individual bills would bear no resemblance to the original bill which was voted on by the Congress. I question the soundness of this approach based on practical as well as on constitutional grounds. According to the Constitution, article I, section 7:

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated. . . .

I assume that the supporters of separate enrollment are confident that the courts will uphold the constitutionality of this approach, I however have not yet been convinced that will be the courts' conclusion.

I would also like to mention that while the vast majority of States do have some version of a line-item veto, none of the versions include the separate enrollment language contained in the bill before us. Passage of this bill will send the Federal Government into uncharted legislative waters.

Mr. President, I shall vote ''no'' on the final passage of the line-item veto.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I commend the senior Senator from Oregon, my good friend, for his statement. I, too, have a number of serious concerns and questions about the majority leader's substitute line-item veto amendment, the Separate Enrollment and Item Veto Act of 1995.

I have the same question as has just been stated here on the floor about the constitutional aspects of it, whether it passes constitutional muster. The presentment clause of the Constitution is very clear. The distinguished Senator from Oregon read it into the RECORD, but it is clause 2 of article I section 7. It says:

Every Bill which shall have passed the House of Representatives and the Senate shall, before it become a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal and proceed to reconsider it.

Walter Dellinger, the very well respected constitutional scholar, and Assistant Attorney General, says:

This language mandates a fairly straightforward procedure. After both Houses of Congress have passed a ''Bill'' they must present it to the President, who can either ''approve'' . . . it . . . or ''not . . . .'' In either event, the bill is treated as a single unit; nothing in the text permits the President to approve and sign one portion while disapproving and returning another portion.

I might ask, Madam President, if we have something that raises on its face such a constitutional issue, where is the congressional testimony that explains why this legislative separate enrollment version of a line-item veto is constitutional? I am a member of the Judiciary Committee, as is the distinguished Presiding Officer. There has not been a word of testimony in our committee on that. I think if we adopted something like this, Congress will spend too much time in the court trying to defend separate enrollments, instead of concentrating on reducing the deficit.

Even if it was not unconstitutional, which I am convinced it is, it is, I suspect, unworkable. The enrollment clerk would have to enroll each item in an appropriations or revenue measure as a separate bill. Then the President can either veto or sign it. But this would require the enrollment clerk to enroll hundreds, if not thousands, of separate bills. I thought the new majority wanted to reduce Government paperwork.

(Mrs. HUTCHISON assumed the Chair.)

Mr. LEAHY. I would suggest, Madam President, that we call this amendment the Tree Cutting and Paperwork Promotion Act. As a tree farm owner myself, I should probably vote for it because of all the extra paper and paperwork we will have around here. We do sell trees to make paper on my farm.

But then I might ask, how is the clerk going to decide what is an item to be enrolled as a separate bill? The amendment defines an item as ''any numbered section, any unnumbered paragraph, or any allocation or suballocation * * * contained in a numbered section or unnumbered paragraph .'' What if you write an appropriations bill that is just one paragraph? It may be 38 pages long, but it could be written as one.

Or I can see Members taking items, a popular and an unpopular item, and put them into a single numbered section or unnumbered paragraph so they would be enrolled together as one item. That protects it from a Presidential veto.

And what is an allocation or suballocation? There is no definition in the amendment. Is that up to the discretion of the clerk? If so, then the unelected enrollment clerk becomes far more powerful than a lot of Members of Congress.

There is no clear answer to this. We have never had hearings on it. The so-called compromise agreement was dug up from the past to break a deadlock that the majority has over two different line-item veto bills, S. 4 and S. 14.

These two bills were debated. They were marked up. They were reported by two different committees—the Budget Committee and the Government Affairs Committee. It would have been helpful if at least one of these two committees had seen this substitute before it hit the floor.

And, like S. 4, the so-called compromise amendment encourages minority rule. It allows a Presidential item veto to stand with the support of only 34 Senators, or 146 Representatives.

If you are from a State that only has a few representatives, like mine, only 1, I do not know how you could possibly vote for something like this. Basically it says your State becomes immaterial—immaterial in any determination. It is not majority rule. We are back to anti-Democratic supermajority requirements. I thought that was dismissed during the balanced budget amendment debate.

