

THE LINE-ITEM VETO

Mr. BYRD. Mr. President, I noted with interest an article in the June 7th issue of the Washington Times entitled "GOP Puts Line-Item Veto on Slow Track."

The first paragraph of the article reads as follows:

Republicans are waiting until fall to enact a line-item veto out of concern that President Clinton might try to use it as leverage to reshape the GOP's tax-cut and balanced budget legislation.

As Senators might expect, I was amazed to learn that apparently some Republicans, who have so often in the past urged the Senate to enact a line-item veto, have now decided to withhold its enactment until after Congress completes work on a tax cut and balanced-budget legislation. In other words, the Republican plan is apparently to hold off on final passage of the line-item veto until after completion of congressional action on this year's massive reconciliation bill, which will contain changes in entitlement spending, and on the 13 annual appropriation bills for fiscal year 1996, which will total around \$540 billion; and, if the Republicans have their way, on a major tax cut for the Nation's wealthiest individuals and corporations.

The article then quotes two of the Senate's leading proponents of line-item veto as to why it is that Republicans want to deny this deficit-reducing tool to President Clinton.

"There is a great concern in the Senate. We see this as a once-in-a-generation opportunity to put forward a balanced budget. We would hate to have it threatened for political reasons," said one Republican Senator.

Lo, and behold, we have here a direct quote from a Republican Senator which tells us, in effect, that if President Clinton is given the authority to line out items in appropriation and tax bills, he might use that authority to threaten these Republican bills "for political reasons." Can you imagine that?

The quote goes on to tell us that,

There is a concern that the veto might be used not for its intended purpose, which is to delete extraneous pork-barrel spending from appropriations bills, but used instead to redefine the meaning of tax cuts.

The Senator who has been quoted has put his finger on a problem which I have pointed out to the Senate on a number of occasions in the past; namely, that Presidents will invariably use the line-item veto to affect policy. They will line out items and language in bills which do not comport with their policies and, in so doing, will be able to delete such items from tax, appropriation, and other measures. Under both the House-passed enhanced rescissions bill and the Senate-passed separate enrollment bill, Congress will then have the burden of reenacting items which a President rejects, by a two-thirds vote of both Houses.

The fact that the quoted Senator believes that this authority should only

be used for its intended purpose, which, in his words, "is to delete extraneous pork-barrel spending from appropriations bills" is of no consequence. Once we give any President—not just this President but including this President—such authority, it will be used by that President to its fullest extent in ways that will thwart the will of Congress and will enhance that President's agenda. This is precisely the reason why I have so strenuously opposed both enhanced rescissions and item veto bills, such as the Senate-passed separate enrollment bill.

The Washington Times article gives further support to my concerns by quoting another Senator as follows:

Many don't want the line-item veto because it represents the biggest shift of power in this century.

Indeed it does, Mr. President. Precisely. And to give to any President—any President—such a massive increase in authority over spending bills would be a grave mistake. The system of checks and balances and the separation of powers set forth in the Constitution have proved over and over again the wisdom of our Founding Fathers. There is no compelling case to overturn their judgment by handing over to the Executive the power to excise items from appropriations bills, and, in so doing, require a two-thirds override vote of both Houses in order to secure spending decisions approved by Congress.

This is not to say that there are not improvements that could be made in the existing rescissions process. We could, for example, enact legislation that will ensure that Presidents get a vote on their proposed rescissions. We should also broaden the rescission process to include not only appropriations spending, but all spending, whether it is contained in tax bills, or in entitlement legislation. Surely all Senators know by now that the major cause of the deficits is not the appropriations bills. It is the growth in tax expenditures and in entitlement spending. That is what has to be cut if we are to have any real chance of balancing the Federal budget. And yet, nothing in any line-item veto or enhanced rescissions or expedited rescissions or separate enrollment bills would contain the growth in entitlements. Furthermore, and just as importantly, nothing in any of these quick fixes would cut one thin dime from the more than \$450 billion in tax breaks that are already in the Tax Code—many of them have been there for decades—and which will continue to exist and to grow until we have the courage to reexamine each of them, and to cut back and eliminate those which no longer can be justified.

