Most importantly, the U.S. should work with China to develop a modern legal system with an independent judiciary, due process of law and a modern penal and civil codes. China is receptive to our help in this area.

Through engagement and assistance such as this we can do more to advance the cause of human rights in China in the long run than through constant castigation, or isolation.

I would like to make a proposal that may be acceptable to both sides. I would propose a presidential human rights commission or forum. This commission would be appointed by both presidents, with the mission of charting the evolution of human rights in both countries over the last 20 to 30 years.

In reports to be delivered to both presidents, the commission would point out the successes and failures—both Tiananmen Square and Kent State—and make recommendations for goals for the future.

THE GROWING TRADE IMBALANCE

Another area of increasing concern is the growing trade gap with China.

What is essentially a trade problem today will become an acute political problem in the U.S.-China relationship if it is left unaddressed.

I have communicated my concern about this issue to the Chinese leadership. They agree that this is a potential problem, but they dispute the size of the trade imbalance.

The United States calculates the imbalance at about $38 billion, while the Chinese figure is closer to $10 billion.

When I was in China in November I proposed to Zhu Rongji, the Executive Vice Premier, who is in effect China's economic czar, that the United States and China establish a joint working group to sit down and establish once and for all a common method of calculating the trade imbalance, especially after Hong Kong's reversion to Chinese rule. Zhu Rongji told me he would support such a proposal.

MOST FAVORED NATION STATUS

Another constant flashpoint is the annual battle over China's Most Favored Nation Trading status.

Every summer Congress and the Administration go through a sort of ritual dance over the extension of MFN status to China. Congress had never overridden a President's decision to extend MFN for China, but we have often voted on it anyway.

Last year, the House, by a resounding vote of 286–141, rejected an attempt to deny or condition China's MFN status. It would be helpful to have that vote settle it once and for all, but, unfortunately, we are less than five months away from the next go around, which I suspect may not be any less rancorous.

The political implications of revoking MFN for China are great. For a country such as China, where face and respect are such central issues, the debate over revoking MFN is seen as tantamount to the United States telling China that we are still unsure whether to accept them as a member of the family of nations.

Denying MFN would seriously impair our ability to work with China on just about *any* issue.

Clearly, linking human rights with MFN has been a failure. I hope we do not make the same mistake twice by linking it to something else, like the negotiations on China's accession to the WTO.

MFN is our standard trading status, and it is granted to all but seven rogue states.

It is time to put an end to this destructive debate year after year. I support making MFN for China permanent.

HONG KONG

In the short run, the transition of Hong Kong is seen by some as a bellwether for China's willingness to act as a responsible great power.

It is key and critical that ''one country, two systems'' be carried out. The world is clearly watching to see whether in fact it is possible to have within China an autonomous region that charts its own domestic policy.

The Sino-British Joint Declaration and the Basic Law provide the foundation for the transfer, and for the future governance and economic life of Hong Kong.

I am troubled by the legislation submitted last week to the National People's Congress that would undo the Hong Kong bill of rights. Lu Ping, the Chinese official in charge of the Hong Kong transition, told me directly in Beijing in November that the question of public protest and assembly was a matter for the Hong Kong Special Administrative Region (SAR), and if SAR law permitted public expressions of dissent, China would have no objection.

If the central government of China reverses Hong Kong's Bill of Rights, and other civil liberties, it would be a blow to the credibility of ''one country, two systems.''

Additionally, I would hope that the provisional legislature meeting this week in Shenzhen is sensitive to the pledge of domestic autonomy for Hong Kong.

I strongly agree with Secretary Albright when she said that the way events play out in Hong Kong will have an important effect on the overall U.S.-China relationship.

CONCLUSION

With this new Congress, and an Administration now seasoned in its second term, we now have the opportunity to move beyond some of the events that have soured Sino-American relations in the past several years.

President Clinton and Secretary Albright must immerse themselves fully in the details of this most delicate and critical of American relations.

In the final analysis, the goal of American policy must be to encourage China toward a full and active relationship with the West and to work together toward a China that is able to take its role as a stable leader of Asia and a guarantor of peace and security in the world.

WELFARE REFORM

Mrs. FEINSTEIN. Mr. President, we begin the 105th Congress with a sober recognition of the fact that the Federal Government cannot solve all problems. Anyone who questions this premise need only look at painful choices that must be made in order to balance the Federal budget, our first and most difficult task this session.

Having said that, the clearest message, I think, sent to us this past November was that the people of America want Republicans and Democrats to work together to solve real problems. I have been very concerned and I might even say dismayed by statements made by Members of this body and the House, that under no circumstances will there be any changes, no matter how meritorious, no matter how necessary, to the welfare bill which passed last year.

