

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

#### IRS REFORM

Mr. GRAMS. Madam President, before we vote on IRS Commissioner nominee Charles O. Rossotti, I'd like to take this opportunity to make a few remarks about the direction IRS reform should take.

But first let me commend Mr. Rossotti for his courage to take on this job. I believe with his expertise and experience in private business management, Mr. Rossotti is qualified to head the agency, and I am confident that he will help improve IRS services and management.

Madam President, the American people have every right to be outraged by the disturbing details that emerged during 3 days of Senate hearings into the tax collection practices of the IRS.

Testimony from taxpayers and current and former IRS officials provided chilling accounts of mistreatment, abuse of power, and the merciless trampling of citizens' rights. What's even more shocking is that these improper and illegal practices within the IRS aren't random occurrences—they happen regularly.

For decades, IRS agents have routinely snooped through the supposedly confidential tax files of thousands and thousands of Americans. That could include me, or you. IRS agents are evaluated and promoted based on their total tax collections, a practice outlawed a decade ago.

IRS managers often cover up abusive behavior by collection agents. In stark contrast to our legal system, all alleged tax debtors are assumed guilty and treated as criminals.

The distressing tales told by the Senate witnesses were hardly isolated incidents; hundreds of working, law-abiding Minnesotans have contacted my office with similar grievances.

Though the individual details of their stories vary, the message is the same: the IRS devastated their lives. Many lost their homes, cars, businesses, and professional licenses—not to mention their reputation and self-respect.

Congress established the IRS with good intentions but the agency has evolved into what Nobel laureate Dr. Milton Friedman labels "a self-generating monstrosity over which the people have little control."

As a result, our tax system has become extremely complicated, difficult even for IRS experts to understand, and our tax burden has become so heavy and so unfair that it's unbearable for many working Americans.

The tax system under which the IRS operates today has become a redistributor of private incomes, a mechanism to enforce social re-engineering, and a launch pad for class-warfare.

It is anti-family. It destroys economic opportunity, hinders our job creation, impedes productivity and retards competitiveness. It has deepened

the despair and disaffection among the poor and disadvantaged. It encourages abuse, waste, and corruption.

Congress deserves much—if not most—of the blame for the abuses of our current tax system because it is Congress that writes the Tax Code in the first place.

There are now nearly 10,000 pages of Tax Code, 20 volumes of tax regulations, and thousands and thousands of pages of instructions.

Besides making the tax system so complicated, Congress has seriously neglected its oversight responsibilities over the IRS. In fact, the Senate hearings were the first formal oversight of the agency ever conducted by Congress. That in itself is very shocking.

Congress for decades has been passing new tax laws and regulations without looking back to see how the system has been affected, or if it's working, or if it's unfair.

It's more obvious than ever that the present tax system will fail to lead us into the next century without fundamental reforms. But can Washington fix the IRS problems it created? Yes—if Washington can muster the political will to do it.

The first thing Congress must do is take its oversight responsibility of the agency more seriously. Let's end the secretive ways of the IRS and open the process to the sunlight.

Let's put the IRS under strict scrutiny, periodically reviewing its operations, exposing abuses, and ending illegal practices.

I welcome the fact that President Clinton changed his mind and presented a plan aimed at improving taxpayer-assistance services at the IRS, including a board with private citizens to oversee the agency.

Although this is a positive step, the proposed changes are mostly cosmetic and will do nothing to address the deep-rooted deficiencies within the IRS. Very simply, the heart of the problem with the IRS is the tax policy on which all IRS decisions are based.

To end the abuse once and for all, Congress must pass new legislation to reform our tax system and replace the ever-more-complicated Tax Code with one that's simpler, fairer, and more friendly to taxpayers.

The American people deserve a fair Tax Code that promotes harmony between people and doesn't separate us into classes, a code that encourages work and savings; a code that rewards families and success rather than penalizes them; a code that stimulates real economic growth and produces more jobs and, yes, higher tax revenues; a code that allows taxpayers to keep more of their own money.