I can certainly understand why any President would want line-item veto authority. It gives a President a club which he can wield to beat Members of Congress into submission in support of administration policies. Therein lies the danger in the power shift that is talked about in the Washington Times article.

Be that as it may, developments in the line-item veto saga have certainly taken a strange turn in recent days. On May 8, 1995, President Clinton wrote to the Speaker of the House urging that Congress quickly complete work on the line-item veto legislation, and especially citing the need for the " * * * authority to eliminate special interest provisions, such as the tax benefits that were targeted to individual businesses earlier this year in H.R. 831." The President was apparently referring to a provision of that bill which enabled a very wealthy individual, Rupert Murdoch, to sell a television station to a minority-owned firm and to defer paying any capital gains taxes on that sale.

More recently in the debate on the budget resolution, we heard a lot of sound and fury from the White House about the unfairness of savaging Medicare and Medicaid while building in tax breaks for the rich in the name of deficit reduction.

Lo, and behold, just last week, I was provided with a copy of a letter dated June 7, 1995, wherein the President pledges to the Senate majority leader that he will not use the line-item veto authority on tax expenditures in this year's budget.

Apparently, suddenly those tax breaks for the wealthy, that we have heard so much about, are really not so unfair after all—at least not this year.

Mr. President, I am extremely dismayed with this sudden reversal by the White House.

A 180-degree turn of this sort by the White House on matters which are purported to be of utmost importance to the Democratic Party and to the American people in terms of fairness, good policy, and deficit reduction should leave all thinking Members of Congress and the public wondering just why this administration is willing to make such an outrageous pledge in order to get this new item veto authority in its House-passed form.

What is suddenly so sacrosanct about tax expenditures? Why in the world would this President make such an unwise and damaging pledge to the majority leader of the Senate?

This President campaigned on the need to beef up infrastructure. What is infrastructure? It comes from that portion of the budget which is called non-defense discretionary spending and it is contained in annual appropriations acts. It is that portion of the budget which funds not only roads, bridges, airports, sewer projects, water projects, and all the things that keep American commerce flowing, and promotes the well-being of communities and individuals.

It is also education. It is all the investments we make in our own people. Let us remember that this President just vetoed a rescissions bill because education funding, he said, was cut too much. Now we have this preposterous

pledge by the White House, by the President, to use the line-item veto only to cut spending and not to eliminate tax giveaways to the rich. And one can only assume that the President is referring to domestic discretionary spending, since he has ruled Pentagon spending completely out of bounds, off limits and to be sacred from the budget knife. I see that the President has even referred to all congressional spending as "pork" in his unfortunate letter to the majority leader. Apparently there is not one single morsel of "pork" in the military budget, even though a Washington Post story of a few weeks ago reported gross waste, mismanagement, and extreme sloppiness at the Pentagon in handling the people's tax dollars.

Mr. President, over the past 15 years, with the exception of 3 years following the 1990 budget summit, the discretionary portion of the Federal budget has suffered drastic cuts. Yet, under the budget resolution which recently passed the Senate, non-defense discretionary spending will be further decimated. In fact, under the Senate-passed budget resolution, non-defense discretionary spending over the next 7 years will be cut \$190 billion below a 1995 freeze; that is the equivalent of a \$300 billion cut below the levels in the President's budget. By the year 2002, nondefense discretionary spending will have been cut by nearly one-third, declining to 2.5 percent of GDP, a record low. Surely the President understands that this will mean that we will have no option but to cut infrastructure spending in all areas and cut it to the bone. Whether it is education, child care, veterans benefits, environmental cleanup, transportation infrastructure, or any other infrastructure investments—they will all—suffer wholesale cuts. Certainly these vital investments in our own people cannot all be simply labeled as "pork" and put on the chopping block to protect tax goodies for the rich.

Tax expenditures can certainly be branded with the "pork" label as well. In many cases, tax loopholes are nothing more than "pork" for the rich. And to make matters worse, each tax break for the well-to-do means that other Americans must pay a little more in taxes to make up the lost revenue. Furthermore, every time we give the wealthy individuals or the big corporations a tax break, infrastructure investments that benefit us all have to be cut in order to meet deficit reduction targets.

