

where we started last year, isn't that the case? We will have a bill written in conference that you or I, or even the members of the appropriations subcommittees, have never seen; is that fair?

Mr. MOYNIHAN. That is exactly so, sir. I can say to you, for example, that Senator ROTH, our distinguished chairman of the Finance Committee, and I have jointly been sending letters regularly to the Appropriations Committee saying: You have Social Security Act or tax matters in this appropriations measure you are dealing with; surely, you don't want to do that. We don't get answers somehow.

Mr. REID. But under our present rules, I say to my friend, that is not only the rule, it is being done.

The minority leader has offered an amendment to this change we are discussing today regarding rule XXVIII, so that when you go to conference, the conferees could only work on the bills they have, the one from the House and the one from the Senate, and have to work on matters that are before them. They can't go outside that scope and start talking about wild horses in Nevada or they can't start talking about the wheat crop in North Dakota, if it is not in the conference report.

Mr. MOYNIHAN. If it is not in the conference report.

I will close, sir, by simply saying this is a subject that is said to be arcane, to be incomprehensible, to be something on the margin. The Constitution of the United States is a bit arcane. It was not something immediately obvious to everyone, what its principles were. But they were powerful, and they have persisted. So, indeed, have the rules of the Senate, developed in the early 19th century, and then later, starting in 1868, with regard to germaneness and the like. Language very similar to our Rule XVI dates to 1884. We have here the question of whether we are going to be able to govern ourselves in the future. If we should fail in that regard, what else, sir, will there be said of us when the history of the decline of the American Congress is written?

I thank the Chair for its courtesy in allowing me to extend my time. I thank my friend, the minority whip, and I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I think the statement made by the Senator from New York and the wisdom that he imparted to us is something we should all listen to.

Some have said: Well, we have to treat the Senate like the House of Representatives. We really can't debate measures.

I say to my friend from New York, and anyone else within the sound of my voice, we used to debate matters and let the cards fall where they did. A good example of that was the Budget Deficit Reduction Act of 1993. As Senators will recall, we had all kinds of statements of doom regarding that.

The chairman of the House Budget Committee said: This plan will not work. If it does work, then I will have to become a Democrat.

Well, it has worked. We have now a budget surplus. But my friend from the House has not become a Democrat.

My friend, the chairman of the Finance Committee, said: It will flatten the economy. That has not been the case.

My friend, the senior Senator from Texas, said: I want to predict here tonight that if we adopt this bill, the American economy is going to get weaker, not stronger. The deficit 4 years from today will be higher than it is today, not lower. When all is said and done, people will pay more taxes. The economy will create fewer jobs. The government will spend more money, and the American people will be worse off.

Every statement made by my friend from Texas was absolutely wrong. The fact is that we had that bill. We had a debate. Without a single vote from my friends on the other side of the aisle, we passed that bill, with the Vice President breaking the tie. The deficit did not rise. In fact, it went away.

The economy got stronger, not weaker. More jobs were created; in fact, almost 20 million new jobs have been created since that legislation was passed.

The point I am trying to make is that we can debate issues, debate them in their entirety. We should do more of that. That is what this is all about.

Mr. MOYNIHAN. Will my friend yield for a comment?

Mr. REID. I am happy to yield.

Mr. MOYNIHAN. I was chairman of the Finance Committee in 1993 when that deficit reduction act passed. It was a risk. We risked that what we understood of markets and of the economy was right. We could have been wrong. But it was not a casual affair. Day after day and evening after evening in the Finance Committee we debated it. We voted on it. It came to the floor, admittedly under a time limit from the Budget Act, but it was adequate to the purpose.

We legislated, and it was done in the open. The consequences are here to see. The \$500 billion deficit reduction package contained in the 1993 reconciliation bill has been re-estimated by the Office of Management and Budget as having saved a total of \$1.2 trillion. We had a \$290 billion deficit that year. The 10-year projection was \$3 trillion, and more, of cumulative deficits. Now we are dealing with a \$3 trillion surplus. But that is because the process worked—and in the open. The oldest principle of our Government is openness and responsibility. We have been abandoning both, and the consequences show.

Mr. REID. I say also to my friend, he will remember when we had the debate about uninsured people who had no health care—who needed health care but had no insurance. That was a debate that came early in the Clinton ad-

ministration, and we had a full and complete debate on that issue. It was debated at great length.

At that time, we had 38 million people with no health insurance. Now we have 43 million people with no health insurance. But the fact is, when you are in the majority, you have to take chances, as did the former chairman of the Finance Committee, the senior Senator from New York. You have to take chances. Health care was a good debate for the country. Does the Senator agree?

Mr. MOYNIHAN. I much agree.

