whole people * * * everyone equal before the law.''

So as we honor the modern Greeks and their sons and daughters in America today, let me paraphrase Thomas Jefferson—we Americans are all indebted to the ancient Greeks for the light of democracy which led us out of the darkness of tyranny.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES!

Mr. HELMS. Mr. President, as of the close of business yesterday, Thursday, March 23, the Federal debt stood at $4,845,959,175,160.98. On a per capita basis, every man, woman, and child in America owes $18,395.34 as his or her share of that debt.

THE 50TH ANNIVERSARY OF THE BATTLE OF IWO JIMA

Mr. NUNN. Mr. President, today I want to commemorate the 50th anniversary of the conclusion of the World War II battle for Iwo Jima.

Exactly 50 years ago today, the U.S. Marines successfully finished a fierce battle for a small dot in the Pacific that had been turned into one of the most heavily fortified islands in the world by a hard-as-nails Samurai warrior Japanese Lieutenant General Kurabayashi.

The battle for Iwo Jima had started on February 19, 1945. American military planners half-a-world away came up with only one way to make Iwo into the needed U.S. forward base: an attack right into the teeth of the Japanese defenses.

The ensuing 33-day battle was the basest form of struggle—individual against individual, inch by inch. Artillery, mortars, naval gunfire, and air—the traditional combined arms of the Marines—provided only marginal help to the attackers. The most powerful weapon was the individual marine who hadto drive the enemy from gun emplacements, caves, tunnels, and spider holes.

There were 2,500 marines killed on that first day—February 19, 1945. The death toll tripled by the time the first marine fire team fought to the top of Mt. Suribachi 6 days later. Mt. Suribachi was the strategic high point from which the defenders were pinning the marines down on the beaches and was the dominating feature of the entire island.

Three reserve marines, two regular marines, and one Navy corpsman joined together in a moment that captured the soul of a service. They raised Old Glory atop that 550-foot extinct volcano. Those on the beach below saw the red, white, and blue flutter in the breeze. Secretary of the Navy James Forrestal, there with the Marine Commander Major General ''Howling Mad'' Smith, turned and said: ''The raising of the flag on Mt. Suribachi means a Marines Corps for the next five hundred years.''

I certainly hope so.

Though organized resistance continued until mid-March, the flag raising, which produced perhaps the most famous and inspiring combat photograph of World War II, symbolized one of the hardest won victories of that war.

Military historian Allan Millett has written of Iwo Jima that, ''Of all the unpleasant islands the marines saw, Iwo Jima was the nastiest—prepared by nature and the Japanese armed forces as a death trap for any attacker.'' And so it was.

There were 70,000 marines locked in combat on this tiny island in the Pacific; 5,931 died; 17,372 were wounded; Presidential and Navy Unit Citations were awarded and 22 marines earned the Medal of Honor.

The fighting was so brutal, and the determination and bravery of the marines so stunning, that Adm. Chester Nimitz, Commander in Chief of the Pacific Fleet, was moved to say that on Iwo Jima ''uncommon valor was a common virtue.''

They fought and died so that others might live in freedom. The purpose of wresting Iwo Jima from the Japanese was to establish a forward air base on the island which served, among other things, as an interim emergency landing base for United States bombers making the long run between the Marianas to targets in Japan. More than 25,000 airmen in the Army Air Force subsequently used Iwo Jima for emergency landings.

Mr. President, I know I speak for all in saying we honor both those who fell on Iwo Jima and those who fought but managed to survive. I know it must have been a very emotional ceremony last week on the black sands of Iwo Jima when thousands of the survivors joined Secretary of the Navy John Dalton and current Marine Commandant Gen. Carl Mundy in paying tribute to their bravery and sacrifice and to commemorate those who did not return.

I felt of that same emotion when I was fortunate to be on the Senate floor March 2, 1995, when Senator JOHN GLENN was making a very moving tribute about the marines who fought on Iwo Jima. This was part of a series of speeches about that battle by Senators who have served as marines. Each spoke about a different aspect of Iwo Jima.

We would all benefit from reading all these speeches and so I ask unanimous consent to have printed in the RECORD the names of the Senators, the date of their speech, and the page in the CONGRESSIONAL RECORD where their remarks can be found.

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

CONGRESSIONAL RECORD SPEECHES—IWO JIMA

Senator	Date	Vol.	No.	Page(s)
Senator Robb	Feb. 10, 1995	141	27	S2455
Senator Thomas	Feb. 13, 1995	141	28	S2533–S2534
Senator Burns	Feb. 14, 1995	141	29	S2596–S2597
Senator Bumpers	Feb. 15, 1995	141	30	S2732–S2736
Senator Heflin	Feb. 16, 1995	141	31	S2774–S2775
Senators Chafees and Warner.	Feb. 23, 1995	141	34	S3034–S3036
Senator Glenn	Mar. 2, 1995	141	39	S3376–S3377

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. DEWINE). MORNING BUSINESS IS CLOSED.

SELF-EMPLOYED HEALTH INSURANCE DEDUCTIONS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 831, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 831) to amend the Internal Revenue Code of 1986 to permanently extend the deduction for the health insurance costs of self-employed individuals, to repeal the provision permitting nonrecognition of gain on sales and exchanges effectuating policies of the Federal Communications Commission, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PERMANENT EXTENSION AND INCREASE OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) PERMANENT EXTENSION.—Subsection (l) of section 162 of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (6).

(b) INCREASE IN DEDUCTION.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 is amended by striking ''25 percent'' and inserting ''30 percent''.

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1993.

(2) INCREASE.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1994.

SEC. 2. REPEAL OF NONRECOGNITION ON FCC CERTIFIED SALES AND EXCHANGES.

(a) IN GENERAL.—Subchapter O of chapter 1 of the Internal Revenue Code of 1986 is amended by striking part V (relating to changes to effectuate FCC policy).

(b) CONFORMING AMENDMENTS.—Sections 1245(b)(5) and 1250(d)(5) of the Internal Revenue Code of 1986 are each amended—

(1) by striking ''section 1071 (relating to gain from sale or exchange to effectuate polices of FCC) or'', and

(2) by striking ''1071 AND'' in the heading thereof.

(c) CLERICAL AMENDMENT.—The table of parts for such subchapter O is amended by striking the item relating to part V.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to—

(A) sales and exchanges on or after January 17, 1995, and

(B) sales and exchanges before such date if the FCC tax certificate with respect to such sale or exchange is issued on or after such date.

(2) BINDING CONTRACTS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any sale or exchange pursuant to a written contract which

CONGRESSIONAL RECORD SPEECHES—IWO JIMA—Continued

Senator	Date	Vol.	No.	Page(s)

was binding on January 16, 1995, and at all times thereafter before the sale or exchange, if the FCC tax certificate with respect to such sale or exchange was applied for, or issued, on or before such date.

(B) SALES CONTINGENT ON ISSUANCE OF CERTIFICATE.—A contract shall be treated as not binding for purposes of subparagraph (A) if the sale or exchange pursuant to such contract, or the material terms of such contract, were contingent, at any time on January 16, 1995, on the issuance of an FCC tax certificate. The preceding sentence shall not apply if the FCC tax certificate for such sale or exchange is issued on or before January 16, 1995.

(3) FCC TAX CERTIFICATE.—For purposes of this subsection, the term ''FCC tax certificate'' means any certificate of the Federal Communications Commission for the effectuation of section 1071 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act).

SEC. 3. SPECIAL RULES RELATING TO INVOLUNTARY CONVERSIONS.

(a) REPLACEMENT PROPERTY ACQUIRED BY CORPORATIONS FROM RELATED PERSONS.—

(1) IN GENERAL.—Section 1033 of the Internal Revenue Code of 1986 (relating to involuntary conversions) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) NONRECOGNITION NOT TO APPLY IF CORPORATION ACQUIRES REPLACEMENT PROPERTY FROM RELATED PERSON.—

''(1) IN GENERAL.—In the case of a C corporation, subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period described in subsection (a)(2)(B).

''(2) RELATED PERSON.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1).''

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to involuntary conversions occurring on or after February 6, 1995.

(b) APPLICATION OF SECTION 1033 TO CERTAIN SALES REQUIRED FOR MICROWAVE RELOCATION.—

(1) IN GENERAL.—Section 1033 of the Internal Revenue Code of 1986 (relating to involuntary conversions), as amended by subsection (a), is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) SALES OR EXCHANGES TO IMPLEMENT MICROWAVE RELOCATION POLICY.—

''(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualified sale or exchange, such sale or exchange shall be treated as an involuntary conversion to which this section applies.

''(2) QUALIFIED SALE OR EXCHANGE.—For purposes of paragraph (1), the term 'qualified sale or exchange' means a sale or exchange before January 1, 2000, which is certified by the Federal Communications Commission as having been made by a taxpayer in connection with the relocation of the taxpayer from the 1850–1990MHz spectrum by reason of the Federal Communications Commission's reallocation of that spectrum for use for personal communications services. The Commission shall transmit copies of certifications under this paragraph to the Secretary.''

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales or exchanges after March 14, 1995.

SEC. 4. DENIAL OF EARNED INCOME CREDIT FOR INDIVIDUALS HAVING MORE THAN $2,450 OF INVESTMENT INCOME.

(a) IN GENERAL.—Section 32 of the Internal Revenue Code of 1986 is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

''(i) DENIAL OF CREDIT FOR INDIVIDUALS HAVING MORE THAN $2,450 OF INVESTMENT INCOME.—

''(1) IN GENERAL.—No credit shall be allowed under subsection (a) for the taxable year if the aggregate amount of disqualified income of the taxpayer for the taxable year exceeds $2,450.

