

because the President did not get all the funds he wanted, that is enough to veto the State, Commerce, Justice appropriations bill.

Mr. SARBANES. I say to the Senator that the President had other reasons as well. But since you focused on the Bureau of Census, unless the Census Bureau gets additional funds now to begin the work that needs to be done to do the decennial census in the year 2000, they will not be able to do it.

Mr. LOTT. But you cannot be concerned here about Meals on Wheels, other Federal programs, and monuments being closed and, on the other hand, say, "I am vetoing the bill because you do not give me all of the funding I want for the Census Bureau or for the National Endowment programs." This process could still go forward. My point is that the President vetoed these bills, in my opinion, on questionable grounds that put all of these Federal workers out of work.

We passed one continuing resolution, I remind the Senator from Maryland, and I was involved in the discussions and suggested some language that helped move that continuing resolution through right before Thanksgiving, with the idea that there would be sufficient time for us to get an agreement on our budget before Christmas. It did not happen. We still do not have one. The President signed into law a commitment to have a balanced budget in 7 years, using CBO numbers or real numbers, which still has not happened.

So the Congress, frankly, is concerned about sending another CR down there that would extend the time without knowing what the result is going to be. By the way, how much time does it take? The President has known for weeks, for months, that we were moving toward a balanced budget in 7 years, yet he did not really get engaged until actually right before Christmas. But it is time that we get an agreement. If we get an agreement, then all these other problems will fall by the wayside.

What we are trying to do is get a solution that controls the rate of growth in the explosive Federal Government spending for the sake of our children's future. That is what I worry about. I worry about this \$185,000-plus a year in interest on the national debt that every child owes when they are born. How are we going to control this? That is what is really at stake.

Mr. SARBANES. Can I ask what the time situation is?

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Mississippi has 5 minutes remaining.

Mr. LOTT. Mr. President, I think I have made my point for now. I am sure we will have continuing discussions. I think we can find solutions if men of good will are willing work together and try to find a way to work out the disagreements and come to the conclusion and pass these bills. I do not see why it could not be done quickly. I certainly hope it will be.

I yield the floor.

Mr. SARBANES. Mr. President, I want to make this observation about the comments of the Senator from Mississippi. Never before has the Congress used as a coercive tactic to close down the Government in order to try to gain its way for a fundamental change—

Mr. LOTT. Is it not true that, in 1987, I believe, the Democratic-controlled Congress passed a CR that had every appropriations bill, debt ceiling, and a number of other issues, and left town and said to the President, "Sign it and keep the Government operating, or veto it and shut it down." And they were gone. Did that happen or not?

Mr. SARBANES. The President could have called the Congress back. The Congress gave him a CR so the Government could continue to function. Now what is happening is, for the first time ever, the Congress is refusing to provide a CR and use that as a coercive tactic in the bargaining. That is an irresponsible action. That is what is happening.

We did not close the Government down with respect to the Republican Presidents. We let the Government go on to function.

Mr. LOTT. The Government has been closed down before during Democratic administrations. This is not new. We have had budget disagreements every year for the last 15 years.

Mr. SARBANES. The Government has been closed down for 19 days.

Mr. LOTT. I know it has been done for at least 11 days, as I remember. I do not remember the other times, but we have had these shutdowns before.

Mr. SARBANES. Mr. President, reclaiming my time, I want to answer that point. There were periods before the Civiletti decision in 1980 in which the Government continued to function without an appropriations bill because there was not a ruling that under the Antideficiency Act, the Government could not go on functioning. So we did not have an appropriations bill, but the Government continued to function.

Then we had this ruling that you are not allowed to do that. Subsequent to that, we had maybe a day, or a weekend, or something, in which there would be a gap in between having an appropriation bill, and either getting an appropriation or getting a continuing resolution. This is the first time, clearly, in which an extended period has been allowed to develop as a coercive tactic in closing down the Government.

You cannot find a previous instance—you can find instances before the Civiletti opinion in which departments continued to function without an appropriations bill, but there was then a ruling that said such functioning ran counter to the Antideficiency Act. You can then find instances after the Civiletti opinion in which you had a period of a day or two or a weekend in which that was the case. But we never had an instance, as we have now experienced, where we have had 6 days

earlier in 1995 and now we have run for 19 days and where it is clearly admitted that this is being used as a coercive tactic.

My distinguished colleagues in the House have been very explicit about the fact that they will, as they say, create a "titanic legislative standoff" with President Clinton. Others have said openly that they intended to bring the Government to a halt, to have a closedown, in order to provoke a controversy.

My very basic point is that this is irresponsible. It has not been done in the past. It represents, I think, an abuse of the constitutional arrangements of power, and it ought to cease.

I yield the floor.

