

"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 President, I ask unanimous consent that the order for the quorum call be rescinded.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 10 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

bill. It describes how we run the airways in this country—the control towers, the safety of air transportation. Do you know we just passed the other night, by unanimous consent, a 2-month extension of the FAA bill? I will bet there are not 10 Senators who know we passed, by unanimous consent, a 2-month extension. Why did we pass a 2-month extension? Because we should have passed an FAA reauthorization bill in the last Congress and it did not get done because we have a huge fight going on.

MR. REID. Mr. President, I would like to ask the Senator from North Dakota a question. The Senator from North Dakota served in the House of Representatives how many years?

MR. DORGAN. I was in the House of Representatives 12 years.

MR. REID. It is true that it is a very large body, 435 Members. Over the years they have developed certain rules to move legislation because it is a large body?

MR. DORGAN. That is correct.

MR. REID. Every bill that comes to the House floor has a rule placed on it—how long it can be debated, what amendments can be debated. My colleague recalls those days, as do I, being a former House Member?

MR. DORGAN. The Senator from Nevada is absolutely correct about the procedures of the House.

MR. REID. I say to my friend, isn't his memory of how the House operates simply how the majority is now trying to operate the Senate? The leadership in the majority is trying to make it the same, is that not true?

MR. DORGAN. That is exactly what is happening in the Senate, and it causes some heartburn for many people who understand how the Senate has traditionally worked and ought to work. This is not the House. We do not have a Rules Committee which decides what amendments should be offered. I know some want to change this into a body that operates identically to the House of Representatives, but it is not the way the Framers of this Government decided how it should work.

I want to go back for a moment to this issue of the FAA reauthorization bill. It describes our problems. We are not passing authorization bills. They are all hung up with big disputes here and there, and when one does come to the floor, the folks who bring it to the floor fill up the legislative tree and decide they do not want the rest of us to be able to offer amendments. That is a big problem. If the Senate were operating the way it should, I do not think there would be any concern about whether or not you could legislate on an appropriations bill. But because the Senate is not operating the way it should, the Democrats are largely prevented from offering amendments in most cases.

And motions to shut off debate before debate starts, or even before the first amendment is offered, have now become routine. Think of that again. The

filings of motions to shut off debate, even before the first amendment is filed, has become routine in the Senate.

If you went back to that little room in Philadelphia where they wrote this Constitution, I will bet they would be aghast at that. When Mason and Madison and Franklin and George Washington, talked about what kind of a framework they wanted to describe for governance of this country, they created a Senate that was deliberately inefficient. It required things to slow down a bit and that there to be a lengthy public debate about what ought to happen and what is good and what is not good public policy. They did that deliberately.

Now we have all these folks who say we do not want the Senate to be able to consider, for any length of time, these issues. We do not want amendments to be offered; we want this place to be kind of a slam-dunk, highly efficient mirror image of the U.S. House of Representatives. That is not what it ought to be.

I know outside this Chamber this notion of rule changes and rule XVI sounds like a foreign language.

I ask unanimous consent for 2 additional minutes.

THE PRESIDING OFFICER (MR. ROBERTS). Without objection, it is so ordered.

MR. DORGAN. Mr. President, this must sound like a foreign language to people—rule XVI, legislating on appropriations bills, germane. It is not a foreign language. It is about whether folks have the right to stand at these desks and engage in debate and offer amendments.

This desk I am standing at is the desk that was sat in by Robert La Follette, the great, popular Senator from Wisconsin. In fact, I am told on May 29, 1908, they tried to poison Robert La Follette at this very desk. The Senate historian sent me information about that. He had been filibustering and had been on his feet for some 8 hours or so, and he put a glass of eggnog to his lips and spat the eggnog and claimed he had been poisoned. There is a lot of mystery about that circumstance. It was at this desk in 1908 that a great, popular Senator in the middle of a filibuster suffered that indignity.

Having heard that story now and seen the evidence from the Senate historian, I am probably not likely to filibuster anytime soon. At least if I do, I will not do it from this desk.

The point is, back in the old days, the way the Senate used to work, and the not so old days even going back 10, 20, 30 years, the Senate was a deliberative body. Its ability to debate was not choked by someone filing cloture motions before anyone else had the opportunity even to offer an amendment. That is not the way the Senate should work.