By imposing a two-thirds supermajority vote to override a Presidential item veto, the Dole amendment undermines the fundamental principle of majority rule. Our Founders rejected such supermajority voting and I oppose this. I do not care whether we have a Democratic President, as we do right now, or a Republican President. I am sure President Clinton would probably be delighted to have this. I can think of some times when I would probably be delighted as a Democrat that he would have it. But as a principle, I do not want any President to have this. The Congress might as well just pack up and go home.

Maybe some might like that, but I do not think that, as powerful a country as ours is, we want to see a situation where one of the three independent branches of Government is put in a position where they can basically override the other two branches of Government. That is not how we stayed a democracy after we gained that power.

Alexander Hamilton talked of the supermajority requirements as a ''poison'' that serves ''* * * to destroy the energy of the government, and to substitute the pleasure, caprice or artifices of an insignificant, turbulent or corrupt junto to the regular deliberations and decisions of a respectable majority.''

Such a supermajority requirement not only shows a distrust of the Congress but the electorate. As an American, as one who believes in our majority rule in our country—one who believes in our democracy and that our democracy exists because of our three branches of Government, I reject this notion and this basic distrust.

I think it is overkill. Over the course of our history, in 200 years, something we overlook in this—the President has vetoed 2,513 bills.

Congress overrode 104 times out of 2,513. The supermajority veto is an extraordinarily effective executive power. It is not needed to strike wasteful line items. Majority votes are enough to kill any wasteful line item.

In fact, if someone were to hear a number of the Members who stand up here and say how much they want this line-item veto when so many of those same Members have made sure that they have line items in appropriations bills or authorizing bills to help them with their constituents or their State, you would think that a Senator could not require separate votes on items in a bill. But they can. All they have to

do is object to committee amendments to be considered en bloc and then vote on them one by one and have a rollcall vote on them. But some of the same Senators who talk about such wasteful spending do not do that. They do not want to call up these particular items.

Let us not say we are going to muddy up our constitutional form of government by tossing the buck to the President if we are unable to do it, unwilling to do it, ourselves.

Then, of course, we have tax breaks. Now the rubber hits the road. If it is an item that may actually help your State, we could take that out. But if it is an item that might help some wealthy special interest and we do not want the President to ever touch that, the amendment only allows the President to veto a targeted tax benefit.

A ''targeted tax benefit'' is defined as any provision that is estimated to lose any revenue and has ''the practical effect of providing more favorable tax treatment to a particular taxpayer or limited group of taxpayers when compared with other similarly situated taxpayers.''

I am a lawyer. I have looked at that. I have looked at it about 10 different ways. I have asked other lawyers to look at it. Nobody seems to know what this means other than to say they would love to be involved in litigation on it. They could keep the clock running forever on that. It would produce endless litigation over what is a ''practical effect'' and who is a ''similarly situated taxpayer.'' These terms, of course, are not defined in the bill. In fact, the definition of ''targeted tax benefit'' sounds like a tax loophole itself.

Would the President also have a line-item veto authority over the capital gains tax cut described in the House Republican Contract With America? It is going to lose revenue. The bipartisan Joint Committee on Taxation has estimated that the Contract With America's capital gains tax cut would lose almost $32 billion from 1995 to 2000.

I have a feeling that is not intended to be touched by the line-item veto. Why not quit this shell game? Just state in plain language that the President has line-item authority over all tax expenditures.

So I have too many problems about this substitute. I think it is just a fix to pick up a vote or two. We saw that during the balanced budget amendment debate. We would pull things out on Social Security, or whatnot, to try to get a vote here or there—no hearings, no discussion of the final effect of it.

I cast a procedural vote for cloture in 1985 to allow an up-or-down vote on a separate-enrollment line-item-veto bill. But that was because there had been hearings on a bill. There was a report on it, and we knew when we were going to vote on it. There have been a lot of changes since then.

There is no need to gamble on a questionable version of a line-item-veto bill. Thanks to the bipartisan leadership of Senators DOMENICI and EXON, we have a better line-item veto—the original S. 14 bill.

I have already said publicly on national television that I find this very appealing. I believe I could vote for it. But we ought to, if we are going to pass a line-item-veto bill, base it on the original bipartisan expedited rescission measure, one that has been carefully studied.

