

our bill will amend will in fact, by amending that law, save lives.

So I urge my colleagues, when this bill is brought to the floor, as I hope it will be in the next several weeks, to look at this bill, to pass it, and to move on so that we can make a very strong statement and do something very positive for America's children.

Mr. President, I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I want to thank the distinguished Senator from Ohio very much for the work he has done on this legislation, the support he has given it, the kind things he has had to say about my part in it.

I think it is very important to stress that the Senator from Ohio has long been active in children's matters, particularly this area that we are involved with, namely, adoption and foster care. He knows the existing problems in this system and has been very, very helpful in the meetings we have had in putting this legislation together.

So I thank the Senator from Ohio very much for his work. And I share his enthusiasm and his desire to see this legislation come up this year, before we leave hopefully. So certainly both of us will do everything we can. We have had some fine meetings with the majority leader on it. Next week, we will be meeting with the chairman of the Finance Committee. Hopefully this legislation can come before us before we leave.

If there is nobody else desiring to speak, 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. FAIRCLOTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

(The remarks of Mr. FAIRCLOTH pertaining to the introduction of S. 1313 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

LEGAL CUSTODY OF MEI MEI

Mr. DEWINE. Mr. President, I rise this morning to draw the attention of my colleagues to a very sad, unnecessary controversy involving the Government of the United States and the Government of China, a controversy which also involves a little 3-year-old girl.

Mr. President, this is the sad story. A Chinese woman living in Cleveland was diagnosed with schizophrenia. For many reasons, including this diagnosis, it was clear that this woman was not capable of taking care of her daughter. In fact, they had both been evicted from a Salvation Army shelter because of concerns that the mother was mistreating the daughter. Evidence showed that the child had been seriously neglected. So the court stepped in and sent this child into foster care. By the time this little girl was 16 months old, tragically, she has been in four foster homes.

The natural mother was allowed visiting rights. During one of these visits she abducted the child and took her to the People's Republic of China. In June 1997, Mr. President, the Ohio court permanently terminated the birth mother's rights and awarded legal custody of Mei Mei—this little girl's name—to Mei Mei's foster mother. Since last October, the foster mother, the legal guardian of this child, has been trying, naturally, to get Mei Mei back. She wants to adopt Mei Mei, but her efforts thus far have not been successful.

Mr. President, I urge President Clinton to raise the issue of this little child with the Chinese President when they meet. There is an adoptive family waiting in Ohio for Mei Mei. They love her and they will be able to take good care of her. I hope this problem can be resolved in a positive and expeditious way. Therefore, I urge the President to raise this at the highest level between our countries.

A few minutes ago on the floor I circulated a letter—and a number of my colleagues have already signed it—to send to President Clinton urging him to bring the matter up.

Mr. President, sometimes it is easy, as we debate issues, to lose the personal sense about these horrible cases. Sometimes we hear about statistics and sometimes we hear about stories of bad things occurring, such as I have just related.

To try to bring it home, though, and put a more personal face on it, let me read just one paragraph that was written by the foster mother who wants to adopt Mei Mei. This is what she writes:

We have been applauded for our dedication and uninterrupted love for Mei Mei. I can honestly tell you, however, that it was not difficult. When a child enters your life and needs to be held, you hold them. You teach them to laugh, you teach them that you are there, you teach them to be gentle, you teach them that everything in life is beautiful. And then when they start to see that life is not something to be just tolerated but rather to be enjoyed, they develop a sparkle in their eye, which fuels your love further for them. That's what happened with us and with Mei Mei.

So I urge, again, Mr. President, that our President, President Clinton, bring this matter up with the Chinese. It is a small matter, I suppose. But it is a little girl; it is her life. She has an opportunity for a loving family to raise her. She was snatched away from that op-

portunity by a woman who has clearly demonstrated that she is unfit to take care of this little girl. So I urge the President, as he discusses issues with the Chinese, to raise the issue of Mei Mei.