''(2) DISQUALIFIED INCOME.—For purposes of paragraph (1), the term 'disqualified income' means—

''(A) interest which is received or accrued during the taxable year (whether or not exempt from tax),

''(B) dividends to the extent includible in gross income for the taxable year, and

''(C) the excess (if any) of—

''(i) gross income from rents or royalties not derived in the ordinary course of a trade or business, over

''(ii) the sum of—

''(I) expenses (other than interest) which are clearly and directly allocable to such gross income, plus

''(II) interest expenses properly allocable to such gross income.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 5. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULE.—For purposes of this subtitle, if any United States citizen relinquishes his citizenship during a taxable year—

''(1) except as provided in subsection (f)(2), all property held by such citizen at the time immediately before such relinquishment shall be treated as sold at such time for its fair market value, and

''(2) notwithstanding any other provision of this title, any gain or loss shall be taken into account for such taxable year.

Paragraph (2) shall not apply to amounts excluded from gross income under part III of subchapter B.

''(b) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this subsection) be includible in the gross income of any individual by reason of subsection (a) shall be reduced (but not below zero) by $600,000.

''(c) PROPERTY TREATED AS HELD.—For purposes of this section, except as otherwise provided by the Secretary, an individual shall be treated as holding—

''(1) all property which would be includible in his gross estate under chapter 11 were such individual to die at the time the property is treated as sold,

''(2) any other interest in a trust which the individual is treated as holding under the rules of subsection (f)(1), and

''(3) any other interest in property specified by the Secretary as necessary or appropriate to carry out the purposes of this section.

''(d) EXCEPTIONS.—The following property shall not be treated as sold for purposes of this section:

''(1) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the date the individual relinquishes his citizenship, meet the requirements of section 897(c)(2).

''(2) INTEREST IN CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for taxfavored treatment.

''(B) FOREIGN PENSION PLANS.—

''(i) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

''(ii) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

''(e) RELINQUISHMENT OF CITIZENSHIP.—For purposes of this section, a citizen shall be treated as relinquishing his United States citizenship on the earliest of—

''(1) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(2) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(3) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(4) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Paragraph (1) or (2) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—For purposes of this section—

''(A) GENERAL RULE.—A beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

''(B) SPECIAL RULE.—In the case of beneficiaries whose interests in a trust cannot be determined under subparagraph (A)—

''(i) the beneficiary having the closest degree of kinship to the grantor shall be treated as holding the remaining interests in the trust not determined under subparagraph (A) to be held by any other beneficiary, and

''(ii) if 2 or more beneficiaries have the same degree of kinship to the grantor, such remaining interests shall be treated as held equally by such beneficiaries.

''(C) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(D) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(i) the methodology used to determine that taxpayer's trust interest under this section, and

''(ii) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(2) DEEMED SALE IN CASE OF TRUST INTEREST.—If an individual who relinquishes his citizenship during the taxable year is treated under paragraph (1) as holding an interest in a trust for purposes of this section—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets immediately before the relinquishment for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (B)(ii).

''(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate, and

''(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) RULES RELATING TO PAYMENT OF TAX.—

''(1) IMPOSITION OF TENTATIVE TAX.—

''(A) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the individual relinquishes United States citizenship, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the date of such relinquishment.

''(B) DUE DATE.—The due date for any tax imposed by subparagraph (A) shall be the 90th day after the date the individual relinquishes United States citizenship.

''(C) TREATMENT OF TAX.—Any tax paid under subparagraph (A) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(2) DEFERRAL OF TAX.—The provisions of section 6161 shall apply to the portion of any tax attributable to amounts included in gross income under subsection (a) in the same manner as if such portion were a tax imposed by chapter 11.

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing appropriate adjustments to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (b).

''(j) CROSS REFERENCE.—

''For termination of United States citizenship for tax purposes, see section 7701(a)(47).''

(b) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e).''

(c) CONFORMING AMENDMENT.—Section 877 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)) United States citizenship on and after February 6, 1995.''

(d) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to United States citizens who relinquish (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) United States citizenship on or after February 6, 1995.

(2) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(1)(B) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

The PRESIDING OFFICER. There are 5 hours of debate, equally divided.

The Senator from New York.

Mr. MOYNIHAN. Mr. President, I do believe the distinguished chairman of the committee wishes to speak first.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I thank the Chair.

Mr. President, ''Amici attenti.'' These are the opening words in the play ''Fiorello'' when Fiorello LaGuardia is first campaigning for Congress in 1916. The set—and I saw it first in New York—is a wonderful set. As he is campaigning, to give the sense of ethnic campaigning, he has a little box and they put it on the left of the stage. He stands up, and as he is speaking to Italian immigrants, he says, ''Amici attenti, Trieste must be free as we must be free.''

Trieste was then a port disputed between what is now Italy and what we used to call Yugoslavia. It was then part of the Austro-Hungarian Empire.

Italy, of course, was allied on our side during World War I, and the Austro-Hungarian Empire was against us. And one of the big issues in American politics where there was ethnic campaigning—people of Italian ancestry—was the issue of Trieste.

Many of us today would understand it in a different venue—Cyprus, those of Greek and Turkish ancestry; Jerusalem, those of Jewish and Moslem faith. The issues may change, but not the methods.

It was interesting to watch ''Fiorello'' in New York because at the end of his little pitch to those of Italian ancestry, the box is simply moved to the other side of the stage, and he stands up and he is speaking to those of Jewish background in Yiddish, with whatever may have been at the time in 1916 appropriate for an appeal to that group.

As I went to law school at New York University, that was all I needed, or anybody familiar with New York needed, to give the impression of ethnic campaigning.

I saw the play produced at an Oregon high school some years later, and it was interesting the way the scene was done. They did the ''amici attenti,'' moved the box on the other side, and spoke in Yiddish. Then they moved it back, and there is the same type of interlude in Swedish. They moved it back again on the other side, and it was in Scottish.

Afterward, I talked to the high school producer and asked him did he know he had added this. He said, yes, he had seen ''Fiorello.''

I asked, ''Why did you add it?''

He said, ''Because the students here are familiar with the Johnsons and the Eriksons and the MacGivers, but not the Giadellis, Bergers, or Cohens. And so, for this audience to give the impression of what ethnic campaigning was like, it had to be put in a form understandable to that audience.

I thought to myself, we are all products of our environment and where we grew up. And we may see things in a different light and often at a different time.

You may remember the difficulty that Ed Muskie had in 1972 when he used, or was alleged to have used, the word ''Canuck,'' a term of derogation, a term not to be used, and it hurt him in the campaign.

Yet, you can go back not more than 60, 70 years to the musical ''Naughty Marietta'' and the captain, Captain Dick. Captain Dick's infantry was almost a free-booter in terms of this little private army, and in the Victor Herbert musical, ''Naughty Marietta,'' you recall the lines:

Tramp, tramp, tramp now clear the roadway.
Room, room, room the world is free.
We are Planters and Canucks.
Virginians and Kaintucks.
Captain Dick's own infantry.

There it was used as a term of geography, perhaps, but really used as a term for rural Americans. It does not matter if we are Canucks of French Canadian background or planters or Kaintucks. The times had changed and times do change.

I remember well January or February 1942. My father was a lobbyist for the principal Oregon business group, now called Associated Oregon Industries, and then called Columbia Empire Industries. He used to go to the legislature. He was a house counsel for them, not outside. He attempted to explain to me in 1942 an incident that I could not grasp at the time.

I grew up practically every day after school at the neighborhood YMCA—swimming, tumbling, basketball—and it was, indeed, a neighborhood youth center, and we had a number of boys, members of Japanese ancestry. One day they disappeared. Gone.

My father attempted to explain the relocation. He attempted to explain these were American citizens—he was also a member of the American Civil Liberties Union, even though he was a business lobbyist—and the unfairness in what he thought was clearly an unconstitutional act, and surely the Supreme Court would strike it down.

I remember him calling to my attention that we were not going to imprison any Americans whose names were Shultz or Heindrich of German ancestry, even though at the time German submarines were sinking ships 5 and 10 miles off our coast.

It was a difference in the way we looked at ethnic backgrounds.

Mr. MOYNIHAN. Or Giadelli.

Mr. PACKWOOD. Exactly. We did not imprison any Giadellis or any DeAngelos; only those of Japanese ancestry. So as we look at things, our whole growing up and our whole background influence us.

I noticed the glass ceiling report the other day on women and employment. I can understand the report. It is hard for me to grasp, in terms of my own employment practices. The women in my office are my chief of staff, my press secretary, my legislative director, my staff director, and chief counsel on the Finance Committee. All of the principal positions of leadership in my offices are held by women. All of my campaigns have been managed by women for the last four campaigns.

On average, although we did this study 8 or 9 months ago, women made, on average, $10,000 more a year than men in the office. I once had a man—I do not know if he was facetious or not—who talked to me about affirmative action and the feeling that somehow men were not treated quite as equally.

In my office, if I had to have a quota system, I would have to fire two or three women and probably lower the salaries of many others in order to reach some kind of equality.

So, again, we are all products of our background. We all see things as we saw them when we grew up, and often people who grow up in a different era, or are treated differently, come at things in a different way.

I think rather than being harsh with each other and judgmental, we are often better to be kind.

One of the nicest eulogies I think I ever read was by Winston Churchill when Neville Chamberlain died. He died in about 1942. Chamberlain had been the Prime Minister of Great Britain. He had been really the head of the pacifists and had negotiated with Hitler for peace for our time. He had been proven utterly wrong, and had to resign almost in disgrace at the start of the war.

Churchill, all during the thirties and during the ascendancy of Neville Chamberlain, said, ''Watch out for that man. This Hitler is evil. We are going to go to war. The pacifists are wrong. We should be arming, not disarming.'' Everything Chamberlain did, Churchill disagreed with, and Churchill was right.

Churchill's wonderful eulogy is as follows:

> At the lychgate, we may all pass our own conduct and our own judgments under a searching review. It is not given to human beings happily for them for otherwise life would be intolerable, to foresee or to predict to any large extent the unfolding course of events. In one phase, men seem to have been right, in another, they seem to have been wrong. Then again, a few years later, when the prospective of time has lengthened, all stands in a different setting. There is a new proportion. There is another scale of values. History with its flickering lamp stumbles along the trail of the past, trying to reconstruct its scenes, to revive its echoes, and kindle with pale gleams the passion of former days.