How can the President capitulate on the matter of tax expenditures after a debate like the one we just had on the budget resolution which highlighted the unfairness of granting tax breaks at the expense of Medicare as a national policy? What could possibly be the motive behind such a direct flip-flop by this administration? I submit that it could only be a burning desire to get the line item veto authority, and especially the authority to cut, to use

as a weapon to gain political advantage.

To all Members of Congress regardless of party, I say, read the tea leaves and know that we are about to make a fundamental, monumental mistake by giving this President, or any President, line-item veto in the form in which the House has passed it. It would be an evisceration of the people's power through their elected representatives. It would be a violation of our oath of office to support and defend this Constitution. It would be a world-class blunder and a colossal mistake.

Mr. President, it is not too late for the Senate to come to its senses and to realize the vastness of the mistake it will make should it agree to the enactment of any legislation to give a President the ability to veto spending items and, thereby, to require a two-thirds supermajority of both Houses to ensure that Congress' spending decisions are carried out. If we do so, I fear that we will have started down an inexorable path that will ultimately lead to the destruction of our Republican system of government which our forefathers so wisely and carefully crafted for this great Nation.

Mr. President, I ask unanimous consent that the Washington Post article be printed in the RECORD, and such other material as I will supply.

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

[From the Washington Times, June 7, 1995]

GOP PUTS LINE-ITEM VETO ON SLOW TRACK
(By Patrice Hill)

Republicans are waiting until fall to enact a line-item veto out of concern that President Clinton might try to use it as leverage to reshape the GOP's tax-cut and balanced-budget legislation.

"There is a great concern in the Senate. We see this as a once-in-a-generation opportunity to put forward a balanced budget. We would hate to have it threatened for political reasons," said Sen. Daniel R. Coats, Indiana Republican and co-author of the Senate version of the line-item veto bill.

"This year is unique," Mr. Coats said, because of the extraordinary number of major tax and spending overhaul bills going through Congress, including the House's \$354 billion tax-cut bill, \$540 billion in appropriation bills and about \$650 billion in bills reforming Medicare, Medicaid, welfare and other entitlement programs.

"There is a concern that the veto might be used not for its intended purpose, which is to delete extraneous pork-barrel spending from appropriations bills, but used instead to redefine the meaning of tax cuts," he said.

Sen. John McCain, Arizona Republican and co-author of the line-item veto proposal, confirmed that Congress will put off the legislation until it completes work on this year's massive balanced-budget legislation.

"Many don't want the line-item veto because it represents the biggest shift of power in this century," he said.

Their comments were greeted with surprise and dismay at the White House and by some House Republicans, who in January listed the line-item veto as one of three top items in their "Contract With America" that they hoped to place on Mr. Clinton's desk by his State of the Union address.

The House passed its version of the line-item veto on Feb. 6, but it got stalled in the

Senate, where it was substantially rewritten and did not pass until March 23. House and Senate leaders still have not appointed conferees to iron out the differences between the two versions.

Since then, Mr. Clinton has adopted a "veto strategy" against key GOP legislation, including Congress' \$16.4 billion spending-cut bill, with veiled or explicit veto threats hanging over the House's tax-cut and welfare-reform bills as well.

"I don't agree" that line-item veto power should be withheld from President Clinton, said Rep. Gerald B.H. Solomon, New York Republican and a House sponsor of the legislation. "I think whoever the president is, we ought to give him this power."

But he agreed that the legislation should be delayed until fall, contending that time will not permit the House and Senate to resolve their differences now.

"Perhaps the best thing is to wait until fall when the budget is finished. There is no sense in going through it now," he said. "They don't have the votes in the Senate for the House bill, and we won't accept their watered-down version."

One White House official said Republican leaders are reneging on their promise to pass the bill.

"We have taken it on good faith that the congressional leadership wanted to pass line-item veto legislation so it could be used as soon as possible," the official said. "It's hard to believe that supporters of the line-item veto are saying it makes sense for every president but a Democratic president.... [The Republicans are] delaying the bill for partisan reasons."