Congress must explore every available solution in our quest to re-create our tax system and achieve these objectives.

Passing the House IRS bill may sound tempting, as it does make some needed changes, but I agree with Senator ROTH that we need to do the job

right the first time around, not accept minor changes that may prevent or delay efforts to reform our overall tax system.

Madam President, the leadoff witness at the Senate IRS hearings summed up the debate with a message Congress cannot ignore: "If the public ever knew the number of abuses covered up by the IRS, there could be a tax revolt."

The public is beginning to understand the depth of the IRS problems. Tinkering with the IRS won't work and the time for real tax reforms is now.

Thank you very much. I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Madam President, I yield myself such time as I might use off the leader's time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

#### IRS REFORM

Mr. GRAMM. Madam President, I wanted to come over today and talk about the IRS and about reforming the IRS. We are on the floor considering the nomination of Charles Rossotti to be head of the IRS. We had an excellent hearing on the nomination in the Committee on Finance. His background is somewhat different in that he is an information management person, a very successful businessperson. I believe that he will be an excellent head of the IRS. I intend to vote for him. However, like most people who have spoken during this time, I want to talk about reforming the IRS, not the naming of the new head of the agency.

First of all, Madam President, I want to reject the idea that what is wrong at the IRS is sort of a sociological environment that has developed there. We heard a little of that during our hearings. We heard a lot of it from the Treasury Department when an effort was undertaken to try to change the IRS.

The whole logic of this argument, which I reject, is that the problem at the IRS is that an atmosphere has developed, that there is this sociological environment that has come into existence over a long period of time, and what we really need is to have some counselors come in and have sensitivity training for IRS agents and that will make everything great.

We then have terms used, and I would have to say by Members of both parties, such as, "Let's make the IRS a consumer-friendly agency." I am afraid that just reeks of nonsense to me. Let us not forget that we did not create the IRS with the best of intentions. Congress created the IRS to get money from people who, by and large, did not want to joyfully give. When it comes to the IRS, most Americans are not happy givers. They believe that Government spends too much money. I share that belief. They believe that the Government spends it inefficiently and unwisely. I share that belief. In fact, both

of those beliefs would be strengthened if the average citizen could spend 1 week as a Member of the Senate. People do not like paying taxes. They object to much that the Government does, and the IRS uses the power of the State to force people to provide money that, by and large, they do not want to provide.

But there has developed a notion that somehow at the end of this process, when the agent calls up and says, "I'm from the Internal Revenue Service and I want to help," people would say, "Well, gosh, great; it's awfully nice that you called. This is the beginning of a good day, possibly a good week or year and may be a turning point in my life."

If we are going to approach the IRS problem from the point of view that the agents simply need sensitivity training or that this can become such a friendly Government agency that people will be happy to hear from it, I think we are making a terrible mistake.

I think the problem with the IRS is very easy to define and quite hard to do something about. The problem with the IRS, to paraphrase an ancient Greek, is that power corrupts. The basic problem with the Internal Revenue Service is that IRS agents, in the bureaucracy that has developed to collect taxes, have tremendous power. I guess the best way I found to try to get people to visualize it is to talk about a courtroom. Most of us, fortunately, have never been in a courtroom, but almost everybody has seen it on television or at the movies.

Think of yourself as going into a courtroom and the judge is from the IRS. You look over at the jury, and the 12 jurors are all from the IRS. And then you look over at the prosecutor's table, and the prosecutor is from the IRS. And the policeman who is going to testify, having arrested you, is from the IRS. And you walk into the courtroom faced with a presumption that you are guilty.

Now, that sounds like a picture that is completely out of focus as far as the American system of justice is concerned. But in reality that is an accurate picture of a taxpayer dealing with the Internal Revenue Service.

Now, the question is, how do you change that picture? How do you do it in such a way as to guarantee due process? How do you separate the powers of the IRS to eliminate the abuse? And how do you do it all in such a way that you do not undermine the ability of the Internal Revenue Service to collect \$1.6 trillion a year in taxes from working Americans.