The change in rule XVI allowed us to offer legislative amendments on appro-

priations bills. That is necessary only because the Senate is now being operated in a way that, in my judgment, was not intended at all by the framers of the Constitution and certainly was not the way it was run for the first 180 years or so of its existence.

THE PRESIDING OFFICER. The Senator's time has expired.

MR. DORGAN. I yield the floor.

MR. REID. I yield 10 minutes to the Senator from Iowa.

THE PRESIDING OFFICER. The distinguished Senator from Iowa is recognized.

MR. HARKIN. Mr. President, I thank the Senator from Nevada for giving me this time.

I listened with great interest and confusion—I guess a little bit—to what the Senator from North Dakota was saying. He is right on target. I served 10 years in the House of Representatives before I came to the Senate. We were always a little frustrated at that time, I remember, by the Rules Committee because they would set up the rules by which we could debate. We only had 5 minutes in the House. You could speak 5 minutes, and that was it. Once in a while, you were lucky to get consent to speak for 7 or 8 minutes.

We always knew that if the majority party or minority party or interested people could not get an amendment up because of the Rules Committee, it could always be done in the Senate. I cannot think of any time since I came to the Senate in 1975 when an issue we wanted to debate in the House but were prevented from doing so by the action of the Rules Committee was not then later followed up with full debate on the Senate floor.

That is as the framers of our Constitution envisioned. The Senator from North Dakota is right, and the Senator from Nevada is right. With 435 Members in the House, there is no way it could function if it functioned under the same rules as the Senate, so they have to have a Rules Committee. I understand that.

In the Senate, as envisioned by the framers of our Constitution, we are to have open and deliberative debate about the great issues of the day, and it is to be just that, deliberative.

MR. REID. Will my friend yield for a question?

MR. HARKIN. I am delighted to yield to the Senator.

MR. REID. I reminded my friend from Iowa just the other day of one of the first legislative sessions I attended while in the Senate. The Senator from Iowa came to the Senate a couple years prior to this Senator. It was 2:30 in the morning. We were debating an issue, and the Senator from Iowa felt very strongly about aid to the contras in Central America. Even though it was inconvenient, even though it was 2:30 in the morning, and even though most of us wished the Senator had not offered an amendment, the Senator from Iowa had the right at 2:30 in the morning to offer an amendment on a bill

that was before the Senate. There were no rules on that bill, and the Senator offered an amendment on aid to the contras because the Senator from Iowa felt strongly about that and he had a right to offer it. Does the Senator remember that?

Mr. HARKIN. I do remember that, I tell the Senator. I remember it very well, as a matter of fact.

Mr. REID. Mr. President, I say to my friend, we are a better country, no matter how one felt about aid to the contras—I happened to agree with my friend from Iowa—for having been able to debate that issue in the light of day.

Mr. HARKIN. I say to the Senator, he is absolutely right. I remember that time. I remember some of the great debates we had. I say to my friend from Nevada, when I came to the Senate, the Republicans were in charge, and then the Democrats were in charge, and then it went back to the Republicans again. In all those years—first it was under Senator Dole, then Senator BYRD, Senator Mitchell, Senator Dole again—in all that time, we had free and open debate in the Senate. Once in a while, the majority would try to skirt it a little bit, but that was used very rarely. The general rule in the Senate was that we had authorizing bills, we offered our amendments, and we debated them fully. Sometimes they lasted until 2:30 or 3 in the morning—not often, but once in a while when it was an important issue of the day, when those who felt strongly about those issues thought it needed a full airing.

I do not remember at any time during that period that anything got held up, that this body came to a screeching, grinding halt. We had our say. We had good deliberations. That is gone now. We do not have that any longer. We do not have a free-flowing debate in the Senate any longer. A person gets up, gives a speech, and leaves the floor. Why? Because the way things are being structured now does not really allow for the free-flowing, deliberative debate we have had in the past.

When we changed rule XVI in 1995, when the then-new Republican majority voted to change rule XVI, I was opposed to that. I thought we should continue to operate as we had been operating. But since 1995, what has happened is, under the new leadership in the Senate, we have a structure that does not allow for that kind of debate and deliberation on authorizing bills. It has been common now for the majority to take the position that we do not have any regular debate on controversial subjects. We are not allowed the orderly amendment process to be considered in the Senate.