That I am willing to take a chance on. I am willing to take a chance on it with a sunset provision, but also because most of the questions that have been asked have been answered. I am not willing to take a plunge in faith on an amendment that is out here basically just to pick up a few extra votes.

Madam President, I see no one else seeking recognition. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 401 TO AMENDMENT NO. 347

Mr. ABRAHAM. I ask unanimous consent that we return to the consideration of my amendment No. 401, which I submitted yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. ABRAHAM] proposes an amendment numbered 401 to amendment No. 347.

The amendment is as follows:

On p. 3, line 17, strike everything after word ''measure'' through the word ''generally'' on p. 4, line 14 and insert the following in its place: first passes both Houses of Congress in the same form, the Secretary of the Senate (in the case of a measure originating in the Senate) or the Clerk of the House of Representatives (in the case of a measure originating in the House of Representatives) shall disaggregate the bill into items and assign each item a new bill number. Henceforth each item shall be treated as a separate bill to be considered under the following subsections.

(2) A bill that is required to be disaggregated into separate bills pursuant to subsection (a)—

(A) shall be disaggregated without substantive revision, and

(B) shall bear the designation of the measure of which it was an item prior to such disaggregation, together with such other designation as may be necessary to distinguish such measure from other measures disaggregated pursuant to paragraph (1) with respect to the same measure.

(b) The new bills resulting from the disaggregation described in paragraph 1 of subsection (a) shall be immediately placed on the calendar of both Houses. They shall be the next order of business in each House and they shall be considered en bloc and shall not be subject to amendment. A motion to proceed to the bills shall be nondebatable. Debate in the House of Representatives or the Senate on the bills shall be limited to not more than 1 hour, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the bills is not in order, and it is not in order to move to reconsider the vote by which the bills are agreed to or disagreed to.

AMENDMENT NO. 401, AS MODIFIED

Mr. ABRAHAM. Madam President, I send a modification to amendment No. 401 to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 401), as modified, is as follows:

On p. 3, line 17, strike everything after word ''measure'' through the word ''generally'' on p. 4, line 14 and insert the following in its place: first passes both Houses of Congress in the same form, the Secretary of the Senate (in the case of a measure originating in the Senate) or the Clerk of the House of Representatives (in the case of a measure originating in the House of Representatives) shall disaggregate the bill into items and assign each item a new bill number. Henceforth each item shall be treated as a separate bill to be considered under the following subsections.

(2) A bill that is required to be disaggregated into separate bills pursuant to subsection (a)—

(A) shall be disaggregated without substantive revision, and

(B) shall bear the designation of the measure of which it was an item prior to such disaggregation, together with such other designation as may be necessary to distinguish such measure from other measures disaggregated pursuant to paragraph (1) with respect to the same measure.

(b) The new bills resulting from the disaggregation described in paragraph 1 of subsection (a) shall be immediately placed on the appropriate calendar in the House of origination, and upon passage, placed on the appropriate calendar in the other House. They shall be the next order of business in each House and they shall be considered en bloc and shall not be subject to amendment. A motion to proceed to the bills shall be nondebatable. Debate in the House of Representatives or the Senate on the bills shall be limited to not more than 1 hour, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the bills is not in order, and it is not in order to move to reconsider the vote by which the bills are agreed to or disagreed to.

Mr. ABRAHAM. Madam President, the purpose of this amendment is straightforward. Rather than deeming the work product of the Clerk of the House or the Secretary of the Senate to be separate bills and transmitting them to the President directly, my amendment calls for one last single vote on the entire package of bills by both Houses of Congress after the bills have been disaggregated.

This will not appreciably slow the work of the Congress, since it will only require one vote on the whole package. In addition, the amendment provides for highly expedited procedures that would allow only one hour of debate on the entire package with no other business being in order.