That is our challenge. I want to congratulate our colleagues in the House for their efforts. I want to congratulate Senators GRASSLEY and KERREY for their IRS restructuring commission effort. I think that effort gave us a good starting point. I think Chairman ARCHER's bill is a good bill.

But I would have to say that I agree with Chairman ROTH, that what we

need to do is to carry this issue over until next year. We had very productive hearings, hearings that awakened not only us but the American people to abuses in the IRS. But now, before we legislate, we need to hear from some people who have ideas as to how we fix the problem. I think we need to hear from financial experts, including people from the Internal Revenue Service. I think we need to be certain that this issue has been thoroughly examined.

I would like to share just a few thoughts and then yield the floor, because I see that we have other colleagues who have come to the floor.

First, I believe that we need, to the maximum extent possible, to try to find a way to separate powers that are currently joined together in the Internal Revenue Service. It seems to me, if you look at the criminal justice system, that the separation of functions represents a separation of powers that, while it doesn't always succeed, while there are failures and abuses in the system, at least in the criminal justice system you have the police that do the investigating and then they take their evidence to the district attorney and the district attorney evaluates their evidence and in the process evaluates them. And then the district attorney goes to a grand jury and the grand jury evaluates the evidence and makes the determination as to whether there is sufficient evidence to take you into court. If they decide there is, you go into a court where you have a judge and where you have a jury. And the investigating police, the district attorney, the grand jury, the judge, and the jury all represent separations of power and checks on the potential abuses of one or the other.

Our problem in the Internal Revenue Service is that this one agency performs all of those functions. It seems to me that the first thing that we have to try to do is to find a way to separate those functions so that each of these different levels of our dealings with the Internal Revenue Service represents a check on the potential abuses of the other level or function that we are dealing with.

Obviously, this is a golden opportunity for us to look at the Tax Code, to look at its complexity, to look at the degree to which it is unfair, and try to fix it. I am not one of those who believes that short of Heaven we will ever eliminate the Internal Revenue Service. We can change its name, we can change the plaque, we can take down the flag, but in reality, as long as the Government spends massive sums of money, somebody, some agency is going to have to collect that money. But I think, with a simplified system, we could dramatically change the way the IRS works by making it easier for citizens who intend to abide by the law to do it.

I think also that, to the degree that we control Government spending so that Government takes less, to the degree that we spend the money more

wisely, then I think we would make people more willing to pay taxes. The great Abraham Lincoln was quoted during the Civil War as having said that he was a joyful taxpayer. He perhaps was the last one in America. Because he supported winning the Civil War. I think, to the extent that we can make the system simpler and fairer, to the extent that we can be wiser in our expenditure of money, that we can improve the situation. But, in the end, the Internal Revenue Service has too much power. We need to shift the burden of proof. The Internal Revenue Service should have the burden of proving that someone is a lawbreaker. We should not begin with the presumption, when you are dealing with the Internal Revenue Service, that the taxpayer is guilty.

It seems to me that we ought to also look at a system where, if I am trying to run a business and the IRS comes in and audits me and I spend \$250,000 on accountants and lawyers, defending myself from the IRS, and at the end the IRS says, or the judge and jury say: This was all a mistake. You didn't do anything wrong. If that turns out to be the case, it seems to me that small business ought to be able to go into court and say: Look, I spent \$250,000. I didn't do anything wrong. The IRS didn't even say it's sorry. Maybe the IRS ought to have to pay that small business \$250,000 and pay their court costs.

A final point which has almost never been mentioned in this debate but which I want to mention here because I think it has to be a factor in our deliberations, is that at the end of the day, with whatever we do in reforming the IRS, it still has to be able to collect taxes. I have no sympathy for people who cheat on their taxes. People who cheat on their taxes make the rest pay more. And as we strengthen the rights of taxpayers—which I am in favor of, and I intend to fight hard for—as we shift the burden of proof, as we divide the powers of the IRS and make it less intrusive, to the extent that such reforms make it easier for people to cheat we have to have stiffer penalties for those who knowingly violate the law.