Mr. President, I yield the floor, and at this point I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

FDA REFORM

Mr. DEWINE. Mr. President, I want to discuss today an important issue involving the FDA. First, let me congratulate my colleague from Arkansas, Senator TIM HUTCHINSON, for his fine work on the legislation that he has just introduced. This bill that Senator HUTCHINSON has introduced would prevent the FDA from implementing a proposed rule that is harmful and unnecessary.

Mr. President, this is the story. Earlier this year, the Food and Drug Administration issued a proposed rule to accelerate the phaseout of metered-dose inhalers that are propelled by chlorofluorocarbon gases, commonly known as "CFC's." Essentially, Mr. President, the FDA has proposed to ban from the market safe and effective medicines that millions of Americans use to help them breathe. For many patients, these medicines mean, quite literally, the difference between life and death.

This FDA proposed ban is not based on concerns of safety, but rather the ban on these inhalers was put forward on the grounds that inhalers that use CFCs deplete the Earth's ozone layer. Now, the fact is, Mr. President, that these inhalers have only a minimal effect on ozone depletion. Asthma inhalers account for only a very small part of this problem. It is estimated that asthma inhalers account for less than 1.5 percent of the total problem.

Perhaps more important, Mr. President, the companies that make these inhalers have already agreed to develop new CFC-free devices by the year 2005—the deadline that was previously set forth in the international Montreal Protocol. These companies are working hard to bring these products to the market quickly and, in fact, they think they will beat the 2005 year deadline.

So I think, Mr. President, it's clear that the FDA's proposed rule to accelerate the phaseout of these products yields no significant benefit to the global environment. What it will do, however, is take away essential medications from Americans who depend on these inhalers to manage serious respiratory illnesses.

Mr. President, over 30 million Americans suffer from some type of respiratory disease, including asthma.

Many of these patients rely on a combination of inhalers to be able to function normally. The FDA's proposed policy would limit their treatment options and force them to switch from proven treatment regimens that have been carefully adjusted to control their symptoms.

Mr. President, asthma is a serious national health problem. The morbidity and mortality rates from asthma continue to increase in the United States, particularly among minority and inner-city children. Mr. President, I think we have to question the FDA's judgment in putting forth a proposal that puts these patients at further risk. I hope others will agree with me as well.

Mr. President, the FDA has already received over 10,000 letters from patients, providers, and health care organizations expressing concern about this issue. In a letter to Health and Human Services Secretary Donna Shalala, Dr. C. Everett Koop, former Surgeon General of this country, wrote the following:

This proposal will adversely impact patient health, while providing negligible environmental benefit.

Dr. Koop went on to state:

Any efforts to limit the medications available to asthma patients and their physicians would be a serious mistake that would lead to severe consequences for American asthmatics.

Mr. President, there is another aspect to this whole issue. Under the proposed guideline, the FDA would remove from the market products that have been tested and labeled for use in children and replace them with CFC-free versions that while containing the same active ingredients have not been tested or approved for use by children. They have not been tested or approved for pediatric use. Mr. President, asthma is the leading cause of chronic illness among children—5 million children suffer from asthma today. How in the world can the FDA remove products from the market which are proven to be safe and effective for children while at the same time the FDA laments the lack of adequately labeled products for children? It just doesn't make sense.

Mr. President, the Food and Drug Administration is charged with protecting the health and well-being of American citizens. It seems incomprehensible to me that it could put forth a proposal that secures really negligible environmental benefits at a potentially steep cost to human lives and health. I urge the FDA to reconsider its proposal. The health of millions of Americans who depend on metered-dose inhalers is too important.

Mr. President, I thank the Chair. I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, what is the question before the Senate and what is the business before the Senate?

The PRESIDING OFFICER. The Senate is conducting morning business with Senators to speak for up to 10 minutes.

Mr. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that I may speak out of order for as long as I may require.

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

Mr. BYRD. Mr. President, I thank the Chair.