He goes on for another three or four paragraphs in his book and he concludes that, ''We do honor to one.'' Churchill would have had every right if he had wanted to say this man was wrong, but he did not.

Now, Mr. President, with that background, let me come to this bill. The issue of this bill, de facto, is whether or not we are going to fund, for those who are self-employed, enough money so that they can deduct 25 percent in the first year and 30 percent thereafter of the cost of their health insurance premiums. There is no debate about that subject. There is barely any debate about the funding levels. We would all like it to be higher, but there is no debate about what we have done. And in the discussion of this bill, I think relatively little controversy, if any, would be generated about the purpose of the bill.

But the bill became a flash point when it passed the House and part of the financing—we have continued it in the Senate—was the elimination of what are known as minority and women certificates at the Federal Communications Commission, whereby certificates of preference, in essence, are given to sellers or others of broadcast properties if they will sell them to minorities or to women.

This brings us, really, to the issue—and it is interesting that in the Washington Post this morning there is a long story and in USA Today is the longest story I have ever seen for USA Today—four pages—on the issue of affirmative action. I thought it ironic that on the day we start this debate, those stories would be in two principal newspapers. It is doubly ironic that we start this debate on a bill that comes from the Finance Committee. We have jurisdiction of many things on this committee, but never in my wildest imagination would I have thought the first debate on one of the major issues to face this country would come out of this committee. But so be it. Like generals, you cannot choose where you want to fight. You fight where you have to.

Let me discuss what the issues involved are and what we face, because I think in this bill and in this issue, whether or not we want to have preferences is really oblique. But what will come after this may be set by the tenor of the debate today. Take a look at the history of civil rights enforcement, and it really falls into three categories: individual discrimination, individual remedy, and then past discrimination, where the remedy was a group entitlement rather than just an individual remedy. The last is a situation is where you have no discrimination shown in the past at all, but you have group entitlements because you want to change the ratios of employment, or admittance to colleges, or whatever, but no showing of past discrimination. Those three—the first is individual discrimination and individual right; the second is past discrimination and group right, even though everybody in the group may not have been discriminated against. And the last is, where there is no evidence of discrimination.

Take the first, individual discrimination. Suzy Goldberg is Jewish, and Suzy wants to buy a house in a housing development. The developers have a covenant that they cannot sell to Jews. Suzy sues and wins and gets the house, and Suzy gets damages. An individual wrong and an individual remedy. And that was what we thought we meant, I think, by civil rights and civil rights enforcement, that all people were to be judged on their individual merits and treated individually. Then we moved to a second phase. I remember this era because I was here. To digress for a moment, it is interesting, when we were debating the budget the other day, I mentioned a 1972 bill in which we were voting whether or not to give to President Nixon the power to cut the budget when it exceeded $250 billion. One of the younger staff members, one of our permanent staff members, came up and said to me, ''Senator, that was very interesting, but if we had term limits, would anybody know about that except some historian? I thought her point was well taken, perhaps because I am going to go back now in history. I am not sure, if we had term limits, that anybody would know.

Anyway, we went through this first phase of individual remedies for individual discrimination—and Hubert Humphrey's wonderful comment is cited over and over on the 1964 Civil Rights Act. He said:

> I will start eating the pages, one after another, if there is any language which provides that an employer will have to hire on the basis of percentage or quota related to color.

He was thinking individual remedy for individual discrimination. But the difficulty came when you started getting into a situation where you had businesses that simply had a history of discrimination. Women would not rise above a certain position. No blacks would be hired. And you had this 30, 40, or 50 years of discrimination. What do you do? How does one individual remedy solve an almost aggregated problem?

So the Johnson administration—and my good friend, Senator MOYNIHAN, the ranking member of the Finance Committee, is well familiar with this era. He was in the Kennedy administration in the Department of Labor and certainly is familiar with everything that went on as we got to the Office of Federal Contract Compliance and the effort to get employers and those who contract with the Government to do better at hiring minorities and women. But the administration, I think, correctly was afraid to actually set quotas. They did not want to use the word ''quotas.'' Therefore, business, on the other hand, was not quite sure what goal they were to hit. Ironically, it fell to a Republican administration to really address this—there had been a couple of court decisions, but the first set out a remedy that went way beyond any remedy to rectify discrimination to an individual person. It was called

the Philadelphia plan. Here again, when I say I have been here long enough to remember this, I am not sure if we had term limits, if anyone would know this.

The Under Secretary of Labor was Larry Silberman. He was the author of the Philadelphia plan. He is now on the court of appeals. I knew him well. I was on the Labor and Public Welfare Committee and dealt with him then. More importantly, I got to know his wife, and she was my press secretary for several years in the 1970's. So it is a longstanding association. Larry Silberman, now Judge Silberman, was the author of the Philadelphia plan. In Philadelphia, in the building trades, they had a history of discrimination. Initially, we thought against blacks, but I recall, 20 years ago, Larry saying it was not against blacks, it was against anybody not related to somebody already in the trades. You hired your cousin or your uncle's nephew, or somebody like that. It was a closed show. But it was totally closed to blacks.

So the administration came up with the Philadelphia plan. Larry Silberman, Under Secretary of Labor, now Judge Silberman on the court of appeals, was simply decreeing that, henceforth, the building trades would have to hire a certain number of minorities, and there had to be a timetable and a goal to be reached. And the problem was—and Larry Silberman said, in retrospect, and he set this forth in a wonderful Wall Street Journal article in 1977—he said that inevitably the goals and the timetables became quotas. How could you know if somebody was meeting the goal without counting? And the counting became quotas. And, finally, the employers, out of frustration and fear, started setting quotas. If there were 20 percent blacks in the area, you try to hire 20 percent blacks, if you can.

I might quote one paragraph from that Wall Street Journal article that Larry Silberman wrote in 1977:

> I now realize that the distinction we saw between goals and timetables on the one hand, and unconstitutional quotas on the other, was not valid. Our use of numerical standards in pursuit of equal opportunity has led ineluctably to the very quotas, guaranteeing equal results, that we initially wished to avoid.

So now we have gone from an individual remedy, for an individual act of discrimination, to a group entitlement and having to hire a certain percentage of minorities, even though many in the minority may have never suffered any individual discrimination in hiring. They never applied and had never been turned down. As Larry Silberman said, once the Philadelphia plan was adopted, we began to apply it nationwide like Johnny Appleseed, scattering it every place, and even starting to apply it where there was no evidence of discrimination. Just assuming that after 200 years there had been discrimination and therefore, Mr. or Ms. Employer, if you want to contract with the Federal Government, you better have so many percentages of different minorities.

That brings us to the issue at hand. It is the issue of the Federal Communications Commission and the issuance of tax certificates. We are principally talking about sellers of broadcast properties receiving a tax credit when they sell to a minority. And the sellers are the ones that make, initially, the great profit. Here is an example: Let us say you bought a radio station for $1 million 10 years ago and you want to sell it now. It is now worth maybe $5 million.

The FCC says if a person sells it to a minority, they need pay no taxes on the profits if, within 2 years, they reinvest them in a similar property. No capital gains, no nothing.

So they have a $1 million station, they sell to a white person for $5 million, they have to pay taxes on $4 million. Sell to a minority, they have $4 million profit, and roll it into a similar profit and they pay no taxes.

What brought this issue to a head was the so-called Viacom deal, and this was a big deal. This was a sale of about $2.4 billion and a deferral of taxes, $400 to $600 million of taxes. That is what caused this issue to come to a head.

Here is the problem with the FCC tax certificate program. First, there is no history of discrimination in the sale of broadcast properties. If a person wants to sell their radio station, they will sell it to the highest bidder. One fellow said, ''I don't care if they have blue skin and an eye in the center of their forehead. If they have the most money, they get to buy the station.''

There is utterly no history of discrimination in the sale of properties. Yet the FCC wanted to ensure that minorities could get properties, and they had to hinge it on something, as they had no history of discrimination in the sale of these properties.

So they came up with the idea of diversity broadcasting. It is not a new idea; it is a policy they have followed for years. But normally we would have thought of it as economic concentration. A person was not allowed to own two radio stations in the same town. They came up with a policy that said, ''You have to sell one.'' Involuntary conversion. You sold it, you got the tax certificate because the Government made you sell it.

Pretty soon they said a person could not have a newspaper and television station in the same town, and they required the divesting of the involuntary diversions, and the tax certificates were used because they changed policy. It was almost as if they were thinking they did not want William Randolph Hearst to own the television station, radio station, and newspaper—almost an economic antitrust.

The argument is people wanted diversity. In 1978, the FCC, Federal Communication Commission, started the policy of diversity; you sell to minorities and you want diverse voices owning television and radio so you could get a different kind of editorial opinion and a different kind of news.

Here is where the interesting linchpin comes. It is a difference of opinion as to how one reads the studies. I have now read all the studies. I think I mistakenly had not read enough when it went through the Finance Committee. I thought initially that the studies proved that minority-owned radio stations and television stations programmed differently. I have now, I think, read all of the studies that were relied upon, and I will cite a few.

One was done by Marilyn Fife in 1984, an associate professor at Michigan State University. It was a relatively modest study, of two local television stations in Detroit. One was owned by a minority and one not, and her conclusions were as follows: There was no significant difference between the stations as to news and coverage of international politics or issues. No significant difference existed regarding coverage of community events and human interest stories. No significant difference existed as to coverage of crime, accidents and fire. And there was no significant difference in the amount of time devoted to racially significant stories. In sum, she could find in that study no evidence that minorities programmed to minorities.

She did another study in 1986. This time she studied four television stations, one in Corpus Christi which was owned by Hispanics; another one in Detroit—the minority owned station she had studied previously; one in Jackson, MS, that was black-owned; and a station in Bangor, ME, that was 100 percent black-owned, principally by 35 black professionals who were mostly from Chicago.

What she discovered was interesting. In Corpus Christi, which is 48 percent Hispanic, this station owned by Hispanics attempted to broadcast marginally to Hispanics but they had difficulty getting advertising revenue, and they did the best they could. But she also discovered that there were other stations in Corpus Christi. These are radio stations owned by whites that were broadcasting to Hispanics—48 percent of the market. We can understand why.