THE GOVERNMENT SHUTDOWN

Mr. KENNEDY. Mr. President, we have heard, during the course of the morning, that this is really just a question about the various funding and how we will be able to get the resources to be able to move toward a balanced budget. I think it is important that as we see this process hopefully move forward, that the American people are going to understand the various options which we can take that make that progress.

I want to address the Senate on the fairness issue in reaching the balanced budget, because I think all of us know if it was just a question of figures, anyone could reach the balanced budget by slashing, burning and ending various kinds of programs. The question is, how are we going to reach that objective and do it in a way that will be fair, meeting the standard of fairness to the American people. I think it will only be if the proposal that is agreed on, and hopefully it will be agreed on by the Congress and by the President, will meet that standard of fairness, and will be acceptable by the American people. That is a fair test.

I want to address the Senate for a few moments this afternoon on a very important aspect of what I think is the issue of fairness. The original Republican budget plan was properly vetoed by the President because it failed to meet this test of fairness. It inflicted deep cuts in Medicare, Medicaid, education, the environment, and other important national priorities, and included large tax breaks for wealthy individuals and corporations.

Half of all the spending cuts in the Republican plan came from the bottom 20 percent of families in America while only 9 percent of the cuts came from the top 20 percent of families in America. Two-thirds of the tax breaks in the Republican plan go to the same top 20 percent of Americans, while the bottom 20 percent would face a tax increase. The middle 60 percent of Americans would also be hit unfairly. They would lose an average of \$600 each because of the spending cuts, and get back only a third of that amount in tax reductions.

In order to have a fair balanced budget, every form of spending should be on the table. By the year 2002, the largest of all entitlement programs will be tax entitlements. It is not going to be the Census Bureau, it is not going to be the NEA, it will not be education, it is not going to be the environmental cleanup, it is going to be tax entitlements. Between now and the year 2002, the Federal Government will spend over \$4 trillion in tax loopholes and tax preferences which go disproportionately to wealthy individuals and corporations. In 2002, these tax entitlements will represent a larger share of the budget than Social Security, Medicare and Medicaid or any of the other entitlement programs. So far, out of the \$4 trillion in tax entitlements, the Republicans are willing to cut only \$16 billion. Out of the \$4.3 trillion, they are prepared to cut \$16 billion.

A recent article in the *Wall Street Journal* cited the increasing disparity of the tax burden between individuals and corporations. The journal cites Treasury Department figures that corporate taxes in 1993 accounted for only 10 percent of the total Federal tax collections. In 1960, that figure was 23 percent. The proportion of taxes paid by corporate America has decreased by more than half at the same time the corporate profits have soared and wages have remained stagnant.

The Tax Reform Act of 1986, the most recent comprehensive reform of our Tax Code, was enacted to provide greater equity in the tax burden by eliminating corporate loopholes. The statistics compiled by the Office of Management and Budget suggest this has had limited effect. Mr. President, this chart is effectively summarizing what was in the *Wall Street Journal* article about a week ago about what has happened with tax fairness, and corporations versus families. Here we find where the American families, working families, individuals, and individual families have been with respect to tax revenues, and where the burden has fallen.

What have we seen over the period of the last years? Constant reduction in terms of corporate participation. It is now just about a third of what it was back some 30 years ago. Basically, that has been because of the escalation of the various tax expenditures and tax loopholes. What do our Republican friends want to do in their budget? They want to provide greater kinds of benefits to the corporations and wealthiest individuals, and increase—the taxes on the working families, on the neediest working families in this country.

I wish when we listen to our good Republican friends that are talking about how the President wants to spend a little more on the Census Bureau and how he wants to do a little more on the environment, that we would realize that their arguments would have a lot more power if they explained why they want to have \$245 billion in tax breaks,

which is their latest offer, saying they will not support any kind of budget unless it has that \$245 billion—again, it is the corporations who have been gradually paying less and less of their fair share of the load.

We hear a lot about people being in the wagon and out of the wagon, paying their fair share of the load. What we have seen, Mr. President, is over the period of these years right up until now, the gradual reduction in the corporations' participation because of the whole range of different tax expenditures.

Let me just describe briefly a few of those. Again, this is occurring because the Tax Code is still rife with loopholes through which this country's major corporations jump with ease. The General Accounting Office has reported that in 1991, 73 percent of foreign-based corporations doing business in the United States pay no Federal income taxes. More than 60 percent of U.S.-based companies paid no U.S. income taxes. Not only are the foreign corporations not paying any, what we have devised in the Tax Code are provisions which are encouraging these corporations to move jobs overseas taking jobs away from Americans. We give them tax benefits if they take the jobs away from hard-working Americans who are already paying their fair share, to move them overseas. We found that when the President in the last Congress closed down one of the principal loopholes, no sooner had it been closed down than under the Republican program it has opened up again.