Mr. President, when this body debated and approved the historic welfare reform bill last year, I outlined to my colleagues what I saw as some of the major flaws in the drafting of that bill, and as a result, the impact that this legislation will have on the largest State in the Union—California. I want to take an opportunity this afternoon to update those comments.

The impact of this bill on California is huge. At this stage, it really is not fully known or even understood. Some estimate that California will absorb about $17 billion of the $55 billion saved by this bill. That is a body blow to our safety net. It could have a catastrophic impact both financially and in terms of human lives. I voted, because of this, against that welfare bill.

I am not alone in my concerns. Even the Republican Governors, many of them poster-children for the reform effort, are looking at the fine print now and saying, ''How is my State going to pay for these costs? How are we going to provide the necessary care? How are we going to meet these requirements without turning people out on the streets?''—for some, in large numbers. Even the Republican Governors are asking for changes.

A headline in the Washington Post 2 days ago said it pretty clearly: ''After getting responsibility for welfare, States may pass it down,'' something that I, as a county supervisor and a mayor for some 18 years, recognize that it is exactly the way it goes. The buck usually stops with the lowest rung of a government. That is just what is going to happen with this bill. In California, a proposition 13 State, there is no way for local governments to raise their taxes or their revenue potential to deal with the problem.

In the months since the passage of the welfare bill, I directed my staff to examine how this bill would impact California counties. To date, my staff has met with the welfare directors of 22 out of California's 58 counties. Their pleas were nearly universal. I will share them with you. The work requirements, they say, as currently outlined in the bill will most probably not be attainable even under the most optimistic of circumstances. The child care funds in the bill for California are not enough to satisfy the requirements of the bill. The legal immigrant provisions denying food stamps and SSI, particularly to the elderly, the sick, and the disabled, will have a devastating impact on county general assistance programs. The biggest impact will be on the largest county in the State, Los Angeles County. And the counties tell me they have no computer ability to track and monitor recipients under the new rules. How do they comply?

Some of the changes asked for by these counties are technical in nature, such as increasing the time permitted for job search to be more realistic for areas where the average search even for nonwelfare recipients is twice as long as that permitted under the bill. Other changes are more fundamental, such as restoring some assistance to the elderly and disabled legal immigrants. I know President Clinton shares many of these concerns, and will propose a number of changes in his budget soon to be released.

I hope the door is not closed to at least looking at what the facts are. I believe it would really be unconscionable, and in a sense, the height of irresponsibility, to arbitrarily say we will not look at any problem or any misdrafting in that bill. I will point out one area in my remarks later where I think it is simply a case of misdrafting.

Let me speak for a moment about legal immigrants. There are 500,000 elderly and disabled noncitizens nationwide who will lose SSI by August 22, 1997. Of these legal immigrants 205,000 are in California—more than 40 percent. That is a very real problem. Many of these individuals are seriously ill and completely destitute, with no family capable of supporting them. In Los Angeles County alone, there are 93,000 such people, and the ultimate transfer to the county will be in the hundreds of millions of dollars. When they lose their benefits they will turn to the counties.

Just last week, California's State legislative analyst's office estimated the ban on SSI and food stamps will cost California $5.8 billion over 6 years. Now, either this is a massive cost-shift or the homeless in America and in California are going to be greatly adding to their numbers. In Los Angeles County alone the nonmedical costs of supporting elderly and disabled legal immigrants could top $236 million annually.

San Francisco also estimates that 20,000 legal noncitizens may turn to the county's general assistance program, at a total cost of up to $74 million annually.

Let me give an actual example from my hometown legal immigrants. My San Francisco staff met with a 73-year-old legal immigrant on SSI. She was welcomed to this county from Vietnam in 1980. She was a refugee from communism with no family in the United States. She speaks no English and she is suffering from kidney failure. She requires dialysis three times a week. Under this new law, this 73-year-old woman will lose SSI, her only source of support. Her well-being will become the responsibility, somehow, some way, of the county.

During the welfare debate I proposed an amendment to make this section of the bill prospective. I understand the majority's concern that the legal immigrants' use of SSI was increasing at a higher ratio than U.S. citizens' use of SSI. I understand wanting to slow that number down. The way to do it is to say that in the future, everyone coming to this country following the date of enactment, which was August 22 last year, know that when you come to the United States of America as a legal immigrant, you are not eligible for SSI. For the people here before that time, what I propose is that there be an amendment to the bill that would say SSI could be continued for those who have no other verifiable source of support. These are the elderly, they are monolingual, they are destitute, and many of them are ill.

Let me speak for a moment, Mr. President, about the work requirements of the bill, because counties throughout California are really concerned.

Under the new welfare law, 25 percent of single-parent families on welfare and 75 percent of two-parent families on welfare must be engaged in work activities this year. By 2002, the requirements rise to 50 percent of single-parent families and 90 percent of two-parent families.

California's economy is recovering, but our unemployment rate is still 1½ points above the national rate. It is 6.8 percent. The national rate is 5.4 percent. So some 1 million Californians are still on unemployment.