The Detroit study was no different than she had seen 2 years before. The two stations—one black-owned, one not—still broadcast similarly.

In Jackson, MS, about 40 percent of the population is black. But the black owned-station did not program any differently than the other stations programmed. All of the stations were aware that there was a 40 percent black audience; it did not matter if they were owned by minorities or not.

Then in Bangor, ME—the interesting one—Bangor has only about .2 percent black population. And although the station studied was totally owned by blacks, they said it was first and foremost a profit-oriented entity. The goal of the news management was to have

similar news coverage as the other two local stations. It is understandable.

Then we have the Trotter study in Boston in 1987. This study compared the types of news coverage by five newspapers and then three television stations and two radio stations, one white-owned and one black-owned.

They discovered among the newspapers, initially, a tremendous diversity in the way the news was covered depending upon whether you were black-owned or not. But then look at the papers that were being studied. The Boston Globe and the Boston Herald were immense big dailies, not black-owned. The three black-owned papers were the Bay State Banner and the Boston Greater News, both published weekly; and the Roxbury Community News, published monthly.

They, in essence, were ''narrow casting'' as can be done in the print. We still find all kinds of foreign language newspapers in this country, printed in this country, for a narrow population. Those three black-owned papers in Boston, two weeklies and a monthly, were programmed to some extent to a black audience. But we can do that in print; a person can do that. Say, if I have 5, 10 percent or 15 percent interest in this, I can make a little profit on it. But the two big papers, the Boston Globe and the Boston Herald that were in essence printing broadly for everybody, printed for the broad audience.

Then regarding the radio stations studied in Boston—one white-owned and one black-owned—again what the Trotter study concluded was interesting. We should think of it in the context of our use of the words ''narrow'' and ''broad.'' What do we call the function of radio and television stations? We call it broadcasting. It is almost impossible to limit your signal to a particular segment—to broadcast it to a particular segment of the population. A person might get a particular segment to listen —broadcast country and western, or soul, or all news. Whoever likes that will listen. No way can a person shut out everybody else who might want to listen.

What the Trotter study discovered on the broadcast properties was that they all broadcast ''broad'' whether they were owned by whites or owned by minorities. They all regarded themselves as part of the overall community. No significant difference.

Then we get to the CRS study, the Congressional Research Service study, which admitted in itself it had some shortcomings. It was done in 1986, but it was done by sending out a questionnaire. It had, basically, sort of multiple choice and then check boxes as to what kind of programs are done, no personal interviews. All the stations did not respond, but it was a broad study. There is a question as to whether it was deep or not—it is hard to tell.

From this study came the principal reliance of the courts, or the principal criticism by the courts, of the FCC's policy, because it finally came to the courts. And, in the Metro Broadcasting case, the Supreme Court, in a 5-to-4 decision—although it is interesting that 4 of the 5 in the majority are now gone and have been replaced by the other 4 that have been appointed since 1990—it relied upon, basically, the CRS study and said there is evidence that a minority-owned station programs more likely to a minority audience than would a nonminority-owned station.

But in a blistering dissent when the same case was in a lower court, Judge Williams said as follows:

> Hispanic targeting is obviously more likely to be profitable in Miami than in Minneapolis. Thus, if specific minorities are more likely to own stations in areas where they are numerous (which seems likely), the difference in ''targeting'' that the Report hesitantly attributes to the owners' racial characteristics may be due simply to their rational responses to demand.

This was the difficulty with the study. How do you tell if a station—if it is in a city that has a 30- or 40- or 50-percent Hispanic listening audience or a 25- or 35- or 40-percent black audience and is owned by a minority—programs a certain way because it is owned by a minority or programs that way because that is the audience there is to listen to it? And that is what the minority, both at the lower court and then 5 to 4, with Sandra Day O'Connor writing the dissent in the Supreme Court—that was the difficulty they found. And she says, ''First,'' in the dissent, ''the market shapes the programming to a tremendous extent. Second, station owners have only limited control over the content of programming. Third, the FCC had absolutely no factual basis for the nexus when it adopted the policies and has since established none to support its existence.''

In essence, she said there is no evidence to conclude that because minorities own a station they broadcast to minorities.

Now, however you look at these two or three reports, where you could read them one way or the other, there are two glaring problems with them. One, the CRS, the biggest study, did not include television in its analysis. So you have no evidence. They just did not cover any television stations. And, while they included women, the report basically concludes that women-owned stations do not program specifically to women. So if your hope in giving a minority certificate to a seller who sells to women is to get whatever women's programming might be—whatever that is—you do not get it. It is no different than any other station that is owned by a man.

So, in these multiple studies, you have this situation: Some arguable evidence—some—that a minority-owned station might program to minorities. But to me, the overwhelming evidence is that it depends upon the market that you are in, rather than the ownership. Second, as to women, there is no evidence that they program to women at all.

In fact, again, I started this speech talking earlier about my experiences. In Oregon—I do not know if this is true in many other States—our second biggest market is Eugene, OR. I know what its population is. I do not know what the thrust or radius of the broadcasting market is, but I would guess 300,000; and Medford, OR, I guess would be our third biggest market, and I guess it would be 200,000. Each of the towns have the three network affiliates. In each of the towns, two of the network affiliates are owned by women. Ironically, in each of the towns, the affiliates are owned—I mean in Medford and Eugene—each of the affiliates are owned by the same woman. So in Eugene, OR, you have Carolyn Chambers owning a television station, going head to head with Patsy Smullin, who owns a television station. And in Medford, OR, the same two women own two stations, going head to head in competition. I defy you to go to Eugene, OR, and watch any of the stations and try to figure out from looking at what is on it whether it is owned by a man or a woman. You cannot. I understand why. These are two canny women. They are successful businesswomen. They understand their markets.

So now you ask yourself—and this is where we are coming, now, down to the third issue. Remember, I said there are three types of remedies in the history of civil rights litigation.

One is remedies for individual discrimination. Suzy Goldberg cannot buy the house. She is discriminated against. She sues, she wins, she gets the house and damages. That is one.

Two, you have remedies based on a history of discrimination. Let us say it is in employment. A business has not hired blacks, or trade unions have not let minorities in for years, and you sue and your remedy is a class entitlement in which you say: We are going to require the business to hire so many women or promote so many women; or we are going to require the trade union to let in so many minorities until they reach a certain quota and we are going to give this preferential hiring right to any number of people in the class that has been discriminated against even though they individually have not been discriminated against, but you have a history of discrimination.

And then the third type of remedy is in a situation where you have no history of discrimination. This is where the difficulty comes in Federal programs, and it is an interesting distinction that the Court makes. When the Court is reviewing discrimination on the part of State or local governments, or businesses or trade unions, there must be evidence of past discrimination before there can be a remedy of any kind. But if the Federal Government is imposing some kind of hiring preference or admittance preference or whatever, the Court does not require any showing of discrimination. They

have made a distinction between Federal actions, whether they are administrative or congressional fiat or findings; they do not require any finding of past discrimination.

That brings you to the situation where we are now with the Federal Communications Commission, where you have no history of showing of past discrimination in the sale of broadcasting properties, and where at best the only justification for the minority tax certificates is the argument that minorities or women program differently, and you get diversity. As I say, the evidence on this is mixed. Is that a sufficient justification for setting aside part of the television and radio spectrum for women and minorities?

Without getting into the argument as to whether it is or it is not, the question you ask yourself is: Do we want a Government policy that says we are going to attempt to help minorities or to help women where there is no evidence of discrimination? And in order to help them, we will give them a preference and, of necessity, as there is a limited amount of these properties, the preference will have to exclude somebody else who could have otherwise bought the station or might have otherwise bought the station.

I want to tell you what I think is the danger of this policy. It is not so much a danger as to whether or not we want to have a policy of giving preference where there is no discrimination. What bothers me is that the Federal Government is first defining minority and deciding what voices it wants to hear in broadcasting.

I will tell you one group that is not included that I would think would have a legitimate complaint. It is Americans of Arab ancestry. They do not count as a minority. They are Caucasian, so they do not count. I would wager that the average American watching television news today thinks of anybody of Arab ancestry as a terrorist—they are going to blow up the plane, blow up the World Trade Center, or assassinate our diplomats. It is totally unfair to the millions of Americans of Arab ancestry who are hardworking, decent Americans, who send their kids to school—but they do not count as a minority. They cannot get any tax preference for the purchase of a radio station or television station because the Federal Government has made its decision as to which voices will be allowed. And when any government has the right to make that decision, that is a danger to be frightened of.

Most of us in the Senate can still remember the attacks that came before, during, and after Nazi Germany about the Jewish-owned press. The New York Times was singled out by the Fascists as supported by the Government. They were not, but it was the allegation: supported by the Government. It was a front for Franklin Roosevelt. That is the kind of fear I have, a fear of the consequences when governments begin to determine who is going to have the right to be the voice of the people.

You think back in history. Again I come back to what in my mind amounts to discrimination against Americans of Arab ancestry. It is particularly ironic if you think back in history. When we were going through the Dark Ages and Western Christendom was going through the Dark Ages, we progressed through holding on to repositories of learning in a few monasteries for practically 1,000 years. You had these great Moslem centers of learning, and Jewish centers of learning. Ironically, almost all of them were in what is present-day Iraq. Here were the candles of learning and education which we kept burning. Western Christendom was almost on the brink of intellectual extinction.

So times change. Were there periods in our history where we needed to have group entitlements to remedy past discrimination? I emphasize that again. Group entitlements to remedy evidence of past discrimination? Maybe. Maybe not. That was the Philadelphia plan. The Philadelphia plan, for all of its good intentions, when it set goals and timetables could not avoid quotas because there was no way to get there without counting.

But I really want to ask a broader question—we do not need to answer it really today in this bill—as to whether or not we want group entitlements where there is no evidence of past discrimination. Not an iota. And we allow the group entitlements at the expense of others in different groups because of the Government decision that we want to prefer some people over others where there is no evidence of discrimination.