On the other hand, in my view this amendment greatly strengthens the likelihood that this legislation will be upheld by the Supreme Court. Indeed, although I did not know this at the

time I was preparing this amendment, that is the view that the Department of Justice's Assistant Attorney General for the Office of Legal Counsel, Walter Dellinger, expressed in advising President Clinton regarding the constitutionality of S. 137, an earlier proposal containing enrollment procedures similar to those in the substitute. His letter states:

> Furthermore, there appear to be ways to refine S. 137 so as to avoid the objection that what must be presented to the President is the ''bill'' in exactly the form voted on by each House. So long as the Houses of Congress have treated each bill subsequently presented to the President as a bill at the time of each of their respective final votes, this objection would not arise. Thus, for example, internal House and Senate procedures that provided for disaggregating an appropriations bill into separate bills and then voting en bloc on those bills would result in the President's being presented with exactly [what was] voted on by each House. The chances of S. 137's being sustained would be improved were the bill amended to incorporate such refinements.

In short, in my view, we stand a much better chance of all the hard work that has been done by our colleagues over the years on this matter not being undone by the courts if my amendment is adopted.

I believe it would directly address, and satisfactorily address, the concerns that were earlier expressed by several Senators on the floor today as to the constitutionality of this legislation with respect to its presentment to the President.

For these reasons, I urge my colleagues who support this legislation to support this amendment.

I yield the floor.

Mr. COATS. I thank my friend and colleague from Michigan for offering this amendment. While I do not believe this amendment is necessary, I believe it does address a concern that was raised yesterday relative to the constitutionality of a process which would deem an appropriations bill which was enrolled separately to incorporate all of the provisions of the original bill.

For reasons that I outlined at length yesterday, and on the basis of some respected constitutional scholars, as well as others who have researched this area, we strongly feel and believe that our conclusions that the constitutionality of the Dole substitute, as originally presented, meet constitutional muster, that those provisions are adhered to and that no constitutional question exists.

Nevertheless, the amendment of the Senator from Michigan is acceptable to this Senator and to the proponents of the Dole substitute, in that it clarifies any ambiguity that might exist or concerns that might exist among some Members who have questioned the constitutionality of that procedure.

For that reason, I think the amendment of the Senator from Michigan is appropriate and I trust and hope that it will be adopted by this body.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Madam President, I am pleased that the Senator from Michigan has brought up this particular amendment, which we would like to take a further look at. Senator BYRD is a recognized constitutional scholar, as he demonstrated, I think, very vividly yesterday, and I am sure he will have some questions or comments on this.

I would simply like to say, though, that I am particularly happy that this has been brought up, because it allows me to raise some questions as to why in the world, with all of the other problems that we have had over the years in enacting some kind of an enhanced rescission or expedited rescission or line-item veto—call it what you will, we all know what we are talking about—why in the world are we bringing up matters that I think are extraneous, that I think are not necessary.

I think this whole enrollment proposition is ludicrous from the standpoint that I believe, as much as anything else, it could cause us a great deal of difficulty with regard to the courts.

I still do not understand why, all of the sudden, after S. 4 and S. 14, the two mainline bills in this regard were considered and introduced in the Senate, hearings held on them in the Budget Committee, in the Governmental Affairs Committee, and talk back and forth about which should be advanced and which should not be and in what form—at least in the Budget Committee a number of amendments were offered on a whole series of issues—but never once to my knowledge in any of the committees of the Congress of the United States this year did we ever touch on or think about this enrollment mechanism that has come out of nowhere to be one of the central parts of the bill finally introduced by the majority leader and, as near as I can tell, endorsed and backed by all 54 Members of the Senate on the Republican side of the aisle.

I would simply also point out that this enrollment mechanism, regardless of its merits or lack thereof, can be agreed by all to be cumbersome, to be laborious, and I do not see the need for it. Certainly, the House of Representatives did not think this was important. We, in the U.S. Senate, did not think it was important when we introduced S. 4 and S. 14 and had all those hearings. It was not in the Contract With America, as far as I know. And those who wrote and signed the Contract With America, of which the line-item veto or enhanced rescissions or expedited rescissions, call it what you will, they did not think it was important.

It comes over to the U.S. Senate and out of the blue comes this very difficult system that I thought that my friend from Indiana did a pretty good job of trying to explain yesterday. He went to the enrolling clerk. And he said he can do this with computers and it is going to be very easy to do.

Basically, again, I am not a constitutional scholar, I am not even a lawyer, but I listened with great interest to the presentation of one who is, Senator BYRD. When I was listening to Senator BYRD yesterday, I thought, you know, thank God for the people of West Virginia sending us a man of the talent and the intellect with regard to the constitutional problems that might come up.