Let me give you some examples of how unrealistic the work requirements of the welfare bill are on certain counties in California.

In Tulare County, the heart of the great Central Valley, the heart of the area that has the largest agriculture producers in the United States, the unemployment rate is 16.3 percent, more than 10 percentage points above the Nation, and one-third of the county is on public assistance—one-third of the county. There are no jobs for people.

In Merced County—again in the Central Valley—unemployment is even higher at 16.8 percent. Thirty-five percent of the population there receives some type of public assistance.

Here are others: Imperial County, 27 percent unemployment; Madera, 15.9; Monterey, 10.6 percent; Stanislaus County, 17.3 percent; and Sonoma County, 14 percent.

And these are not small population areas. In some of the cases, the population of these counties is actually more than the population of some of the States. These are larger areas.

With 2.7 million families in California on welfare, counties fear that the work requirement, as defined in the new welfare law, simply is not realistic for the State to be able to meet.

California is simply not creating jobs fast enough, and the kinds of jobs that the State is creating are high-technology, biotech, highly skilled jobs, and jobs in the import-export business; jobs that relate to Asia; jobs that have a level of educational requirement that can produce a high skill level.

In Riverside County in southern California, their GAIN Program, which is their welfare-to-work program, is the most successful program of its kind in the Nation. It is 12 years old. It has been the model for other programs all throughout the United States. Yet, in that time, only 14 percent of single-parent families currently meet the work requirement as set under welfare reform. And only 15 percent of two-parent families meet the work requirement. That is after 12 years of trying. If Riverside County can't meet the requirements, how many counties and States nationwide will actually be able to do so?

That is why I urge that the President and Members of Congress to allocate some new funds—countercyclical moneys—that would apply particularly in counties where the unemployment rate is at a certain amount. You might want to make it over 1 percentage point from the national average, particularly in areas where there is a high welfare load, which gives testament to the fact that you can't produce jobs in that county.

I feel that Congress should amend the welfare law in significant ways to make it easier for States to meet the work requirements. And I would like to suggest some of them.

Doubling the time allowed for job search activities from 6 weeks to 12 weeks. That is what they say it actually takes and where there is success.

Expand the welfare law's definition of ''work'' to include 2 years of vocational education instead of 1. That is what they say it requires to be employable.

Include people who—this is a glitch, I think, in the drafting of the bill and one of the reasons that I am so concerned that the announcement has been made that even technical changes will not be made to the bill. The way the bill is drafted, it does not include people who leave welfare for work and those who are immediately placed in a given month as part of the State's total number of people moving from welfare to work. So, In other words, the way the bill is drafted, you don't get credit for the people that month you place in jobs. I think that this is a technical glitch. I think it is a drafting error. I think it is easy to correct. But if we have this policy of nothing no matter whenever it is not going to get corrected.

I would suggest creating a countercyclical funding program for the next 6 years, and I suggest targeting counties with high unemployment and high welfare caseloads.

Child care funding increases: Under the new welfare law, the money is insufficient to accommodate the increasing demands. Currently, my State subsidizes child care for 205,000 low-income children. But there are 1.8 million children on welfare in California—1.8 million. The State currently only has funds to subsidize 205,000.

In order to accommodate the increases in the work requirements which are required by this bill from 25 percent in 1997 to 50 percent in 2002 for an individual recipient, I would propose adding an additional $1.43 billion in child care funding over the next 6 years.

I would also propose exempting parents with children under the age of 12, instead of 6, from the work requirement if they cannot find child care.

This bill—mark my words—will be known as the ''latchkey mandate bill'' if people can't find work. And there is no reason for any child in elementary school be left home alone without any adult supervision.

Let me speak for just a moment on the reporting requirements.

When Federal welfare reform was enacted, little attention was paid to the 15 new reporting requirements that the law imposes on the States—everything from welfare recipients' race and citizenship status, to other Federal benefits they receive, to unemployment status and earnings.

California, like many other States, has no computer system in place to track and report all of this data. And without effective tracking and reporting, the Nation's largest State has no hope of enforcing the time limit and preventing welfare fraud. Contra Costa County's welfare director said that his county's ability to meet the reporting requirements of the bill is ''literally zip.'' This is a big county.

I think that the welfare law's reporting requirements are important, and I do not advocate relaxing them. But I do believe that the counties are going to require additional support in the form of computer assistance that is greater than that which is provided in the bill today, and that we ought not to be so fixed that we cannot take a look at it.

I make these comments at this time in the hope that someone might read them, or even see them, or take notice of them, and that this statement that there will be no amendments to this bill can perhaps be changed to ''Well, we will carefully consider amendments.''

I thank the Chair. I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER (Ms. COLLINS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MOSELEY-BRAUN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. I thank the Chair.