So as we start this debate—I do not mean today—as we start it in this Congress and in this country, and it is coming in the years, I hope we begin this debate with understanding and not malice. I hope we can conduct this debate with gentleness rather than rancor. I hope we conclude this debate with love, charity, and the hope that all individuals of any race or ethnic background can finally achieve their rightful day in the Sun where they do not have to live in the shadow of the suspicion that they got there because of a preference.

I wish that we had not had to come to this today or any other day. But we are here.

So let us continue, as I hope, in spirit of fairness and let us make the decision as to whether or not this country wants to go down the path of group entitlements without any evidence of discrimination.

I thank the Chair.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, might I begin by—once again, not the first time and not for the last—expressing my great admiration for the clarity, openness, and wisdom with which the Senator from Oregon, the distinguished chairman of our committee, has spoken. I have nothing of the depth or breadth of his observations to offer myself today.

But I would make just a very few comments, some of which might resonate with the chairman. He mentions that I was in the Kennedy administration. I was, in fact, Assistant Secretary of Labor for policy planning in the Kennedy and Johnson administrations. I was present at the creation, if you could say, when Vice President Johnson went down Pennsylvania Avenue, and left this Chamber. He had two principal activities in the Federal Government, not many, after rather enormous energy was given to assignments: The space committee, which was mostly interested in whether—the great issue at the time—that would we build the supersonic transport. All the major transport planes in this country had been begun as military models. They had gotten bigger and faster and so forth.

Finally, they came along with the supersonic. It could get you anywhere in no time at all but with only a platoon of marines. And was it really worth it? The Defense Department said we will turn it over to civilian manufacture, if they want to. In the end, as you know, we decided not to and the Europeans decided to do so.

Vice President Johnson would concentrate on that, and have meetings all Saturday and Sunday. But mostly he was concerned with a Department of Labor subject of the employment of minorities in units. He threw himself into that effort.

I can remember walking into Secretary of Labor, Arthur Goldberg's office one morning and there on Steve Schulman's desk were three pink slips saying ''Call Camel.'' He was in Afghanistan, the Vice President at that point, in that celebrated effort in which he took a camel driver, and gave him a truck and ruined the man's life. They did not have any spare parts for the trucks but with camels you could go. But he was thinking of this mission and all.

When he became President and was dealing, he was confronting, and you were very sensitive. If I can say to the Senator that Judge Silverman, commenting on the Philadelphia plan, pointed out that they discovered that the absence of other groups in those building trade unions was not a matter of discrimination against as discrimination for. There has been a great deal of literature, apocalyptic, grandiose, about the nature of the labor movement and what it would do for the world, transformation, and so forth.

But still the most demanding text was written out of the University of Wisconsin in the 1920's by Selig Perlman, called the ''A Theory of the Labor Movement,'' in which he broke the hearts of a whole generation of progressives by saying the labor movement arises from the perception of the

scarcity of economic opportunity. There are not many jobs. There are only some jobs for plumbers in this town, and it would be very careful who gets to do the plumbing, trying to restrict it to your circle because the economic opportunity was scarce. That was published, ''A Theory of the Labor Movement,'' in 1928.

But it also became clear as we began these efforts that we were dealing with issues of caste in American life, then very real, but also class. Particularly in the Labor Department they had been able to understand the class issues; that these merged in many circumstances.

There is in the current issue of The New Republic an article by Richard Kahlenberg called ''Class, Not Race.'' It proposes a distinction which is real. But I do not think an exclusive consideration of either one gets you into a lot of difficulty. But he points out. He said:

> In Lyndon Johnson's June 1965 address to Howard University in which the concept of affirmative action was first unveiled did not ignore class. In a speech drafted by MOYNIHAN, Johnson spoke of the aftermath of caste discrimination which had the effect of class disadvantage. That was the first assertion of affirmative action as a Presidential policy.

The speech was given in June 1965, and on September 24, Executive Order 11246, part one, nondiscrimination in Government employment. This was directed to discrimination and nondiscrimination in employment by Government contractors and subcontractors, addressing yourself to the old refrain ''no Irish need apply'' phenomenon.

We provided that the Federal contractor had to agree to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, creed, color or national origin. That is the first use of affirmative action.

In 1967, I had departed then but all work was done in the Labor Department—very important, the Labor Department—in 1967, the Executive Order 11246 was amended to apply to gender discrimination as well, by President Johnson. And then again in 1969—and peripatetically I am back, I am in the White House—President Nixon went further in Executive Order 11478 to speak basically to quantitative measures:

> The head of each executive department and agency in the United States Government shall establish and maintain an affirmative action program of equal employment opportunity within his jurisdiction, in accordance with the policy set forth in section 1, to assure that recruitment activities reach all sources of job candidates.

At this point, not to sound too theoretical, we are getting behavior of organizations. Two phenomena took place. One is that Federal executives seeking to bolster the legitimacy and widen the support for these affirmative action programs included successively new groups identified in one form or another, thinking that this would widen support—Native Americans, an obvious example.

But I remember, in the 1970's, running into a list that had been compiled in the Department of Health, Education and Welfare which on one line in a list of categories had the category Maylays and Aleuts. It is a little hard to be clear what exactly the relationship between Maylays and Aleuts was, but somebody had it in their head. We will deal more effectively, with the kind of openness of mind and heart that the Senator has spoken of, if we are aware that we are not alone in this matter. Ethnic divisions are the primary source of division in the world today, class division having turned out to be much less powerful—not absent but much less powerful. The problem is, as the Senator has referred, once you list 10 groups, you have excluded 110 groups. So then you go to 11 and then you will go to 12. But you never reach a point where there is nobody that has not been excluded, and indeed our affirmative action programs today on behalf of minorities cover about 75 percent of the population.

The second point to make, if I may—and I am sure the distinguished Presiding Officer would recognize this—it is invariably, inexorably the pattern of bureaucratic behavior—I know it is a bad word but it is a reality—to seek to quantify. They will say count up and then we will know. It is Weberian uniformity. I have got to be able to say I have the same standards you have and let us measure by these same standards which will turn out to be quantitative. Let us see who has done the better job.

I think if we demystify a lot of this, we will do a better job in handling it, with the openness that the Senator talks about, because let us not have any illusion about the problems of equality in the United States. There are very real problems of equality. The Senator from Oregon nodded agreement at this point. They are enduring problems and a democracy inevitably and properly addresses them, and does so in settings of great emotion because the one basic fact is that we are a Nation defined by credo rather than by territory and blood, and the credo of equality is very powerful in the United States. In the end, you have to be very sensitive to perceptions that it is not being equally applied, and that is one of the things we are going to deal with here.

If my friend would permit, however, I would like to address the more pedestrian but yet more urgent matter before us which is the restatement of the 25-percent tax deduction for the health insurance expenses of the self-employed, which is the measure before us today.

Authority for this tax deduction expired at the end of 1993. The health care reform legislation reported by the Finance Committee last year would have reinstated it on a timely basis, but obviously we did not get that legislation passed. Thus, we have a situation where the filing deadline for the 1994 tax year is fast approaching and the self-employed are left with no health insurance deduction. It is imperative that we act promptly on this legislation so that more than 3 million self-employed individuals across this country can file their 1994 tax return by the April 17 filing deadline. We must act quickly, and I am confident we will.

Of course, reinstating the deduction costs revenue. In order to avoid increasing the deficit, we must offset its cost with other provisions. And I was concerned, with colleagues on both sides of the aisle, that we have decided to pay for the health insurance deduction with a provision that has a long history and is controversial, as the chairman observed.

I refer to section 1071 of the Internal Revenue Code which authorizes the Federal Communications Commission to provide tax deferral to sellers of broadcast properties when such sales effectuate FCC policies, including sales to minority purchasers to foster program diversity. This bill would retroactively repeal section 1071 so that even those transactions which had been negotiated in reliance on section 1071 could not go forward. One thing is clear as we consider this bill—there were other ways to pay for the reinstatement of the deduction.

Mr. President, many assertions have been made about the FCC tax certificate program, some justified, some not. I, and many of my colleagues, recognize that valid questions have been raised about the way that section 1071 is currently being administered. But, before we act on this bill, we should be clear that other options were available, short of outright repeal on a retroactive basis. I proposed an amendment in the Finance Committee that would have paid for the health insurance deduction at an increased level of 30 percent, avoid the issue of retroactivity, and provided a moratorium of up to 2 years on the FCC's issuance of tax certificates. During the moratorium period, no FCC tax certificates would be issued and applications for tax certificates would not be processed by the FCC. The Administration is undertaking a comprehensive review of all Federal affirmative action programs. The moratorium would have provided adequate time for the Congress to take a careful look at section 1071, consider any recommendations from the administration, and make changes in an orderly way. Section 1071 was enacted more than 50 years ago, in 1943, and its application to sales of broadcast properties to minority purchasers has been in place for 17 years, since 1978. It is only reasonable to expend more than a few weeks when making significant changes to the provision. Unfortunately, the necessity of acting quickly on the extension of the self-employed

health insurance deduction has precluded that kind of deliberation.

The amendment that I offered in the Finance Committee to this legislation would have eliminated the retroactive aspect of the repeal of section 1071. Our colleagues in the other body, and more recently the Senate Finance Committee, have voted to repeal section 1071 on a retroactive basis—that is, retroactive to January 17 of this year, the date on which the Chairman of the Ways and Means Committee issued a press release raising concerns about the provision. The best information we have is that there are at least 19 transactions that were negotiated in reliance on the existence of section 1071 and had FCC tax certificate applications pending on January 17. In many of these cases, the parties had signed definitive purchase agreements, subject only to issuance of an FCC tax certificate, filed applications for FCC tax certificates, and expended hundreds of thousands—in some cases, millions—of dollars in negotiation costs. All done in reliance on an FCC policy that had been in place for 17 years and had been expressly reaffirmed by Congress in each annual appropriations bill for the FCC since 1987, most recently in appropriations legislation passed in August 1994.