Mr. REID. So I hope this debate will allow the majority to give us more opportunities to debate issues. It doesn't hurt to talk at length about issues. It is good for the country to talk about issues. It is good for the body politic. But we should legislate the way the Founding Fathers determined we should, and not have 1,500 bills that are prepared by 8 or 9 people when we have 535 Members of Congress. We have less than two handfuls of people that came up with that bill, and that is wrong. I think we need to change rule XVI, of course. We are going to protest and probably vote against that. But we also need to change rule XXVIII while we are doing it. If we do that, we will have a much more open and better legislative body. Does the Senator agree?

Mr. MOYNIHAN. Well said, sir.

Mr. REID. Mr. President, I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I ask unanimous consent that I may speak as in morning business and that the time I consume be counted against the time on the resolution.

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

THE NATIONAL MISSILE DEFENSE ACT

Mr. COCHRAN. Mr. President, this morning I noticed in the Washington Times newspaper that President Clinton has signed the bill we authored here in the Senate, the National Missile Defense Act. This is very important legislation which the Senate passed after a lot of debate. The House and the Senate then reconciled differences between the House-passed measure and the Senate bill and sent the bill to the President.

The President made a statement in connection with his signing the bill which raises some questions that I thought should be addressed by a comment this morning. After talking about the fact that he is signing the bill to address the growing danger that rogue nations may develop and field long-range missiles capable of delivering weapons of mass destruction against the United States and our allies, he then has this to say in his message. He is referring to the fact that authorization and appropriations measures will

be a part of the process in terms of when and how and to what extent the funding is available for national missile defense.

This interpretation, which is confirmed by the legislative record taken as a whole, is also required to avoid a possible impairment of my constitutional authorities.

The President is suggesting that the bill doesn't mean what it says. I think that has to be brought to the attention of the Senate. The bill is very clear. It provides that it is the policy of the United States, upon enactment of this law, to deploy a national missile defense system as soon as technologically possible. That is unequivocal. It does not say "but if." It is a change in policy of our Government. It has passed both Houses by a large majority, and now the President has signed the statute.

It seems to me the President is trying to reinterpret the bill to justify changing his position on this issue. He signed the bill; he didn't veto it. This is not a veto message. He could have vetoed the bill, if he disagreed with the terms, and given Congress an opportunity to review that veto message and override the veto or sustain it, as the Congress' will dictates.

I point this out to suggest that it is clear we have changed our policy, irrespective of the President's qualms about the new policy, and we now are committed as a nation to deploy a national missile defense system. We will do so in the orderly course of authorization and appropriation bills that we pass, as required. We have an annual appropriations bill funding all of the activities of the Department of Defense. But it is clear that one of those activities will be the continued research, development, and deployment of a national missile defense system.

I think it is very timely to point this out because the Prime Minister of Russia is coming to the United States. There will be talks this week with the President.

I am hopeful, and I urge the President to be honest with the Russian leadership about the need to modify the Anti-Ballistic Missile Treaty because the first part of that treaty says that neither signatory will deploy a missile defense system to protect the territory of its nation. But we have just changed the law of the United States to say that is our intention. We are committed to deploying a missile defense system that will protect the territory of the United States.

So, insofar as that is inconsistent with the Anti-Ballistic Missile Treaty, the treaty needs to be changed, and our President should say that to the Prime Minister of Russia unequivocally—not we "may" change our mind when it comes time to authorize a deployment or to fund a deployment.

The decision has been made to deploy a system, and when technology permits us to deploy an effective missile defense system under the terms of this act, we are going to do it irrespective

of the provisions of that treaty. So we must change the treaty. And we want to assure the Russians that we are not targeting them. We are not trying to create a new era of tension or competition or to make this a more dangerous relationship—just the opposite; we want to be aboveboard, candid, and honest with the Russians.

That is what I hope the President will do as a spokesman for our country.

At this point, I ask unanimous consent that a copy of the statement by the President at his signing of the National Missile Defense Act be printed in the RECORD.

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

WHITE HOUSE BRIEFING ROOM,
OFFICE OF THE PRESS SECRETARY,
The White House, July 23, 1999.

STATEMENT BY THE PRESIDENT

I have signed into law H.R. 4, the "National Missile Defense Act of 1999." My Administration is committed to addressing the growing danger that rogue nations may develop and field long-range missiles capable of delivering weapons of mass destruction against the United States and our allies.

Section 2 of this Act states that it is the policy of the United States to deploy as soon as technologically possible an effective National Missile Defense (NMD) system with funding subject to the annual authorization of appropriations and the annual appropriation of funds for NMD. By specifying that any NMD deployment must be subject to the authorization and appropriations process, the legislation makes clear that no decision on deployment has been made. This interpretation, which is confirmed by the legislative record taken as a whole, is also required to avoid any possible impairment of my constitutional authorities.