We are all products of our backgrounds, our upbringing, what we learned earlier in life. I know the distinguished majority leader—who is a fine man, and I have the greatest amount of respect for him—in his tenure in the House served on the Rules Committee. I am openly wondering

whether or not the Senate majority leader's tenure on the House Rules Committee is somehow affecting his leadership in the Senate. Is the Senate majority leader trying to run the Senate the way the House Rules Committee runs the House? It seems to me that is what is happening, moving the Senate toward House procedures.

The pattern has become clear. The Republican leader decides on a particular measure; they move to consider it in a process where no amendments can be offered or only a limited number of predetermined amendments may be offered.

Again, the argument of limited time is often suggested as a reason—we do not have all this time—but that is clearly a veil that hides nothing.

Several days are spent working out the details of what may be allowed instead of proceeding to the bill and allowing us to debate.

How many days, I ask my friend from Nevada, have we spent on the floor with nobody here, quorum call after quorum call, simply because the majority leader does not want to have a measure on the floor to which we can add our amendments and openly debate them?

The reason given is that, well, it will take too much time if Senator HARKIN or Senator REID or Senator JOHNSON or Senator DORGAN get up and start offering their amendments and debate them. Yet we spend the entire week in quorum calls while they try to work out the details of some agreement on how to proceed.

The Patients' Bill of Rights is a great example. We passed that in our committee, the committee on which I serve, last spring. We wanted to bring it out on the floor for debate. The majority leader would not allow it: Oh, it would take too much time, don't you see.

What were we forced to do? We were forced to offer it on the agriculture appropriations bill. It should not have been there. We should have had open and free debate. That brought the agriculture bill to a standstill.

Then they tried to work out how we were going to do this. Finally, there was a unanimous consent agreement that established a very tight rule, similar to the House Rules Committee, in order for us to bring up the Patients' Bill of Rights. Why didn't we bring it up in the first place a month or two ago and debate it in the orderly process and be done with it?

Another example is the proposed lockbox, a procedure under which surpluses could be blocked from being spent year to year. There are a variety of ways this could have been accomplished. There are a lot of different views on this lockbox and how we are going to proceed on it. But look what has happened. Not once, not twice, but three times the majority leader moved to invoke cloture to block any amendments from being offered to lockbox—three times to shut off any amend-

ments. So we still do not have the measure before us. Yet time is consumed, time is wasted around here. More time is wasted in the Senate than any place I have ever seen. We still have not brought up the lockbox. We could have brought it up a month ago and debated it.

Mr. REID. Would the Senator yield for a question?

Mr. HARKIN. Yes.

Mr. REID. It is my understanding that the cloture provision in our rules was set up to stop endless debate; is that right?

Mr. HARKIN. Yes. I say to the Senator, it was to stop endless debate.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. REID. I yield 5 additional minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator has an additional 5 minutes.

Mr. REID. I say to my friend from Iowa, the lockbox is used as an illustration. There has not been a single word of debate on that, has there been?

Mr. HARKIN. Not one word of debate.

Mr. REID. Why would you want to file cloture when there is no talk, no conversation on anything relating to it?

Mr. HARKIN. That is what I do not understand. The Senator makes my point. The majority leader is trying to run the Senate like the Rules Committee, saying: We are bringing it up, but we don't want your amendments, we don't want you to discuss this.

The Senate must be an open body. Placing authorizing measures on appropriations bills is an imperfect but, under the way the Senate is running now, a necessary method of bringing matters to the consideration of the Senate.

In light of the actions by the Republican leader to cut off our debate and our ability to have open deliberation, we have been forced to use the appropriations bills as a method of doing that.

These issues should be discussed seriously. I do not know that we need to change our rules so much around here as we need to show a greater willingness to be open, to allow for the smooth flow of ideas and amendments on the floor, rather than gagging Senators, preventing them from offering timely amendments.

I must say, if we do not move toward some accommodation on this, parliamentary procedures will be used to deteriorate the ability of the Senate to function. The restoration of rule XVI will restrict our options on the minority side. But I cannot believe—and I say this to my friend from Nevada; I say this to the occupant of the Chair—I cannot believe that any serious student of parliamentary procedure believes that rule XVI will effectively block Senators from eventually getting votes on desired matters. It will happen, but it is going to take a terrible toll on this place.