So I think we have quite a legislative effort ahead of us. I think we have a golden opportunity to do something that is important. I want to congratulate Chairman ROTH and the Finance Committee because I do believe we had an excellent set of hearings. But simply because we know more about the problem does not mean that we yet know the solution. I am hoping that we can have equally productive hearings on ideas from people around the country as to what could be done to fix the IRS, how we could change the system. We should take the time to get it right, be more comprehensive in what we want to achieve, and build on an excellent bill that came over from the House. We have an opportunity to dramatically change the Internal Revenue

Service and convince Americans that, while the Government is still spending too much money and is not spending it as wisely as it should, that the tax system is fairer and that the collection process is fairer as a result of the reform efforts that we are about to undertake.

I don't think people expect to love their Internal Revenue agent, unless they married one or unless one is their child or their parent. But they expect to be treated fairly. And obviously they know when they are contacted by the IRS that they are potentially in deep trouble, and it is that threat that drives many people to go ahead and declare income that they might have hidden and to pay taxes that they didn't want to pay.

So, finding this balance, I submit, is going to be a difficult task. I am very grateful that I am on the Finance Committee and I am going to have an opportunity to play a small role in it. I think it is important. I am glad that we are waiting to gather more facts, not just on the problem but the solution. I thank my colleagues for their tolerance and I yield the floor.

THE PRESIDING OFFICER (Mr. AL-LARD). WHO YIELDS TIME? THE SENATOR FROM MICHIGAN?

Mr. ABRAHAM. Mr. President, I seek unanimous consent to speak for up to 5 minutes, the time to be deducted from the leader's time.

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

Mr. ABRAHAM. Mr. President, I don't believe I will necessarily need the full 5 minutes, even, but let me speak today about an issue of great concern to the citizens of my State.

THE PRESIDING OFFICER. The Senator from Michigan is recognized.

#### BERRY ALERT CAME WEEK AFTER SALE

Mr. ABRAHAM. Mr. President, in March of this year, over 200 schoolchildren in my State contracted the hepatitis A virus from food served by the school lunch program. As news of the outbreak began to pour in, the Michigan Department of Community Health and the Centers for Disease Control went into action to determine the cause. They soon found the culprit: frozen strawberries sold to the school lunch program by a San Diego company named Andrew & Williamson. Investigators also discovered that some of the strawberries sold to the school lunch program had been illegally certified as domestically grown when, in fact, they had been grown in Mexico.

Mr. President, these strawberries should never have been served in the school lunch program in the first place. By law, products sold to the school lunch program must be certified as being domestically grown.

Companies have typically been trusted to do the right thing, but Andrew & Williamson chose to do something else. They chose to misrepresent their prod-

uct's country of origin and over 200 people were poisoned as a result.

But now, Mr. President, disturbing new information has come to light from the criminal case against Andrew & Williamson which indicates USDA officials may have had advance warning of the illegal strawberries. An article in Saturday's edition of the San Diego Union Tribune disclosed that USDA was alerted 1 week after the school lunch purchase from Andrew & Williamson that the fruit was from Mexico. In addition, the newspaper also reports that the Federal official at USDA who was alerted thought it serious enough to file an administrative report and wanted to investigate the charge, but was rebuffed by her supervisor.

Mr. President, I ask unanimous consent that the text of the San Diego Union Tribune article be printed in the RECORD.

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

[From the San Diego Union-Tribune, Nov. 1, 1997]

BERRY ALERT CAME WEEK AFTER SALE  
WITNESS SAID HE WARNED USDA THAT FRUIT  
WAS GROWN IN MEXICO  
(By Rex Dalton)

A federal official received an early complaint in October 1996 that a San Diego company was illegally selling Mexican strawberries to the federal government for school lunches, according to newly released documents.

That means the U.S. Department of Agriculture knew about the sale four months before the strawberries were served in February. The USDA did not investigate until after the berries caused about 270 cases of hepatitis A in Michigan schools in March.