Businesses cannot plan, cannot negotiate, and cannot compete on a fair basis under the threat of this kind of retroactive reversal of the law. The critical issues are adequate notice and justified reliance. Many of us believe that the affected parties justifiably relied on the law in effect when they entered into their transactions, and that the notice they received was not adequate. This kind of retroactive legislating should not be done. I regret that it is in this bill, but the time has now run out for alternatives if we are to get the self-employed health insurance deduction reinstated within a reasonable period before tax returns for 1994 must be filed.

Mr. President, we could have addressed the need to extend the self-employed health insurance deduction in a timely manner without retroactively repealing the Minority Broadcast Tax Preference Program. We must act promptly to reinstate the 25 percent tax deduction for the health insurance expenses of the self-employed. And, we will. I regret, however, that my colleagues did not accept the amendment I offered in the Finance Committee which would have allowed us to review this provision more carefully, correct what must be fixed and retain what has clearly worked for so many years.

Mr. President, I see the Senator from Maine has been on the floor. I think he wishes to address this.

I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Maine.

Mr. COHEN. Mr. President, first let me say that we have heard presentations here this morning by, I believe, two of the most intellectually gifted, eloquent Members of the U.S. Senate, both of whom have a long record in the field of civil rights and affirmative action programs that attempt to rectify policies of discrimination.

The PRESIDING OFFICER. Let me interrupt the Senator.

Who is yielding time?

Mr. PACKWOOD. Mr. President, I yield as much time as the Senator may need.

The PRESIDING OFFICER. The Senator is recognized.

Mr. COHEN. I thank the Senator for yielding.

I would like to discuss the broader issue involved here. Since this particular bill is said to be the first wave of an oncoming assault on all affirmative action programs, I would like to discuss the subject in a broader context.

First, commenting on the statement of the Senator from New York, we are trying to provide very much needed relief to the self-employed, a tax benefit that had expired last year for self-employed individuals who need to purchase health insurance. That deduction expired last year. It needs to be restored.

In my own opinion, we need to expand it as we try to reform our health care system. Many of us would like to see the self-employed put on the very same footing as the employers who now claim a 100-percent deduction. Obviously, that will involve a revenue loss and we will have to find ways to pay for it. That, of course, is the second component of what we are talking about here today, finding ways to pay for the restoration of a tax benefit that we would like to see not only restored but increased.

I think what is remarkable from my perspective, in reading today's Washington Post front page story about the mood that is sweeping the country, one that the polls tell us is overwhelming, that is the rejection of the whole notion of affirmative action.

Many people assert today that we are living in a color-blind society. I feel that is a flagrant falsehood. I do not for one moment believe that we live in a color-blind society. I think, quite to the contrary, perhaps we are more color conscious than ever by virtue of the social developments that have taken place in the past 10, 20, 30 years.

There is also a notion that not one of us should ever be held responsible for past discrimination. In other words, you could have what you call 2 centuries or 4 centuries of absolutely reprehensible conduct and its impact on the minority groups, and there should be no curative or restorative responsibility borne by today's generation. That is a sentiment which apparently is very widely held.

Another widely held view is that unqualified blacks and minorities are taking jobs away from more qualified white males, and some would even argue genetically intellectually superior individuals. They refer to ''The Bell Curve.''

It has also been stated that reverse discrimination—which, I think, is a misnomer, reverse discrimination, because discrimination really means you have the power to discriminate, to hold someone down or back. For most people who fall into the category of minority, they do not have power. But, nonetheless, assuming you accept the phrase ''reverse discrimination,'' some have said it is an evil equal to slavery. I find that to be more than a mild exaggeration, given the history of what has taken place in this country.

And, of course, most people believe, and all of us here share in that belief, that we are fundamentally opposed to discrimination.

On one hand, we are fundamentally opposed to discrimination; namely, basing our decisions and judgments of people on the color of their skin or the texture of their hair, their gender. We are all opposed to that, but we also reject any affirmative programs to rectify discrimination where, in fact, it exists.

I would like to say, respectfully, to my colleagues that we have yet to fully and honestly confront the fact that racism is an evil that is not simply a stained chapter in our history books. It still flourishes in many overt and, I would suggest, even more subtle ways.

We tell ourselves that we practice our religious teachings in terms of loving our fellow man, until a controversy arrives or a conflict in our emotions or our loyalties, and then the darker angels of our nature surface and they lash out and they blame or condemn those whose race or gender is different from our own.

I recall during the Iran-Contra hearings—those were chaired by our distinguished colleague from Hawaii—by virtue of the fact that we had a very popular lieutenant colonel testifying before that committee, the hate mail started to pour in, hate mail directed at Senator INOUYE—a floodtide of nasty, negative epithets directed toward a man who had given his limb, offered his life in defense of this country. And yet, because he had the audacity to question a Marine, a popular Marine, suddenly the hate surfaced and was directed at him.

I thank our colleague from New Hampshire, Senator Rudman, who spoke out vocally and strongly against that, condemning the indulgence of racial hatred. Because, suddenly, the poisonous emotions started to bubble up, and the hate-mongerers said, ''Ah-ha, there is a minority. How dare he challenge one of us.''

And so, this has been our past and I think it will continue to be our future unless there are major changes that will take place, hopefully during our lifetime, but I doubt that.

So we have to go back and ask what was the basis for affirmative action.

The Senator from Oregon, gave a very perceptive analysis of its birth.

But I think it is partly guilt, partly guilt on our part. And with reference to the Philadelphia story, so to speak, the Philadelphia plan, some saw it as partly political expediency.

The guilt came about because we had recognized that we had perpetrated a monstrous evil, that we had enslaved a people, that we had called them only three-fifths human, that we had destroyed their families, their dignity, their pride, and that we had deprived them of opportunity. We had prohibited them from learning to read or write or vote. And then we insisted that they should be willing to fight and die for America, but they could not sleep in the same barracks, they could not eat in the same dining halls, they could not drink from the same fountains.

I do not know whether the Senator from Oregon saw the article that appeared in the Washington Post about a week or two ago about the Tuskegee airmen. It was a poignant story. It was a reunion of the Tuskegee airmen, a group of black pilots who flew back in World War II. It was a very emotional reunion for them. There were tears welling up in their eyes as they were telling their stories.

They had to fight two wars. They had to fight a war against Hitler and they had to fight one against an inner rage that was burning inside them toward a society that said they could be equal only on the fields of slaughter.

We recall not too long ago in our history that we were turning German shepherd dogs on blacks who were marching or sitting in, hoping to enjoy the equal rights and privileges that we have under the Constitution. We blasted them with fire hoses.

It was in the wake of the marches and the sit-ins and, I might suggest, the assassination of Martin Luther King, Jr., that we, as a society, finally recognized and admitted that we had not measured up to our professed ideals, either as individuals or as a nation.

That gave birth to the affirmative action programs to break down the barriers in the worlds of construction and housing and corporate finance and banking and, yes, even eventually in the communications world.

The purpose, as the Senator from Oregon has suggested, was not to give unqualified people special preferential rights, but rather to give people who were, in fact, qualified and eager and ambitious the opportunity to enter into fields that had been denied them solely by virtue of the color of their skin or their gender. That was the purpose of the affirmative action program.

The Senator from Oregon said it was inevitable—quoting those who were the formulators of the program—inevitable that the affirmative action programs would lead to quotas—inescapable. All of us are opposed to quotas, because it is just the reverse of what we are trying to do; namely, not give any group preferential treatment by virtue of the color of their skin or the nature of their gender who are unqualified, but rather to use some affirmative action to allow those who are, in fact, gifted and willing and able to break through barriers that may be made of glass or concrete.

I mentioned expedience, by the way. The Senator from Oregon pointed to the Philadelphia plan. It has been written that Richard Nixon seized upon the plan back in the seventies, to get at the Democrats, to break through the trade and contruction unions who had at that point, and to this day, I suspect, still basically support the Democratic Party. That this was a way to really drive a wedge into the Democratic Party by opening up that particular marketplace, so to speak, to blacks who had been denied that opportunity.

So the question is, have we been successful? I suggest only partly. The Senator from Oregon rightly talks about stereotypes. What happens to Arab-Americans in this country? We immediately see the stereotype of a terrorist. How unfair, as he has pointed out.

The same thing is true for African-Americans in this country. We see them, do we not, as athletes? We are witnessing the return of Michael Jordan and a tremendous outpouring of pride and near hysteria at his returning. We see them as entertainers. But do we see them as entrepreneurs, as such? Not really.

As a matter of fact, there have been stories about the problem out in L.A. right now. All of us—not all of us, but many millions of people in this country—are mesmerized by the trial going on in Los Angeles right now. Why is it, as the trial attorney Jerry Spence suggests, that African-Americans look through a different lens than we do because they have had a different experience than we have had. That experience has not been a pleasant one, apparently, in Los Angeles.

Story after story starts to emerge about prominent actors or athletes who have been followed right to their homes, to their doorsteps because they happen to be driving a Mercedes or another expensive car, and immediately, of course, what do the police suspect? ''Must be a stolen car.'' Either that or, ''He is a drug dealer. Let's arrest him or stop him. Let's see the identification and make him prove ownership.'' So there are still stereotypes which exist to this very day.

Talking about affirmative action programs, I think the Senator from Oregon pointed out the CRS study was at least deficient in one respect. It had not analyzed television. I was going to ask the Senator from Oregon or the Senator from New York as to whether or not there is any relationship between minority ownership in programming, whether he has ever watched Black Entertainment Television? That is minority owned. There is a great story involved in that particular television station.

The owner, Robert Johnson, when he was applying to college, Princeton, was initially denied admission, except that he was then allowed to enter through a minority admissions program. He ended up finishing sixth in his class.

What he gained from that entry into Princeton was access to other Princetonians, access to capital, access to influence. And had he not had that opportunity to break through that barrier that initially had been denied him, he would not be in the position that he is today.

So he started Black Entertainment Television about 20 years ago with a personal investement of—I do not know— $25,000, $30,000, $40,000, whatever it was. Today, that station is probably worth $300 or $400 million.