THE LINE-ITEM VETO

Mr. BYRD. Mr. President, I have been intrigued—modestly, if I may say, so as not to exaggerate—at the plethora of complaints that are being in some instances stridently expressed about the President's use of the line-item veto. I suppose what amazes me so much about this matter is that all of this vast panorama of problems that could be expected to occur in the train of passage of the Line-Item Veto Act have been addressed time and time and time again on this Senate floor by me; by my colleague, Senator MOYNIHAN; by my colleague, Senator LEVIN; by my colleague, Senator REID; and many other colleagues on both sides of the aisle, including, of course, former Senator Mark Hatfield. We spoke to the galleries here and across the land repeatedly about what could be expected from the use of a President's line-item veto pen should such legislation be passed. We also spoke of the constitutional ramifications of a line-item veto. At the time, I felt that in all probability our expressions of concern were falling upon deaf ears.

So of late it has been brought home to me very clearly that although one may speak with stentorian voice, as with the combined voices of 50 men or as if his lungs were of brass, there will nonetheless be ears that will not hear, there will be eyes that will not see, and there will apparently be minds that will not think.

So one is left with very little consolation other than to know that what he or she said as a warning in days past was on point, and that history will prove that the point was well taken.

Mr. President, I see my dear friend, Senator MOYNIHAN, who is a great teacher. I wish I would have had the opportunity to sit in his classes—a man who is noted in the Congressional Directory as having received 60 honorary degrees. That will make one sit up and take notice—60 honorary degrees! I have never counted my honorary degrees. But I suppose that if I have been the recipient of ten or a dozen, that would certainly be the limit.

But Senator MOYNIHAN has foreseen the ramifications of this unwise legislative action by the Congress—and it is now coming home to roost—the so-called "Line-Item Veto Act." He has joined with me previously many times in discussing the act here and elsewhere. He has joined with me, as did

Senator LEVIN and former Senator Hatfield and two of our colleagues in the other body, in a court challenge against the Line-Item Veto Act. And he joins with me today in cosponsoring this bill to repeal the line-item veto.

So I am going to yield to him. I have legislation that I have prepared to repeal this act. Senator MOYNIHAN has joined with me in the preparation of the legislation. And I am going to yield to him because, as I understand it, he needs to get to another appointment right away. So I gladly yield to my friend for as long as he wishes. I ask that I be permitted to yield to Senator MOYNIHAN without losing my right to the floor.

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

The Senator from New York.

Mr. MOYNIHAN. Mr. President, it is again an honor and a privilege to join with one of the great constitutionalists in the history of the U.S. Senate, ROBERT C. BYRD, who has written the history of the Senate.

I can so well remember the occasion on which that great volume was introduced. One of our finest American historians was present saying that it is difficult to understand and very hard to forgive that there has been so little scholarly attention given to this body, to the Congress, as against the Presidency, and suggesting that it is not hard to explain. There is only one President, and there are 435 of us—a more complicated subject that comes later in our historymaking.

But I think it may be said that in the history of relations between the Congress and the Presidency there has never been an issue equal in importance to the constitutional challenge we face with the Line-Item Veto Act.

I think of difficulties in the past. There have been clashes between the Executive and the legislative. There are meant to be, sir, I presume to tell you.

Madison and Hamilton, when they explained the Constitution to the people of New York in that series of essays that became the Federalist Papers, said citizens might well ask. At that time people knew the history of classical Greece and Rome, and they knew how turbulent it was. Madison had the solicitous phrase of speaking of the "fugitive existence" of those republics. And they asked: What makes anyone suppose that we will have a better understanding, a better, a more durable existence than those of the past? And the answer was, "We have a new science of politics." That was their phrase, " * * * a new science of politics." Because in the past, theories of government depended on virtue in rulers. We have made up a different arrangement, an arrangement by which the opposing forces, the checks and balances, set off one group against another. And the result is that in the end you have outcomes that make up for—again, a wonderful line of Madison's—"the defect of better motives." And, in that regard the Framers very carefully