Basically, it seems to me, if you pass a bill in the U.S. Senate and then you present that to the President of the United States in a different form, at least you are asking for some problems from the courts. It might well be that the amendment offered by the distinguished Senator from Michigan might clarify that somewhat. I would be very much interested in what Senator BYRD and others that have studied this from a constitutional standpoint might feel about it.

Suffice it to say, it seems to me, Madam President, that the fact that we seem to be somewhat concerned about this, at least some on that side of the aisle must be somewhat concerned because they have talked about it a great deal, and now we have an amendment offered by the Senator from Michigan that tries to clarify it a little bit more, why clarify it? Why do we not pass the measure before us, which is termed the majority leader's bill or the revision of S. 4? Why do we not pass it and go back to the simple, direct, and understandable form that we had in this regard in S. 4, in S. 14, and in the measure that came over from the House of Representatives? Why do we not go back to that which I do not believe anybody has any objection to if they are for this?

I would think that Senator MCCAIN, the original proponent of S. 4, would feel that he had thought this through quite carefully. I suspect that Senator DOMENICI and this Senator, who combined as original cosponsors of S. 14 and thought about it, we thought that the more simple form with regard to how this was presented to the President would be in the line-item form that Senator THURMOND talked about that he used as Governor, as this Senator has talked about from the time that I have served as Governor of Nebraska. I do not know why that kind of a form and process is not good if we are going to pass some kind of a line-item veto or, once again, call it what you will.

So I simply say that I thank my distinguished friend from Michigan for advancing this thought. But it gave this Senator an opportunity to say, why are we going through all these exercises in futility, when it would seem to me that the main sponsors of the amendment that was offered by the majority leader should recognize it would be to the good of all of us who would like to see some type of a line-item veto passed to go back to a sounder footing that I think we would have both from the standpoint of expediting the process

and from the standpoint of probably not being challenged constitutionally on this particular item, and go back to the way line-item vetoes have generally been handled in the past without some of these special, complicated enrollment procedures that have been thrown into this measure at the last minute for reasons that I do not begin to understand?

With that, I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Madam President, I would just point out to my colleague and friend from Nebraska that the separate enrollment procedure is not something that is new. In fact, it is a procedure which has enjoyed support not only from Republicans but also from Democrats.

Senator HOLLINGS, more than a decade ago, suggested, discussed, proposed the separate enrollment procedure. Senator BIDEN, then chairman of the Judiciary Committee, spoke very articulately in favor of the separate enrollment procedure and its constitutionality.

It is a means by which we attempt to accomplish the end that I think most now are admitting needs to be accomplished. That is, to provide a means by which we can check the unnecessary pork-barrel spending that has come out of this Chamber and the House Chamber and sent to the desk, to the President, in increasing amounts ever since the adoption of the Budget Act of 1974.

It is a practice that Members have used, and I suggest many have abused, of attaching to otherwise necessary legislation that the President needs to sign items that are designed to favor a few or favor a parochial, narrow interest.

So as we have struggled to define the vehicle that will achieve the necessary number of votes to grant a check and balance against this practice of Congress, we have looked at various forms—enhanced rescission is one; constitutional amendment is another; separate enrollment is the third.

Modern technology has allowed us to accomplish separate enrollment in a means and way in which we could not a few years ago. Five or six years ago, it was a valid complaint and a valid objection to say that it would lead to an incredibly difficult and complex process which would require the enrolling clerk to go through all kinds of machinations and additional work in order to accomplish the breakdown of a particular piece of legislation into individual items which could then be enrolled and sent to the President.

Today, computer programs allow that to be accomplished in a matter of hours, if not minutes—depending on the size of the bill. What used to be described as a nightmare of a procedure now is a routine procedure, accomplished both in the Senate and in the House.

Separate enrollment has the advantage of allowing the President to know exactly what is laid on his or her desk, what item constitutes additional spending for a particular purpose.

Rather than the obfuscation and rather than the confusion over how taxpayers' money is going to be spent we now, under separate enrollment, pick up a piece of paper which contains a single item, incorporated in a form which the President can either accept or reject.