Companies still have a significant incentive to minimize the calculation of their U.S. income, and therefore their U.S. taxation. They shift income away from the United States and shift deductible expenses into the United States. In fact, these corporate tax loopholes encourage companies to move plants and jobs overseas to low-tax havens. Our Tax Code promotes the wage stagnation caused by the exodus of good manufacturing jobs.

Surely, if elderly couples depending on Medicare and having an average income of less than \$17,000 a year would be required by the Republican plan to pay an additional \$2,500 in Medicare premiums to balanced the budget over the next 7 years, corporations can be asked to contribute their fair share.

If 4 million children would lose their health care and 5 million senior citizens and disabled Americans would lose their Medicaid protection to balance the budget, corporations can be asked to bear their fair share. Surely, if education funding would be cut by 30 percent and millions of college students would have the cost of their student loans increased to a point where they may no longer be able to afford college, corporations can be asked to bear their fair share.

Here are several approaches to make this work. First, the Republican plan would provide a reduction of 17 percent in the Federal budget over the next 7

years, exclusive of defense spending and Social Security. Reducing the \$4 trillion in tax subsidies by 17 percent would achieve savings of \$680 billion.

If we applied the 17-percent reduction to only one-quarter of the tax expenditures, we would save \$170 billion—more than enough to provide the additional savings needed in the current impasse to balance the budget fairly in 7 years. Surely it makes sense to reduce corporate subsidies by a similar percentage as programs that benefit working Americans and the poor are being cut.

As a second approach, a number of specific corporate loopholes that are contrary to sensible national policy could be eliminated entirely to achieve the needed savings. It would make sense under this approach to focus specifically on tax subsidies that have the direct or indirect affect of encouraging American businesses to move transactions and jobs overseas. It is particularly offensive, at a time when large numbers of American workers are losing their jobs and being dislocated by changes in the economy, that the Tax Code is subsidizing corporations to move transactions and jobs overseas.

Here are examples of some of the most egregious corporate tax expenditures:

Runaway plants—\$8 billion over 7 years: The Tax Code now encourages U.S. firms to move abroad. A manufacturing plant that moves overseas can defer its taxes on profits until those profits are repatriated to the United States. As a result, much of these profits never come back to the United States. Unlike all other taxpayers, these multinational companies are not required to pay taxes at the time of the gain.

Closing this egregious loophole would eliminate an \$8 billion giveaway over 7 years. Yet, legislation proposed to address this specific issue was rejected by the Senate earlier this year on a party line vote.

As a result, foreign subsidiaries can accrue big profits abroad, stash the money in foreign bank accounts, and not pay any U.S. taxes on them.

In a related matter, the President and Congress took action in 1993 to close an additional loophole that provides incentives to companies to move jobs overseas. The Republicans now want to reopen that loophole, and have done so in their budget plan.

Over the course of the past 15 years, the United States lost 3 million manufacturing jobs. Fifty percent of these jobs have been lost in the last 5 years alone. These jobs were being lost at the same time that U.S.-owned subsidiaries were locating plants in tax haven countries across the globe.

Closing these loopholes is a win-win for the American worker and the American taxpayer. U.S. companies will no longer have the same incentive to move U.S. jobs overseas and at the same time we can reduce the Federal deficit.

Transfer pricing—\$35-\$40 billion annually: Companies have a significant

incentive to minimize their U.S.-based income, and therefore their U.S. taxes. Therefore, they shift income away from the United States and shift tax-deductible expenses into the United States. Plain and simple, it's cooking the books, shifting costs from one part of the company to another for tax purposes, or transfer pricing.

IBM, for example, was fortunate enough to accumulate \$25 billion in U.S. sales in 1987. That same year, its 1987 annual report stated that one third of its worldwide profits were earned by its U.S. operations. Clearly, its U.S. operations appeared profitable and successful. Yet, its tax return reported almost no U.S. earnings.

A recent study asserts that transfer pricing could cost as much as \$35 to \$40 billion annually. The Multi-State Tax Commission has stated that it is at least a \$2 billion a year problem, and that only includes foreign-based companies doing business in the United States. And there are far more U.S.-based companies with foreign operations than foreign-based companies with U.S. operations.

And this is not the result of tax policy that is intended to spur U.S. investment. In contrast, it is revenue lost directly as a result of multinational companies fixing the books to minimize their U.S. tax liability.

This is not a new problem with which we are dealing. To the contrary, we have been trying to close this loophole for almost 20 years. Back in 1978, when we debated the United States-United Kingdom tax treaty, we spent a substantial amount of time on this issue. We knew then, as we know now, that it was a loophole that necessitated action. The only difference now is that it is a much bigger problem, more pervasive, and more costly to the Federal Treasury.

States have responded to this problem by requiring companies to proportion their costs and profits according to employees, payroll, and other standards. We can do the same.