Section 3 of that Act states that it is the policy of the United States to seek continued negotiated reductions in Russian nuclear forces. Thus, section 3 puts the Congress on record as continuing to support negotiated reductions in strategic nuclear arms, reaffirming my Administration's position that our missile defense policy must take into account our arms control and nuclear non-proliferation objectives.

Next year, we will, for the first time, determine whether to deploy a limited National Missile Defense, when we review the results of flight tests and other developmental efforts, consider cost estimates, and evaluate the threat. Any NMD system we deploy must be operationally effective, cost-effective, and enhance our security. In making our determination, we will also review progress in achieving our arms control objectives, including negotiating any amendments to the ABM Treaty that may be required to accommodate a possible NMD deployment.

Mr. COCHRAN. Mr. President, further, I ask unanimous consent that a copy of this morning's report contained in the Washington Times written by Bill Gertz describing the issue and the President's actions also be printed in the RECORD.

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

[From the Washington Times, July 26, 1999]

CLINTON SIGNS BILL FOR MISSILE DEFENSE—
SAYS HE'S NOT REQUIRED TO DEPLOY IT

By Bill Gertz

President Clinton has signed into law a bill that says U.S. policy is to deploy a nationwide defense against long-range missiles as soon as the technology is available.

The president signed the legislation Friday but issued a statement saying the law does not obligate him to deploy the national missile defense, remarks that will likely upset congressional Republicans in favor of deployment.

The National Missile Defense (NMD) Act states that it is U.S. policy to deploy "as soon as technologically possible" a system of interceptors, radar and communications gear that can shoot down an incoming long-range missile.

Mr. Clinton said the law on deployment is subject to funding by annual authorization and appropriations for national missile defense.

"By specifying that any [national missile defense] deployment must be subject to the authorization and appropriations process, the legislation makes clear that no decision on deployment has been made," Mr. Clinton said.

"This interpretation, which is confirmed by the legislative record taken as a whole, is also required to avoid any possible impairment of my constitutional authorities."

Mr. Clinton said the legislation also calls for continuing to seek negotiations with Russia on reducing nuclear forces, "reaffirming my administration's position that our missile defense policy must take into account our arms control and nuclear non-proliferation objectives."

The president remains opposed to deploying a missile defense because it will upset arms reductions and negotiations with Moscow. Mr. Clinton has said the 1972 Anti-Ballistic Missile (ABM) treaty is the "cornerstone" of strategic relations with Russia and must be preserved.

The administration announced earlier this year that it would begin talks—not negotiations—with Moscow on changing the ABM treaty to allow deployment.

The issue is expected to come up this week in talks between senior U.S. officials and visiting Russian Prime Minister Sergei Stepashin.

Mr. Stepashin will also discuss beginning a new round of arms reduction talks even though Russia's Duma has failed for several years to ratify the START II strategic arms pact.

The U.S. Senate, which ratified START II in 1996, conditioned its approval on Russian ratification of the treaty and prohibited the United States from cutting its nuclear forces to START II levels until Russia's parliament approves the treaty.

Many Republicans in Congress have said the ABM treaty is outdated and fails to take into account emerging long-range missile threats from China, North Korea and other nations.

A special congressional commission on missile threats stated in a report last year that long-range missile threats to the United States could emerge with little or no warning. The commission, headed by former Defense Secretary Donald Rumsfeld, boosted efforts by missile defense proponents and led to bipartisan support for the Missile Defense Act signed by Mr. Clinton.

Mr. Clinton said in his statement that a decision on whether to deploy a limited national missile defense will be made next year based on flight tests and other developmental efforts, cost estimates and an evaluation of the threat.

"Any NMD system we deploy must be operationally effective, cost-effective, and enhance our security," Mr. Clinton said. "In making our determination, we will also review progress in achieving our arms control objectives including negotiating any amendments to the ABM treaty that may be required to accommodate a possible NMD deployment."

Mr. Clinton and Russian President Boris Yeltsin agreed during a meeting in Germany last month to hold talks this fall on possible changes in the ABM treaty.

White House National Security Adviser Samuel R. Berger told reporters at the time that the administration would make no decision on deploying missile defenses until June 2000. Mr. Berger also indicated that ABM treaty changes might be needed to accommodate a missile defense "if we were to deploy one."

Russia has opposed any changes at the ABM treaty, which states that neither side will build missile defenses that cover their entire national territory.

Russia has a limited, single missile defense site set up around Moscow. The United States has no defense against long-range missiles.

A senior White House official has said that the funding and authorization language of the Missile Defense Act is a loophole that allows that president to avoid having to deploy a national missile defense.

However, Sen. Thad Cochran, Mississippi Republican and chief sponsor of the legislation, has said the legislation is unambiguous.

Mr. Cochran said the administration should be honest about the need for ABM treaty changes.