"They must be planning a lot of tax loopholes," said Sen. Bill Bradley, New Jersey Democrat. He says he supports the line-item veto because "the one thing it does is allow the President to shine the light on something that's indefensible."

In a letter last month urging House and Senate leaders to move quickly on the legislation, Mr. Clinton cited tax breaks for minority-owned broadcasters as the kind of special-interest tax item he would target for a veto. "The job is not complete until a bill is sent to my desk," he wrote.

Mr. Clinton's emphasis on using the veto authority to eliminate tax preferences, and his enforcement of the House bill as "stronger and more workable" than the Senate bill, many have swayed some in favor of delaying the legislation.

Republicans on Capital Hill have been reeling from Democratic charges that they are cutting spending on welfare, Medicaid and other programs benefiting the poor and the middle class to pay for tax cuts that largely help the wealthy.

Tony Blankley, spokesman for House Speaker Newt Gingrich, Georgia Republican, denied that Republicans are thinking of delaying the line-item veto because of the differences between the parties on tax and spending priorities.

"We have been moving along on front-burner items. The budget has naturally had precedence," Mr. Blankley said, "My suspicion is we haven't focused on going to closure because we've been focusing on the balanced budget."

He wasn't surprised that some Senators were talking about delay. "The natural instinct for the Senate is to delay," he said.

THE WHITE HOUSE,
Washington, May 8, 1995.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I am writing to urge that Congress quickly complete work on line-item veto legislation so I can use it—

this year—to curb wasteful tax and spending provisions.

We must not let another year go by without the President having authority to eliminate special interest provisions, such as the tax benefits that were targeted to individual businesses earlier this year in H.R. 831.

I am disappointed that six weeks after the Senate passed its version of line-item veto legislation, neither body has appointed conferees. As you may recall, I commended the House and the Senate last month for passing line-item veto legislation. However, the job is not complete until a bill is sent to my desk that provides strong line-item veto authority that can be used this year.

I have consistently urged the Congress to pass the strongest possible line-item veto. While both the House and Senate versions would provide authority to eliminate wasteful spending and tax provisions, the House-passed bill is much stronger—and more workable.

I appreciate your making passage of line-item veto legislation a priority. I look forward to working with the Congress to enact the line-item veto quickly.

Sincerely,

BILL CLINTON.

THE WHITE HOUSE,
Washington, June 7, 1995.

Hon. ROBERT DOLE,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: I am deeply alarmed by today's press report that some Republicans in the House and Senate want to continue to hold back the line-item veto so that I don't have it during this year's budget process. The line-item veto is a vital tool to cut pork from the budget. If this Congress is serious about deficit reduction, it must pass the strongest possible line-item veto immediately, and send it to my desk so I can sign it right away.

This is not a partisan issue. Presidents Reagans and Bush asked Congress for it time and again, and so have I. It was part of the Republican Contract with America. It has strong support from members of Congress in both parties and both houses. No matter what party the President belongs to or what party has a majority in Congress, the line-item veto would be good for America.

If Congress will send me the line-item veto immediately, I am willing to pledge that this year, I will use it only to cut spending, not on tax expenditures in this year's budget. I have already put you on notice that I will veto any budget that is loaded with excessive tax breaks for the wealthy. But I need the line-item veto now to hold the line against pork in every bill the Congress sends me.

The American people have waited long enough. Congress should give them and the Presidency the line-item veto without further delay.

Sincerely,

BILL CLINTON.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senator from Washington be given 7 minutes.

The PRESIDING OFFICER. In addition to the Senator from California's 7 minutes?

Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from California is recognized for 7 minutes.

Mrs. BOXER. Thank you very much, Mr. President.

THE NOMINATION OF DR. HENRY FOSTER

Mrs. BOXER. Mr. President, as my mother always told me when I was growing up—as a matter of fact, until I was very grown up—if you have your health you have everything. She said you can face anything, whatever the problem, if you have your health. You can handle it, and you can give it your best. I do not think that anyone disagrees with that, and I think it applies to our country as well. Clearly, if we, as Americans, live longer with a better quality of life, if we have children who are born healthy, who are born wanted, who are born loved, if our work force is healthy, we are more productive and our people can truly enjoy the blessings of liberty.