In fact, the 1.7 million pounds of frozen strawberries had not been delivered to government warehouses when the warning came in, shortly after the USDA's strawberry purchase was announced Oct. 17, 1996.

The disclosure of the early warning is in witness statements recently released under unusual circumstances to defense attorneys for Andrew & Williamson Sales Co. Inc. of Otay Mesa.

The strawberry-processing company and two executives were indicted on charges of fraud and making false statements in connection with the sale of Baja-grown fruit to the USDA for the National School Lunch Program. The charges are not related to contamination of the berries. Produce sold to the program must be grown in the United States, according to federal law.

The witness statements were made in April to the USDA's Office of the Inspector General, but were not disclosed to defense attorneys until Oct. 14. The defense attorneys had received many other witness statements and documents after the June indictments.

Joseph Milchen, the attorney for company founder Frederick L. Williamson, said he received the key witness statements from the U.S. Attorney's Office in San Diego. The U.S. Attorney's Office informed Milchen it sent the statements right after getting them from the USDA.

Williamson, 60, of Oceanside has pleaded innocent. The other executive, Richard H. Kershaw, has pleaded guilty.

The San Diego Union-Tribune reported in September that at least three leaders in the California strawberry industry told USDA

officials in January that Mexican strawberries were being sold illegally to the lunch program. The berries were served around Valentine's Day and the hepatitis A cases developed within a few weeks.

At congressional hearings in the spring on the hepatitis A epidemic, USDA officials testified they only had vague allegations about a possible illegal sale shortly before the outbreak.

When Sen. Spencer Abraham, R-Mich., learned *The Union-Tribune* had reported the USDA had evidence in January of an illegal strawberry sale, he expressed outrage and called for a Senate hearing on the USDA's handling of the strawberry sale.

Sen. Paul D. Coverdell, R-Ga., chairman of the Senate Agriculture Subcommittee on Marketing, Inspection and Product Promotion, then began working to set up the hearing into the USDA's accountability.

Against this backdrop of heightened concern about food safety and imported produce, the new witness statements were released in San Diego.

Phillip L.B. Halpern, an assistant U.S. attorney whose office is handling the Andrew & Williamson prosecution, could not be reached for an interview.

USDA officials in Washington declined to comment.

The agency is continuing to investigate the Mexican strawberry sale, which also has been linked to nearly 50 cases of hepatitis A in Maine, Louisiana and Wisconsin. Federal authorities believe a field worker in Mexico accidentally contaminated the fruit while it was being picked in April and May 1996.

Hepatitis A is spread through contact with human fecal matter. Investigators who later visited farm fields where the berries were grown found outhouses adjacent to rows of strawberries, and no ready method for harvesters to wash their hands. The virus can cause nausea, vomiting, fever and jaundice. In rare cases, it can be fatal.

The key witness statement that recently was released was made by Frederick J. Haas, who operates a Watsonville produce sales operation called U.S. Food Service.

As the USDA's Office of the Inspector General began its probe, Haas made separate statements on different dates in April.

In an April 8 statement, Haas told the inspector general's office he called the USDA's Sandra K. Gardei in January and told her about the Mexican strawberry issue. Gardei oversaw the October 1996 strawberry purchase.

That statement and those of other witnesses were provided to Andrew & Williamson defense attorneys last summer.

But not until Oct. 14 did the defense attorneys receive an "addendum" statement that Haas made April 15 and an April 11 statement by Haas' administrative assistant, Jeanette Baum.

Those statements detail how on Oct. 24, 1996—just a week after the announcement of the USDA's purchase of frozen strawberries—Gardei was called about the use of Mexican strawberries.

Haas' April 15 statement says he told Gardei the USDA should not purchase the strawberries from Andrew & Williamson's brokers "because that product was grown in Mexico."

After the strawberries first were linked to hepatitis A in Michigan on March 28, Gardei prepared an administrative report for the USDA describing how she was alerted in January and February about the Mexican fruit.

In that administrative report, Gardei said she sought to open an immediate investigation.

She said in the administrative report that her USDA superior, Darrell J. Breed, refused to open an investigation. Gardei also said