And even more troubling is the fact that this is not a single loophole that exists by itself for multinational corporations. There are others, such as tax credits provided to U.S. companies for tax payments made to foreign countries by their subsidiaries, or tax deferrals for U.S. companies on income of foreign operations that are not repatriated to this country.

Title passage—\$16 billion over 7 years: Another tax loophole for multinational corporations is the so-called inventory property sales source rule. Large multinational exporting corporations are able to sell goods abroad and avoid U.S. taxes through some fancy footwork during the export process. This provision allows multinational corporations to shift sales to overseas operations, eliminating taxation in this country.

This loophole was closed by both the House and the Senate in the 1986 tax reform process, but was reopened in

conference. Treasury has estimated that if we eliminated it altogether, as we tried to do in 1986, we would generate as much as \$16 billion.

Let's look at an example. Company X is shipping out some products to a foreign country. Under normal circumstances, that shipment would pay taxes to the United States. But under a special rule, that company passes title to the products out on the high seas, thereby avoiding all Federal taxes. This is equivalent to a tax exemption that disproportionately benefits upper income individuals.

Some people will say that we are taking steps that will hurt exports and the expansion of our markets that can create new jobs for the economy. But we are only closing an unnecessary loophole that is prevalent because companies are willing to pass title of property in the middle of the Atlantic and Pacific Oceans.

Foreign sales corporations—\$9.4 billion over 7 years: An additional tax break is provided to companies through paper transactions. It is called the foreign sales corporation loophole, and provides exporters with the opportunity to exempt a portion of their export income from U.S. taxation.

A company does not have to increase its export activity, increase its payroll, or even increase its own production in the United States. It only has to set up a foreign sales corporation on paper. It can then exempt up to 30 percent of its export income from taxes. The Joint Tax Committee estimates that the closure of this loophole would raise \$9.4 billion in new revenue over the 7-year budget period.

Capital gains tax reduction: Whether we agree or disagree about its merits, do any of us really believe that it should be retroactive to January 1, 1995?

Is that fair? To give new tax breaks to wealthy individuals retroactively while we also cut important programs for our working families?

Billionaires' loophole: We still haven't closed the so-called billionaires' loophole. On April 6, we voted 96-4 to close it up tight, and the Senate Finance Committee has closed it twice now. But every time it goes to conference, it gets opened up.

This is a tax loophole that exists for billionaires who renounce their American citizenship to avoid millions and even billions of dollars in taxes on income, capital gains, gifts, and estates.

The law would not prevent individuals from shifting both their assets and their citizenship to a foreign country. Rather, it would just make sure that those who have amassed great wealth through the U.S. economic system pay their fair share of taxes.

Last year, approximately 850 individuals renounced their citizenship, but only a handful of those would be affected by this legislation. The tax loophole only applies to those with a minimum \$600,000 in unrealized gains, which generally would necessitate a mini-

mum \$5 million net worth. All those without that level of liability can renounce their citizenship without the IRS ever questioning their motives.

This loophole allows an individual to enjoy all the benefits of the United States, including its stature as an economic engine for the world, grow rich because of it, and then expatriate without being taxed on the wealth generated in this country. This tax break costs the taxpayers \$3.6 billion over 10 years.

It is not even a slap on the wrist. It is barely enough to close the loophole that permits American billionaires to renounce their citizenship and take up their residency overseas in order to escape American taxes.

Unbelievable. We passed the amendment here on the floor of the U.S. Senate by over 90 votes, saying: When you go to the conference on those budgets, pull that Benedict Arnold proposal out of that budget.

Those doors were not even closed over there when out it came again, right out again. No wonder the President vetoed that particular budget. Who wants to be associated with saying to a superwealthy American, "Renounce your citizenship and escape all the taxes for the moneys you have earned in the United States"? That provision is still in there.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Mississippi.

WHO SPEAKS FOR THE TAXPAYER?

Mr. LOTT. Mr. President, I will be brief because I have spoken earlier. I see there is another Senator wishing to speak. But I would like to respond directly to some of the comments just made with regard to taxes. I will hold it down. We are trying to go back and forth.

Mr. President, there is a lot of complaining about tax cuts in the budget negotiations. I ask the question again, who, here, is going to speak for the taxpayers of America? There are a lot of Americans out there getting up every morning at 5 o'clock, going to work, pulling their share of the load, paying taxes. They think a little more fairness in the Tax Code, a little incentive to save, a little incentive for growth in the economy to create jobs is a good idea. Everybody around here seems to be worried about this program or that program, this welfare program, that program. What about the people who are paying the taxes on all these programs? Why do they not get a little help?

As I understand it, one of the points that was indirectly referred to was the earned income tax credit. I do not know much about what has been going on in the budget negotiations at the White House, but I understand that is one area where they are very close to agreement.

Mr. KENNEDY. Will the Senator yield on that point?