We should be debating issues such as the minimum wage and fair pay. The

other day I saw a figure that said, if you took the CEOs of the Fortune 500 companies, the CEO pay in 1960 and the minimum wage in 1960, and you brought them forward to 1999, if the minimum wage had gone up at the same rate as CEO pay, the minimum wage today would be \$40 an hour.

I would like to debate that on the floor. I would like to debate the necessity and the need to raise the minimum wage. Mr. President, \$10,700 a year, that is what it is right now for people trying to raise their families. We need a full deliberation on this. It is an important issue. Yet we are choked off and gagged from even doing so.

I can assure the majority that this can only escalate. The reimposition of rule XVI will invite the use of alternative, more disruptive parliamentary methods in order for the minority to raise these important issues for the benefit of the American people. Furthermore, I believe that this, then, will cause further erosion of the good will of this body in the smooth consideration of legislation.

We had 48 cloture votes in the last Congress. We have already had 17 this session. As the Senator from Nevada said, it is laid down immediately, not after we have debated it for some time; and the majority, exercising its right to bring debate to a close, files cloture. No. It is done right in the beginning before one amendment is offered, before one word is even uttered on the issue before us.

So I say to the majority, do not escalate, because one escalation leads to another. The reimposition of rule XVI will lead to some other action taken on this side for the minority to exercise its rights. Then there will be another escalation on the other side, and then in the end the Senate will be the loser, our Government will be the loser, and the American people will lose.

Let us not overturn the 1995 precedent on rule XVI. Let us, instead, have a substantive series of discussions to work out the necessary adjustments to the way we operate so that we can, once again, as we had until recent times, have open and fair deliberation of the major issues before this body.

I thank the Senator for yielding me time.

Mr. REID. Mr. President, I appreciate the Senator from Iowa for his statement.

I now yield 10 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The distinguished Senator from South Dakota is recognized.

Mr. JOHNSON. Mr. President, I thank my colleague from Nevada. I associate myself with the remarks of my friend and colleague from Iowa, Senator HARKIN, on this issue.

Today the Senate is considering the reinstatement of rule XVI, the Senate rule preventing authorizing legislation from being included on appropriations bills.

The reason the Senate is forced today to consider the reinstatement of rule

XVI is because the Republican majority overturned the ruling of the Chair in 1995. Prior to 1995, it always was the rule that no authorizing language could be added to an appropriations bill.

Having had several years of experience under this new regime, the majority comes back with a proposal now to go back to that old rule, whereby authorizing language may not be added to an appropriations bill. If debate were being brought forward on the floor of the Senate in the way that it had over most of the history of this institution, I do not think there would be very much resistance to going back to rule XVI.

But what needs to be pointed out is the context we find ourselves in post-1995, the way in which, frankly, the current majority party seems to be bringing legislation to the floor, and the fact that this process has changed radically, and for the worse, not only for the minority party but for the American people.

If debate on amendments were brought forward in a fair fashion, with the majority party and the minority party being allowed to bring amendments and legislation to the floor, to have a reasonable discussion of those issues—whether it be about HMO managed care reform, whether it be about campaign finance reform, whether it be about minimum wage, whether it be about farm disaster legislation—regardless of what it might be, I do not think there would be any opposition to bringing those amendments up outside the context of an appropriations bill.

In recent years, it has become common practice, in fact the usual practice, for authorizing legislation, when it is brought to the floor of the Senate, to be brought with what amounts to a gag order on the minority party. By a gag order, I mean legislation is frequently now brought to the floor by our majority leader with the amendment tree filled, meaning that no minority amendments are permitted whatsoever to authorizing legislation, allowing for no additional amendments to be offered. Then cloture is filed before there is any debate on anything relative to the amendments the minority party ordinarily is allowed to bring.

What does the majority fear? Why is there this concern? Is it really a matter of saving time? As my colleague from Iowa has noted, we go days at a time around this place with no constructive legislative progress being made on the floor of the Senate, with a quorum call in progress, with no one here. Is it really to save time or is it, in fact, a concern on the part of the majority that the American people should not be allowed to share the discussion and debate on the floor about key issues that ought to be before the American public, about where this country ought to be going relative to its domestic and international agendas. Is there a gag rule for some reason other than saving time? One would

have to conclude that, yes, that is the case; that apparently the majority finds it embarrassing to have Members of this body discussing an agenda that is not being addressed by the Senate.

All of this really amounts to the minority party being shut out of the process, being denied the right to amend legislation when that legislation comes to the floor.