No longer will we have the excuse of saying, ''I didn't know what was in that massive bill. I thought we were voting on an emergency appropriation. I thought we were voting on something of national interest. It was only later I discovered, to my horror, that it included all kinds of special tax benefits for single individuals, for limited interests, special breaks for special interests.''

Or, ''I didn't know that the appropriations that went forward provided what is often characterized as embarrassing expenditures of something that can only be described as pork-barrel spending.

''Even had I known it, I'm afraid I would have had to vote for the bill, because it provided emergency funding for our national defense; it provided emergency funding for hurting Americans as a consequence of a hurricane or floods or an earthquake, or necessary spending for essential functions of Government.''

Or, ''I didn't want to shut the whole Government down. We were right up against the deadline.''

Yes, those rascals always slip a few things in there at the end, but we were up against the deadline and we had a massive bill that we had to pass or send to the President.

The President is faced with the choice of either accepting the entire bill or rejecting the entire bill. The President—each President in this century with one exception—has formally asked the Congress, ''Let me have line-item veto authority so that I am not''—as Harry Truman said—''blackmailed by the legislature into either accepting the bill with all of its extraneous, nonrelevant spending, or rejecting the bill and sending it back.''

By the way, you send a lot of these major appropriations up at the very end of the fiscal year with hours to go, sometimes, before the fiscal year runs out, and then you put me in a position of saying if I do not like something in that legislation, I have to send the entire bill back and close every office, and all the horror stories about the essential functions of Government are then raised. That is, as Harry Truman said, legislative blackmail.

Madam President, what we are attempting to do is to fashion a procedure, a process which will allow the President to say ''I'll accept 99 percent of that bill or 94 percent of that bill, but I can't accept it with these dozen items in there that do not have anything to do with the bill, that do not go toward any national interest, that are simply attached because Members knew that this is the way to get their pork-barrel spending through, that I had to accept the bill.''

By the same token, this is a process which will change the way Members behave, the way Members act. Because now, knowing that the President would have the power under line-item veto to single out their particular item, to single it out on one page of paper for everyone to see, and knowing that the only way that item could become law is if this Congress brought it back up and that Member were forced to come to the floor, debate, and explain what was in the bill, what the spending was for, and turn to his colleagues and say, ''I need your support but, by the way, you will have to put your 'yes' or your 'no' on public record so that your constituents understand how you feel about that particular item,'' knowing that, I predict most Members will say, ''I don't think that particular spending item is so important that I want to risk having to debate that or putting other Members on notice.'' Or, ''I don't think I can get the necessary votes to achieve that particular purpose.''

Separate enrollment brings forward into the light of public scrutiny the particular item of expenditure, and no longer will we be able to hide that item.

Madam President, I note that the Senator from West Virginia has arrived on the floor, and I am more than happy to yield.

Mr. EXON. Madam President, I just remind my colleague that the Presiding Officer still has the right to decide the floor.

Madam President, I have been listening with great interest to my friend and colleague from Indiana. I would remind him that before he and many other people came to the Senate, former Senator Quayle, former Vice President Quayle, and this Senator, were up appealing on the floor of the U.S. Senate along the same identical lines that the Senator from Indiana just mentioned.

I listened very much to his remarks in response to the suggestion that I had made, but maybe he did not understand what I was talking about. There is nothing wrong in using computers to try to ferret out so that all—including Members of the House, Members of the Senate, the President pro tempore of the Senate, who has to sign each one of these measures, the Speaker of the House—so that he or she is fully informed, and the President of the United States, so that they are fully informed.

So we are not against the use of computers to furnish information and break down the figure. There is nothing wrong with that.

Much of the excellent remarks that were just made by my colleague from Indiana emphasized the need for a line-

item veto, enhanced rescission, expedited rescission—call it what you will. So I do not think that is the debate that I was trying to enter into, nor do I believe that is the intent of the amendment offered, that we are now on, by the Senator from Michigan.

What we are talking about is whether or not it is wise to use the enrollment procedure that has come out of the blue. I agree with my friend from Indiana. This is new. It has not been talked about before. It has been suggested by Senator HOLLINGS, it has been suggested by Senator BIDEN, as I understand it, and possibly others. But it was just one suggestion that was made somewhere down the line.