I do not think there would be much argument with that, even in this Senate where we argue about everything. I really do believe people would agree with that. If America is healthier, America is stronger, more productive.

So let us for the sake of debate agree on that point and move on. And I would think if we were to agree on that point, we would agree that it is time to vote on the Surgeon General, that it would be a good idea to confirm the one person who really is charged with guarding the Nation's health. That person is Dr. Henry Foster, President Clinton's nominee for Surgeon General. Dr. Henry Foster was nominated by President Clinton on February 2. He sent the nomination formally to the Senate on February 28. On May 2 and May 3, the hearings on Dr. Foster's nomination were held in the Senate Labor and Human Resources Committee, and on May 26 the committee favorably reported out the nomination by a vote of 9 to 7. Now it is June 13. This man was sent forward in February. It is June 13. We do not have a Surgeon General. We do not have a No. 1 doctor looking out for the health of this the greatest Nation of all. It is time to bring the nomination forward.

I do wish the majority leader were on the floor now because I had planned to ask him what his plans are for bringing the nomination forward. There have been some confusing signals. Sometimes I think it is going to come forward, and sometimes I am not so sure.

Dr. Henry Foster deserves a vote. It is the American way. We believe in fairness in our Nation. The bar was set very high for Dr. Foster. Why? Because he is an OB-GYN, an obstetrician/gynecologist and, therefore, yes, he has treated his patients as a good doctor would in this country, respecting their right to choose, guaranteeing their health, bringing thousands of babies into the world. And, yes, a very small percent of his practice involved a woman's right to choose.

Are we going to punish him because he is an OB-GYN? Are we going to be afraid of a few in this country who have tried to destroy Dr. Foster? This is the time to stand up and be counted. Whether you are for a woman's right to

choose or not, you do not punish a fine man like this who has brought thousands of babies into the world, who has helped countless people, many too poor to afford to pay.

Now, the majority leader sent out a proposed schedule from May to August. I have it here. I ask unanimous consent that it be printed in the RECORD.

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

PROPOSED SCHEDULE, MAY–AUGUST 4

MAY

Budget resolution.
Supplemental—Rescission conference report.

Anti-terrorism bill.

JUNE

Telecommunications.
Welfare reform.
Regulatory reform.
Defense authorization.
Foreign operations authorization.
State reorganization/reauthorization.
Gift ban.
Appropriations—as available.
[Term Limits?].

JULY

Reconciliation.
Farm bill.
Crime bill.
Securities litigation reform.
Highway bill/Davis-Bacon repeal.
Appropriations—as available.

Mrs. BOXER. We have many things that we have to do, and they are all very important. But, my goodness, May, June, July, and nothing here about a vote on Dr. Foster. Are things so wonderful in our Nation in terms of our health that we can afford to go without a Surgeon General? I think my friend from Washington, immediately following my remarks, is going to show the problems that we face in this Nation in terms of our health.

Have we solved the problem of teen pregnancy—the epidemic, I should say, of teen pregnancy? Clearly not. Have we solved the problem of the resurgence of tuberculosis? Clearly not. Have we solved the problem of the AIDS epidemic? Alzheimer's? Lung cancer? Breast cancer? Parkinson's? Ovarian cancer? Heart disease? I am just naming a few.

Clearly, we have not solved those problems. In many of those areas, they are getting worse. And we deserve a Surgeon General to look after those problems day after day and hour after hour.

We face thousands of issues, you and I, Mr. President, from parks and open space to flood control to crime to foreign policy. The Surgeon General will look after the health of America 24 hours a day. We have a man who is up to the job and has shown his courage and his leadership. Standing up to the harshest and most unfair attacks, he came out of the committee on a 9-to-7 vote.

Why are we not taking up this nomination? I will tell you why. It is politics. It is Presidential politics. And that is wrong. We have lots of time for that. We have terrific candidates, and