An example, Mr. President, is when legislation to create a so-called lockbox for the Social Security trust fund was brought to the floor on several occasions earlier this year. Grossly inadequate lockbox legislation was being brought to the floor. It belied what most people would think of when they think of a lockbox. But there was no opportunity for amendments to be offered or even considered.

The minority party understands it is the minority party. It may lose a vote on a proposed amendment. But that party ought to be allowed the opportunity to point out the deficiencies of legislation and to have a fair up-or-down vote. There are times when Democrats will vote with Republicans, and Republicans will vote with Democrats. That is the way the process ought to work. Yet that opportunity is being denied this body.

The question for all of us to consider, again, is, What is the majority afraid of? Do they not believe Senators in the minority have the right to offer amendments, or that any Senator in the majority might from time to time vote with the minority? It is a sad commentary about the bipartisan politics of this body if that, indeed, is the case.

I had the honor of serving in the other Chamber for a number of years. Over there, where they have 435 Representatives, there is a Rules Committee that decides which amendments will be considered and when, and how that legislation is brought to the floor. In the other body, that process is sometimes abused but probably is necessary, given the sheer size of the body. The possibility of 435 Members offering multiple amendments obviously boggles the mind and could, indeed, slow down the process.

But one of the great strengths of the Senate has been, because of our smaller size and the historic collegiality that has existed most of the time in this body, we don't have that kind of Rules Committee, that kind of power. Here we bring these issues to the floor for an open and fair and balanced debate; obviously, with the majority and the minority dividing the time and proceeding with debate in an orderly, constructive fashion but with an opportunity to address the key issues facing the Nation, whether brought by the majority or brought by the minority, to have that discussion. Unfortunately, the current majority—and this is out of precedent going back throughout the history of our country—wants to deny Senators in the minority a chance to offer the amendments they believe need to be offered.

I think there would be few Senators on the part of the minority who would object to reaching bipartisan agreements on the amount of time to be spent on particular legislation or the number of amendments to be offered. It is very common that these agreements about numbers of amendments and time agreements are reached in a bipartisan fashion so that we can continue to proceed in an orderly fashion so that there is no real risk of debate on these issues somehow clogging up the process and denying the ability of the Senate to move forward with its agenda. This is not a tradeoff between orderly development of legislative issues and the opportunity for the minority to bring up amendments and discuss them in a reasonable manner.

I think it is important for everyone who is following this debate, then, to keep these circumstances in mind, to fully understand what the restoration of rule XVI really is all about. It is not about orderly progress of legislation. It is not about saving time. It is about trying to gag the minority party with no opportunity to bring up legislation which the majority party is ignoring. It is a means of preventing the minority party from pointing out the deficiencies and inadequacies, as they see it, of legislation being offered by the majority. It is the majority party's effort to see to it that their own Members don't cross the aisle to vote with the minority party on selected pieces of legislation and to save themselves from that apparent embarrassment.

I point out another important issue that must be discussed again in this context. That is Senator DASCHLE's amendment to reinstate the scope of conference point of order.

The PRESIDING OFFICER. The time requested by the distinguished Senator has expired.

Mr. JOHNSON. May I have 1 additional minute?

The PRESIDING OFFICER. The Senator is recognized.

Mr. JOHNSON. Prior to 1996, a point of order could be brought in conference committee against an amendment that had not been offered and debated in either the House or the Senate but was included in one of their versions of the bill. The majority is also overturning that rule, meaning they have the opportunity, then, to deny minority amendments on the floor of the Senate, but then, when they are in conference committee behind closed doors, with no media, no press, the majority party can amend legislation any way they wish, without regard to action of the House or the Senate on the floor.

I hope in the context of all of this the Senate will remain consistent with precedent in supporting Senator DASCHLE's effort to make sure there is some continuity of action in those conference committees. This is particularly important in light of the changes being proposed on rule XVI.

I yield back such time as I have to the Senator from Nevada.

Mr. REID. Mr. President, I say to my friend from South Dakota, I very much appreciate his statement. I also say that the people in South Dakota are very fortunate that South Dakota doesn't have a lot of people but, through Senators DASCHLE and JOHNSON, has great power in the Senate. I appreciate very much the Senator's remarks.

I now yield 10 minutes to the Senator from California, Mrs. BARBARA BOXER.