(The remarks of Ms. MOSELEY-BRAUN pertaining to the introduction of S. 235 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Ms. MOSELEY-BRAUN. I thank the Chair.

I yield the floor.

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

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

Mr. GREGG. Are we in morning business?

The PRESIDING OFFICER. Yes, we are.

(The remarks of Mr. GREGG pertaining to the introduction of S. 252 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

(Mr. FRIST assumed the Chair.)

THE BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. HATCH. Mr. President, I was pleased that the Senate Judiciary Committee reported out today, I think a little bit before 2 o'clock, the balanced budget constitutional amendment 13 to 5.

I want to personally express my appreciation to everybody on that committee for the cooperation that we had and for the effective debate that we had in getting that amendment out today. This will enable us to bring it up next week, if the leader so chooses. And I believe he does wish to bring the balanced budget amendment up next Wednesday. We will have the report filed by Monday. It is being circulated this afternoon. The minority will have 3 days to complete their remarks, or their position on the report, and then hopefully we will be in this battle next Wednesday. And I hope that we can have as much cooperation during the battle on the floor as we did in committee.

It is a tough issue, and there are people on all sides of it. We do have to fight it out the best we can here on the floor.

JUDICIAL ACTIVISM

Mr. HATCH. Mr. President, I rise today to speak on a subject which I have frequently addressed in the past, one that is extremely important to me and I think to every Member of this body—in fact, to everybody in this country: judicial activism.

We are witnessing today a rising tide of concern, shared not just by my Republican colleagues and myself, but indeed by an ever-growing segment of the public at large, about judicial activism and the prospect of filling the courts with more activists over the next 4 years. Today, when we talk about activists, we are talking about people who are substituting their own personal preferences for what the law really is—those who choose as unelected judges appointed for life to make laws from the bench and to usurp the powers of the legislative and executive branches of this Government. They are not elected to make the laws, but are appointed to interpret the laws.

Today, I would like to point out an especially egregious abuse of judicial power about which I have just learned. Judge Gladys Kessler, a Clinton appointee to the District Court for the District of Columbia—that is the U.S. district court for the District of Columbia—took the truly extraordinary step, and as far as I know, a step which is virtually unprecedented in our Federal judicial system, and actually issued an order to show cause to three sitting U.S. Fourth Circuit judges—Fourth Circuit Court of Appeals judges, judges that are above her in the Federal system: Judges Karen Williams, Frances Murnaghan, and senior Judge Butzner. Judge Kessler in effect is seeking to force those appellate judges to come before her, a U.S. district court judge, and justify a decision that they recently handed down. Judge Kessler's order was personally served on Judge Williams' law clerk just yesterday. Let me tell you about this shocking order, dated January 3, 1997, and issued in Civil Action No. 96–2875–GK.

In 1972, one Restoney Robinson pled guilty in North Carolina State court to first-degree murder.

He was sentenced to life in prison, and he has since been imprisoned in North Carolina—which is located within the Fourth Circuit Court of Appeals' jurisdiction. After losing all of his appeals in the State courts, this convicted murderer, Mr. Robinson, has apparently been peppering the Federal district court for the middle district of North Carolina with frivolous petitions and, appealing the denials of those petitions to the higher court, the Fourth Circuit Court of Appeals. I understand that Mr. Robinson has brought more than 80 such actions.

This past October, a panel of fourth circuit judges, comprised of Judges Williams and Murnaghan and Senior Judge Butzner, denied Robinson's most recent frivolous appeal. In what can only be described as a truly bizarre, indeed lawless, action, Judge Kessler not only entertained the habeas corpus petition from Mr. Robinson, a petition over which she had absolutely no jurisdiction whatsoever, since Mr. Robinson is imprisoned in North Carolina, but had the gall to issue an order to those fourth circuit judges—requiring them within 30 days to come before her and explain to her, and to Mr. Robinson, the convicted murderer, why he should not be released from prison.

Indeed, I am told that just yesterday the U.S. marshals in Orangeburg, SC, personally served this order on Judge Williams' law clerk. I have a copy of the order right here, and I ask unanimous consent that it be printed in the RECORD.

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

United States District Court for the District of Columbia

Restoney Robinson, Petitioner vs. Murnaghan and Williams, Respondent(s)

Civil Action No. 96–287

ORDER DIRECTING RESPONDENT TO SHOW CAUSE

It is this 3rd day of January, 1997,

ORDERED that the respondent(s), by counsel, shall within 30 days of service of a copy of this Order and the Petition herein file with the Court and serve on petitioner a statement showing why the Writ of Habeas Corpus should not issue.

The Clerk of Court is directed to furnish a copy of the Petition and a certified copy of this Order to the United States Marshal for the purpose of making service on the respondent(s) and the U.S. Attorney's Office.

GLADYS KESSLER,
United States District Judge.