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

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

RESTORATION OF THE ENFORCEMENT OF RULE XVI—Continued

Mr. REID. Mr. President, we are here today talking about the change in rule XVI. We are also talking about the minority leader's effort to change rule XXVIII.

The minority today wants to talk about how we are being treated like the House of Representatives. In fact, if the majority were consistent and they were going to vote without any question to change rule XVI, they would also vote to change rule XXVIII, which in effect says you can't go outside the scope of the conference as the conference committees have done, especially in the appropriations field.

I am happy to see my friend from North Dakota here, the chairman of the Democratic Policy Committee, who is in effect the educational arm for the minority.

Is the Senator ready to proceed?

Mr. DORGAN. Yes.

Mr. REID. Mr. President, I yield 30 minutes to the Senator from North Dakota.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, the vote that has been called on this issue, I assume, is a vote that will come to the Senate because some are inconvenienced or upset by amendments that have been offered by those on the Democratic side of the aisle. These amendments have dealt with a range of issues we think are very important: Education, health care, agriculture—a whole series of issues we think need to be addressed. Because we have not been able to address them on authorization bills, we have offered amendments on appropriations bills.

As the Presiding Officer and my colleagues know, the precedent stemming back from a vote some while ago in the Senate allows us to do that. That might be inconvenient for the majority because it allows us, then, on an appropriations bill, to offer an amendment and have a debate on the Patients' Bill of Rights, for example. Or it may allow for us to have a debate on the agriculture disaster relief bill. They may not want to do that, but they cannot deny the members of the Democratic minority in the Senate the right to amend an appropriations bill. So the proposal is to change the rules back to where they used to be in order to prevent amendments of the type I have just described from being offered to the appropriations bills.

I thought it would be useful today to just go through a list of bills that describe the way the Senate has been operating in recent years and describe why many of us have felt it necessary to try to add legislation to appropriations bills. Let me just go through a list going back to 1997 and 1998.

The Family Friendly Workplace Act, S. 4. This bill, as it was described on the floor of the Senate, sought to give employees more flexibility with their work hours. Senator PATTY MURRAY sought to propose an amendment to give employees 24 hours a year of current family medical leave so they could take time off to go to school conferences and other things. But cloture was filed so that amendments could be offered. The purpose of the majority was to say: We want to debate S. 4. It is our bill. We want to debate it and we do not want the inconvenience of having amendments that we believe are not appropriate or germane to the bill. So what we want to do is put the bill on the floor and file cloture and prevent the Democrats from offering amendments.

On the Education Savings Act for public and private schools, they had the same approach: Bring the bill out here, file cloture and say: We want to debate this bill. It is our agenda. But we do not want you to be able to offer the amendments you want to offer.

The Federal Vacancies Reform Act, the same thing; Child Custody Protection Act, same thing. If we go through a list of these, we see what has hap-

pened is the majority leader has set himself up, it seems to me, as a kind of House Rules Committee in the Senate, saying I am going to bring a bill to the floor, and I am going to fill the legislative tree, as they call it, and create a mechanism by which no one else can move. It is a legislative straitjacket. No one else will be able to offer amendments.

Then the majority leader has said to us, on occasion: All right, I have a bill. I have filled the tree, come to me with your amendments, and if I approve and think we ought to debate them, I will allow you to debate them; if I don't, I will not.

That is not the way the Senate works. The Senate is a very inconvenient place and not a very effective or efficient place in the way it disposes of legislation. But that happens to be the way George Washington and Thomas Jefferson and Ben Franklin and Mason and Madison anticipated this place should work.

Remember the description about the Senate being the saucer that cools the coffee? They did not intend the Senate to work the way the House works, to have a Rules Committee to mandate that only certain amendments will be allowed, and then there will only be a certain amount of debate allowed, and it will all go very efficiently. That is not the way they intended the Senate to work. Yet that is exactly the way the majority leader has anticipated the Senate should work now for some long while.

If we had this rule in place last year, for example, the Senator from Nevada knows we would not have been able to offer the agriculture relief package we offered and got attached to the agriculture appropriations bill. The first portion of the farm crisis relief package was done in the Senate as an amendment that I and Senator CONRAD offered to the agriculture appropriations bill. It would not be allowed under the rule change that is now being proposed by the majority leader.

So we have a circumstance where the majority has decided that it really wants to debate its agenda. I understand that. If I were on their side, I would want to debate their agenda. They have a right to do that; that is their right. I will vote every day to support their right to do that. But then they say: Not only do we want to debate our agenda, we want to prevent the other side from offering amendments that relate to their agenda.

That is not appropriate. It is not the way the Senate should work. The reason we have had to offer amendments to appropriations bills is because authorization bills have not been passed. When they do come to the floor, the majority leader decides he does not want amendments offered to authorization bills.

Let me give one example, if I might. Does anybody know anything about the Federal Aviation Administration Reauthorization bill? That is an important