I challenge anyone to watch the program. Is it different than CBS programming or NBC or CNN? I suggest to you the programming is quite different. It is quite different. And I suggest that that relationship between the ownership and his status has a great deal to do with that programming.

The Senator from Oregon asked the question: Do we want to grant preferential treatment to groups where there is no evidence of past discrimination? But there is another question I think we can also ask: How do those who have been victims of past or present discrimination ever acquire that access to the capital that is necessary for them to be in a position to acquire radio stations or television stations?

In other words, if you take the position that you have historically denied education to a group, let us say African-Americans, equal to that of another group, namely, white Americans, and then you, as an employer, say, ''I can't find any qualified blacks,'' that is the circular argument that those who are struggling to break through the barriers find themselves confronting.

I come back to the issue of stereotypes. All of us recall the Clarence Thomas hearings and the Anita Hill testimony. What was really remarkable to me is the reaction of the people to those hearings. They said, ''Isn't it amazing there were so many articulate blacks testifying during the course of that hearing?'' Now, why should that be so stunning? The word associated with those blacks being ''articulate,'' as if we expected them to be inarticulate. Again, another stereotype that they have to confront. We expect them to not be as educated or articulate as those in the white community.

Mr. President, I ask the question: Should we discontinue preferential treatment to veterans in this country? I see the Senator from New York is rising quickly on his feet, having been a noble sailor in his youth. But we grant preferential treatment to veterans. Why? Because of the sacrifice they have made in serving their country as a group.

Not every one of them served in the Persian Gulf or in Korea on Pork Chop

Hill or in Vietnam or at Iwo Jima—wherever it might be. Some stayed right here in the United States. Some sat behind a desk, never facing the threat of a bullet or a bayonet or a bomb. But we as a society say, nonetheless in hiring practices, we give preferences to our veterans, and we decide that.

When the Senator from Oregon says it is dangerous whenever a Government decides to determine who is in and who is out, well, we are the Government. We are the elected officials. We decide. We are held accountable by our constituents, and we have decided that there is merit in that particular case.

So I think this is just the beginning of a debate that needs to be approached, as the Senator from Oregon has said, with great sensitivity, with a recognition that this is a very powerful issue in this country; that it has the potential to become not only a wedge issue but a very damaging, polarizing issue in our society. We have to look to see whether or not everything should be scrapped in dealing with affirmative action. Let us say, for example, we have abuses in the Food Stamp Program, do we not? We have abuses in the welfare program, do we not? We have abuses in the Federal procurement programs, do we not? We have abuses in the workman's compensation programs and in the disability insurance programs. Has our answer been to terminate them, just kill the programs, they do not work. Or to stop feeding people and let them fend for themselves? We say, wait a minute, let us see if we cannot modify them.

Maybe the States have a better idea. Maybe there are ingenious Governors, creative individuals at the State and local level, that can do a better job than we have done. But the answer has not been, let us just terminate it, it is not working.

That is my fear, as we begin this debate, not on this issue specifically, but on the broader discussion of affirmative action, because if we simply go by what the polls say, there is no contest. But I think we have a higher duty than to simply read the polls and to really examine what is at stake here.

The stereotypes continue, as I have said. I recall reading an article by columnist Michael Wilbon, a Washington Post sports writer. He described an incident where he and five friends, an investment banker, a venture capitalist, a manufacturing executive, a lawyer, and an international marketing director for a large company, went down to the Super Bowl. They were dining in a restaurant and the waitress kept coming over to the table saying, ''Who do you play for?'' Well, he is a noted sports writer, and he was in the company of a reputable lawyer and, as I recall, an accountant, and an investment banker. But the waitress would not take that for an answer. ''No, no, no, who do you play for?''

So we have to deal with the issue of the stereotypes and what that means and what they continue to mean for individuals who try to break out of the stereotypes, who are trying to get into occupations and positions and to start a on a level playing field, which has not existed to date.

Whatever failures have been in affirmative action programs, let us look at them carefully and let us try to see if we cannot change them. If there is no evidence of past discrimination in the field of communications, that is one thing. If this is indeed a system which has been exploited and abused by white corporate owners and not really serving the minority community, then it is time for a change and indeed maybe in this case even a termination.

But I hope, Mr. President, as we begin this debate on affirmative action, that we approach it in the concluding words and with the concluding sentiments expressed by my friend from Oregon—with a sense of responsibility, not with a sense of hate or malice, or vindictiveness, or a simple urge to purge our laws as such of their preferential treatment to groups that historically have been discriminated against and continue to be discriminated against every day—every day of their lives.

So I commend my colleague from Oregon and also my friend from New York. I hope that we can begin this process of fixing those programs that have been misused or abused. But I hope we will refrain from playing the wedge issue, which I know the Senator from Oregon, the Senator from New York would never do, because those wedge issues can become polarizing, divisive issues that will not serve this country well.

I wanted to take the floor to express those sentiments. I know that is not the fashion in which you have proceeded. I commend the Senator for his comments as he expressed them.

Mr. PACKWOOD. Mr. President, I want to respond to my good friend from Maine. He and I have probably been on the same side of more issues than any other person in this Chamber. He mentioned Bob Johnson, the founder of Black Entertainment Television. Well, I met him. Despite the fact that he was a Princeton man and as qualified as anybody, his problem was access to capital. I do not know what I would have done as a banker 20 years ago if somebody came to me and said, listen, I have this idea for an all black entertainment channel. I do not know. It is interesting how he got the money. He could not get it from the banks. He went to John Malone of TCI. I think Malone is maybe one of the finest entrepreneurs in this country. Bob Johnson explained what he wanted to do. John Malone said, ''How much do you need?'' Bob said, ''$500,000.'' Malone said—and I thought this is where Bob Johnson was so humorous. He said, ''All right, I will put up $125,000, but I want 20 percent of your stock. I will loan you $375,000.'' Malone did not know that Johnson would have given him 80 percent of the stock. He got the $500,000 and he said to John Malone, ''I have not really been in a business. Do you have any advice? Malone said, ''Keep your expenses below your income.'' From that grew Black Entertainment Television.

There is an interesting difference. Cable is more like the ethnic newspapers. Cable is narrowcasting. This is where a smart entrepreneur can say, I can make money on 5 or 6 percent of the audience, not 60 percent. As you skim through the channels now, whether it is education, discovery, or history, I doubt if any of them have 50 percent of the audience, but they have 5, 10, 20 percent. There is money to be made.

The Senator put his finger, I think, on the most interesting issue here. No question, in my judgment, there is no discrimination in the sale of the broadcast property. If you have a radio station and you want to retire, you are going to sell to the highest bidder. One owner said, ''Even if you have blue skin and an eye in the center of your forehead, you will get it.'' The potential is limited to those who have the money to buy. Minorities, and maybe women to a lesser extent, did not have access.

So now the question becomes this, and I do not know the answer. Because minorities have been discriminated against for centuries, and because women could never rise above—you remember the settlement with AT&T 15 years ago. There was a glass ceiling. You could be a Ph.D and be first in your class in all the schools, and there is a level beyond which you were not going to go. Because of the past discrimination and because of the past access to capital—the lack of it—we set up a preference program in an area where there has been proven discrimination, simply to say we want 5 percent women or 10 percent women to own, and we want 10 percent Asians and 5 percent this and 5 percent that. You just do it. I am not sure I know the answer. But clearly, that is the discussion we are going to have.

Mr. COHEN. Here is another example of the problems confronting minorities in this city. Many years ago—almost more than 20 now—I had a problem with a car. I purchased a used car. I had a problem with it and took it over to a dealer, which will remain unnamed. The dealer told me the cost for fixing that particular automobile would be $1,800. I said, ''$1,800? That is more than I paid for the car.'' I then came back to Capitol Hill and inquired, ''Does anybody know a good mechanic?'' which is hard to find in any city. They gave me the name of Clarence Davis. I went to see Clarence and I said, ''Can you fix this car?'' He said, ''Well, let me look around.'' He kind of tapped it here and there. He said, ''I can fix it.'' I said, ''How much?'' He said, ''Do not worry about the money.'' I said, ''No, no, how much?'' He said, ''I am telling you do not worry about the money.'' So I, with my trusting soul,

handed him the keys to the car and said, ''OK, fix the car.'' Do you know what the bill was? It was $68. I will repeat that. It was $68. Behold, I had found a man, an honest mechanic. And sooner will a camel pass through the eye of a needle than you will find a mechanic that will charge you $68 for something somebody else wanted $1,800 for.

I have maintained a relationship with this individual. He ended up working for another station on the hill, owned by a Korean family. He was their real source of income, because everybody wanted to go to Clarence in order to have their automobiles fixed. He is really a genius in fixing automobiles. Then it occurred to him that he is working for somebody else, and would he like to go into business for himself? The answer was: Of course he would. He had a clientele of mostly Senators and Congressmen. But guess what? He could not get a loan. No matter that he had his eye an a piece of property that was prime territory; it was a great bargain and it was an old Exxon station; it was closed down. He had a list of clients at least 75 long of Members of Congress and executive branch, who testified to his competence, and he showed a stream of income that would have more than paid for the mortgage. He could not get a loan. I sent him to every bank in Washington. He could not get a loan. So then I contacted a wealthy, white friend of mine, whom I had never asked a favor from in my life. I said, ''Here is a person who is talented, brilliant, and he cannot get a loan in this city.'' And the individual made the loan, and the business is there and is flourishing today. It shows the barriers that people are up against.

Now here we are, in a predominantly black city, with a predominantly black clientele. Suppose now that individual, with a great record, history, clientele could not get a loan.

That is what I am talking about when I say ''access to capital.'' Give a person the access to capital and they can perform and prevail as anyone else. But that has been the history of denial in this country.

I say to my friend that I do not have the answer to it. I think the affirmative action programs were designed to achieve that. If they have gone astray, we ought to try to modify them as best we can. If it becomes the collective judgment of the people in this country, this Congress, that they no longer serve a socially useful goal, then obviously they will be terminated.