I happen to believe that the House of Representatives, which studied this matter, did not feel that the bill was unworkable unless we used the enrollment process that suddenly has been instigated here as a key part. I do not believe that the Budget Committee or the other committee of jurisdiction that considered this matter felt that the measures that were advanced were inoperative or had not been thought through because we did not come through this magical enrollment procedure.

I will simply say that most of the remarks that the Senator from Indiana made were with regard to the merits and why we need a line-item veto of some type. He did not, I think, adequately address the concerns that I was trying to bring up with regard to this enrollment process that I think could cause us some serious constitutional problems, those of us who are now for and have been for a line-item veto of some type for a long, long time.

So I simply want to focus, if it was not understood, on the concerns of this Senator with regard to this cumbersome procedure to carry out the line-item veto.

For the life of me, I have not been able to understand yet how the President pro tempore and the Speaker and the President can carry out their duties by signing something that is on a computer. There is nothing wrong with using a computer to make sure that everybody knows what every item is from 1 cent to trillions of dollars. But I do not believe that that particular enrollment process is the key to success at all. In fact, I think that kind of a process, as I say once again, could cause us some considerable difficulties in the courts. No one knows how they would decide that.

I simply wanted to make it clear, Madam President, that I was not in conflict with what the Senator from Indiana said with regard to the necessity for a line-item veto. I am trying to focus on the fact that I believe that the enrollment process is also causing some concern to Senators on that side of the aisle, as evidenced by the fact that the Senator from Michigan must have some concerns about it or he would not be in here offering his amendment.

So I simply warn and would like to have some consideration given to why can we not pass a cleaner, simpler, more direct line-item veto, a la what was sent to us by the House, a la what was incorporated in S. 4, what was incorporated in S. 14? I do not believe that all of the people that touched those different propositions had not thought through the process to the point that all is forsaken unless somehow we accept this concept that has been brought into this body for the first time, as I know it, under the present consideration of a line-item veto or something akin to it in this current session of the Congress.

I happen to think that it is ill-advised to go that far, but the majority has a right to work its will.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Chair in her capacity as a Senator from Texas suggests the absence of a quorum. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to proceed as in morning business.

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

Mrs. HUTCHISON. I thank the Chair.

(The remarks of Mrs. HUTCHISON pertaining to the introduction of S. 592 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mrs. HUTCHISON. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

LEGISLATIVE LINE-ITEM VETO ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 401, AS MODIFIED, TO AMENDMENT NO. 347

Mr. McCAIN. Now may I ask what the parliamentary situation is?

The PRESIDING OFFICER. The pending amendment at the present time is the amendment of the Senator from Michigan [Mr. ABRAHAM].

Mr. McCAIN. Mr. President, if there is no further debate on the amendment, I move the amendment.

Mr. BYRD. Mr. President, there is no such motion under the Senate rules.

There is no such motion in the Senate rules, moving adoption of an amendment.

The PRESIDING OFFICER. Does someone seek recognition?

Mr. McCAIN. I move adoption of the amendment.

Mr. BYRD. Mr. President, there is no such motion under Senate rules.

The PRESIDING OFFICER. Does someone seek recognition?

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, the majority leader has made it quite clear, as has the Democratic leader, that we want to finish this bill tomorrow. We have now 14 amendments pending on the bill. We have spent a long time on the bill. We would like to have debate on this amendment. Any Member of this body can put the Senate into a quorum call if they wish.

I would like to go ahead and debate the Abraham amendment and be able to move on to other amendments, if that is possible. If it is not possible, then obviously we may have to inconvenience Members by staying here very late tonight so that we can keep consonance with the desires of the majority leader and the rest of the Members of the body to finish this legislation tomorrow and not spend 3 and 4 weeks on a single piece of legislation as we did with the balanced budget amendment and other amendments since we have gone into session here.

So, Mr. President, I hope that we can move forward with this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I am not ready at this moment to debate the amendment, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. McCAIN. Mr. President, I again advise my colleagues that we have 14 amendments pending. We would like to get those done. An amendment is before the Senate. I would like to move forward with it.

The PRESIDING OFFICER. Does someone seek recognition for debate on the Abraham amendment?