I must say that we have not yet reached our ideal of a colorblind society. There are still many, many, racial stereotypes that exist today. They will not be easily eliminated. So we still have an obligation, I think, to help those who have the talent and the ambition and the desire to share fully in the real benefits and bounty of this country, who have been denied that opportunity.

Mr. PACKWOOD. Mr. President, I yield such time as the Senator from Delaware may need.

Mr. ROTH. Mr. President, I thank the distinguished chairman.

Mr. President, what we are doing today is a most important step, one I have worked for for quite some time. I would like to thank the majority leader and the Finance Committee chairman for moving so quickly to pass this legislation—legislation that is extremely important for our hard-working farmers, as well as our job-creating small business men and women.

Few people understand how very difficult it is to get a tax bill passed through both Houses of Congress within about 2 months' time. I believe we have been successful not only because of the efforts of Senators DOLE, GRASSLEY, PRYOR, and me, but because our esteemed colleagues understand how important, how fair, this measure is.

It has been my objective, along with Senators DOLE, PRYOR, GRASSLEY, and others, to get the self-employed health insurance deduction passed retroactively for 1994; to have it passed before the filing deadline next month.

Personally, I will continue to do everything I can to get this bill passed and out of conference with the House before April 17, the deadline this year for filing our taxes.

This is so important to me that at the conclusion of the Senate session last year, I held up a vital Securities and Exchange Commission funding bill as long as I could because it was the last tax bill leaving the Congress. Since it was our last chance, as well, to get the 25-percent deduction extended, I wanted to attach this legislation to that bill so that there would not be this administrative nightmare facing small businesses and farmers, because they might have to file amended tax returns.

The Finance Committee chairman at that time, Senator MOYNIHAN, joined in a colloquy agreeing we would take up the legislation early this year if I would let the SEC bill go forward. I reluctantly agreed. The new Finance Committee chairman, Senator PACKWOOD, has kept that promise to move quickly, and we have. In fact, to pay for this bill, we have used some of the ways I suggested last year. In particular, I am pleased that we have enacted some of the changes I have been recommending on the earned-income tax credit.

Earlier this year, in an effort to encourage the House to pass the 25-percent health insurance deduction, I circulated a letter with my good friend and colleague, Senator PRYOR, which was signed by 75 Senators.

That letter, sent to both leaders, stated that in order to move quickly, we would all agree not to support or offer any amendments to the legislation to extend the 25-percent deduction for health insurance for the self-employed when it reached the floor of the Senate. I believe this letter was instrumental in helping get this bill passed quickly.

Finally, I want to mention that we are not done with the deduction for self-employed, even though this bill will enact the legislation on a permanent basis for the first time. I believe it must still go forward. I believe we need to increase the 30-percent deduction to a full 100 percent, just like major corporations get for that health insurance. In fact, it was my amendment in the Finance Committee that increased the 25-percent deduction to 30-percent beginning in 1995 and forever after that.

Although my amendment made progress, we have to go a lot further. I will continue to do everything I can to increase the deduction to 100 percent.

Mr. President, I yield the floor.

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

I ask that the time be charged equally.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. 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. DORGAN. Mr. President, I would like to take just 2 minutes in support of the pending bill. Then I would ask unanimous consent to speak for 10 minutes as if in morning business.

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

Who yields time?

Mr. MOYNIHAN. Mr. President, I am happy to yield such time as indicated to my distinguished friend from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I thank the Senator from New York. I did not know we were under a time agreement.

First, let me say that I believe the matter of providing retroactively the 25-percent tax deduction for sole proprietorships and self-employed—including farmers—is very, very important.

We should not have let that expired. It did. But now to make it retroactive, so that it is a seamless 25 percent, makes a lot of sense. I believe we ultimately ought to make sure that sole proprietorships are able to deduct 100 percent of their health care costs, just as corporations are. My State is a lot like old England. It is a State of shopkeepers, small business people, many of whom are sole proprietors and unincorporated, including family farmers. Across the street may be someone who is incorporated. They can, under current law, deduct all of their health care costs as a business expense. On the other side of the street someone in business, but unincorporated, is now

able to deduct zero. With the passage of this piece of legislation, he will be able to deduct only 25 percent; 25 percent is a step forward. That is good. We certainly need to restore that. But I have introduced legislation and supported legislation and fought for legislation for years to make sure that we treat all businesses alike—unincorporated and incorporated.

Health care costs ought to be fully, 100 percent deductible as a business expense for farmers and sole proprietorships just as it now is for corporations.

So I commend the Senator from New York and the Senator from Oregon for bringing this legislation to the floor. I fully support it. I think the work the two Senators have done to correct this is admirable work and I hope we all can work together for a full 100-percent deduction for all sole proprietorships in the years ahead.

Mr. PACKWOOD. Mr. President, I yield as much time to the Senator from Rhode Island as he may need.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first I thank the distinguished chairman of the Finance Committee and the ranking member of the Finance Committee, the former chairman, for giving me this time.

Mr. President, I am very pleased that this bill has come to the floor today and will be considered in an expeditious manner. I believe Congress needs to pass this legislation promptly so that hundreds of thousands of self-employed taxpayers can complete the filing of their 1994 income tax returns.

The bill reported by the Finance Committee includes sufficient revenues to pay for the extension of the health insurance deduction. That is covered. We also came up with additional money which will reduce the deficit by about $1.4 billion over the next 5 years. In terms of the entire Federal budget this is a modest amount—$1.5 billion over 5 years. But it represents a step in the right direction.

What concerns me about this bill, Mr. President, is that it provided a modest test—not a gigantic test but a modest test—of our desire to reduce the deficit; and I am afraid that we are in danger of failing that test.

Let me review the bidding. The immediate need which prompted the quick consideration of this legislation was a desire to extend the 25-percent deduction for the health insurance of self-employed individuals for 1994. Absent this action, they would not have been able to take that 25 percent deduction because it expired at the end of 1993. And we wanted to get this done before the filing date of April 17 for the income tax returns. That is the way it started out—take care of this year.

In the Ways and Means Committee the members chose to permanently extend the deduction. In other words, the 25 percent deduction for health care costs paid by the self-employed was to remain permanently on the books. The Finance Committee went a step further by not only making it permanent but also increasing the deduction from 25 to 30 percent for the year 1995 and thereafter.

So what started off as a bill that would have cost $500 million, a half a billion dollars, to address an immediate need, turned into a bill that costs $3.5 billion over the next 5 years.

I strongly support the 25 percent health insurance deduction for the self-employed. Always have. The mainstream coalition health care legislation that we presented last year included it. Indeed, we phased it up to a 100 percent over a period of years. And so, therefore, I can understand and sympathize with the effort to not only give the self-employed the 25-percent deduction but to bring it up to 30 percent next year and the years thereafter. All that is understandable.

I would make the point; however, that those who are working for a business where their insurance is not paid for by the employer and the individual must obtain his or her own insurance, cannot deduct a nickel of his or her payments for health insurance. The self-employed can, but if you are working for somebody else, you are employed by a corporation or a self-employed person, you cannot deduct the cost of your health insurance. You cannot deduct anything.

So, yes, it is nice that we have gotten it up to 30 percent for the self-employed. But we have not done anything for those who work for corporations.

But here is my concern, Mr. President. Sixty-six Senators in this body voted in favor of a constitutional amendment to provide a balanced budget amendment by the year 2002. Achieving that goal is going to take incredible effort. We are going to have to reduce Federal spending from what it otherwise would have been over these 7 years by $1.2 trillion.

Now, even for somebody from Washington, DC, $1.2 trillion is a lot of money. That is a monumental challenge. Yet, here we have a bill that gave us some money to start down this deficit reduction path, to use toward the $1.2 trillion, and what is the action we take? We increase the deduction and make it permanent.

I am going to support this bill as it was reported by the Finance Committee because we did exercise some discipline by providing for a modest amount of deficit reduction.

But I greatly fear that, in the conference, the House conferees will say, ''Well, the Senate increased the deduction from 25 percent to 30 percent. There is additional money in the bill that is directed toward deficit reduction. But let us not use it for deficit reduction. Let us use it to increase the deduction from 30 percent to 35 percent or 40 percent,'' whatever the traffic will bear. And that, Mr. President, would be a very great mistake, a very great mistake.

So I just want to go on record here to say that, should the conferees come back using up the money we set aside for deficit reduction for another purpose, I will not support that conference report. I believe it would be a great mistake. We in this body are determined to do something about these deficits. And to do something about it means we have got to make tough choices. It means we have to forgo attractive proposals, such as increasing the self-employed health insurance deduction.

I thank the Chair, and I thank the managers for giving me this time.

Mr. MOYNIHAN. Mr. President, 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. PACKWOOD. 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. PACKWOOD. Mr. President, I yield as much time to the Senator from Missouri as he may want.

The PRESIDING OFFICER. The Senator from Missouri.

LINE-ITEM VETO

Mr. ASHCROFT. Mr. President, on occasion after occasion, you and I have heard it said that under the dark of night, in the late hours of evening or the early hours of the morning, this body does things that are a discredit to a democratic society—pay raises, pork-barrel projects, and profligate spending. The kind of things that we would not want to have brought to the light of day.

But late last night, something very befiting of this body took place. And, Mr. President, it did so at your hand and at the hand of your colleague, Senator MCCAIN of Arizona. Because under your leadership, late last night, the U.S. Senate passed the line-item veto. And in so doing, we placed a tool in the hands of Presidents which will allow us to move toward the aspiration of a balanced budget. In the cover of darkness, we uncovered the darkest parts of our behavior, and said no more. We put the national interest ahead of the special interests. We said that in the future, if you want to put projects in an appropriations bill, you will have to contend with the possibility of a veto by the President of the United States.

So I rise today, Mr. President, to draw attention to the importance of the action taken late last night to change the culture and structure of spending here in Washington.

Forty-three of the 50 States have some variant of the line-item veto. During the debate, however, we heard people talk hypothetically about potential abuses. It is important to note that, of the 43 States, there has not