The PRESIDING OFFICER. The Senator from California is recognized for 10 minutes.

Mrs. BOXER. Thank you very much, Mr. President. I thank Senator REID, our distinguished minority whip, who has done such a fine job on so many issues.

Mr. President, I say to the public who may be watching this debate, it may sound a little arcane, but we are debating the rules of the Senate. They will hear about rule XVI, they will hear about rule XXVIII, and they will say: What does this have to do with us? What does this have to do with my daily life as an American citizen?

Let me tell you, it has everything to do with the daily lives of the American people because this debate is about the power to bring issues to the American people by way of the Senate. It is about who has the right to bring issues to this floor for debate—issues that really matter to people, issues that relate to their jobs, issues that relate to their health care, issues that relate to their kids' education, issues that relate to how much congestion there is on a freeway or at an airport. So the power to bring up issues on the floor of the Senate is, in essence, the ability for all of us as Senators to make a difference in the lives of the American people.

If you were to ask me who has the right to bring issues to the Senate floor, my answer would be every single Senator, be they Republican, Democrat, or Independent. I think it is a very sad day today because, very clearly, the way this place has been running there is an attempt to shut down all but the Republican Senators. Because the Republican Senators control these appropriations bills in the committee, they will be able to load them up with all kinds of legislation. But once those bills get to the floor, there will be no way for Democratic Senators or Independent Senators to add their voices to that legislation.

There was a time in the Senate when things weren't like this. Perhaps they were the golden days of the Senate. When I first got here, we worked well—the Democrats did—with the Republicans. In those days, the Democrats were in charge. We worked well together. We weren't afraid to take the tough votes. We had full debate. Authorization bills were brought to the floor of the Senate. There was open debate.

Now we have a majority leader whom I like very much. Notwithstanding that, every chance he gets, his goal is

to shut down the debate, to not allow a full debate. If he were in a position to open up the debate on authorizing bills, I say to the distinguished whip, we would not be here today fighting against reinstating rule XVI.

I want to take a look at how we actually got to this point. Rule XVI of the Senate rules prohibits amending appropriations bills. In other words, the rationale—which is a very good rationale—is that appropriations bills are merely bills that decide how much we spend on a particular item, and therefore they should be immune from the larger debate about underlying law and changes in underlying law. I always thought that was a good rule. We had it in place, as I say, when I got here.

Then, in 1995, the Republicans changed the rule. It came about because a Republican Senator wanted to stop the Endangered Species Act in its tracks and she wanted to attach an environmental rider to an appropriations bill. She needed very much to change rule XVI in order to win her point.

I remember being very upset at that time for two reasons. No. 1, I thought it was really bad to change rule XVI because I thought we had fair and open debate. Secondly, I thought, here is a major policy change, a major change in the law, without going through the authorizing committees, no hearings, no witnesses, no real debate in the committee.

The Endangered Species Act has been a great act. Is it perfect? No. But it saved the California condor and the bald eagle. Yet we have a Senator wanting to throw the whole thing out, essentially, and stop all the new listings because she didn't like it. In order to do that, her colleagues accommodated her and they went back to allowing legislation on appropriations; 54 Republicans voted with her at the time.

Now, after several years of seeing some of us move our legislation, such as the Patients' Bill of Rights, campaign finance reform, taking a page out of the book of the Senator from Texas, they suddenly say in the middle of the Congress that they have changed their minds. I know why they have changed their minds. They have figured out how to run this place similar to the House of Representatives, as my friend, Senator REID, pointed out.

I served in the House of Representatives for 10 years. That place runs very differently from the Senate. They shut you down. They shut down debate. How many times have you seen House Members try to deliver a whole speech in 30 seconds or a minute? I know because I learned to do it over there. The fact is that there are time constraints over there. There are so many people over there. The Senate is a different place.

Let me put it in a different way. This used to be a different place. I say to my friend—and then I will yield to him—when I was a little girl, my father used to tell me, years before I would even dream that I would even be in politics,

because in those days women were not in politics: Honey, I want you to watch the U.S. Senate because that is where they really debate everything. The people who are there serve for 6 years. They are not afraid to take a tough stand, and they are not afraid of issues. They are willing to debate them; they are courageous; you hear all the different views. It is the greatest deliberative body in the world.

Mr. REID. Will the Senator yield for a question?

Mrs. BOXER. I am happy to yield.

Mr. REID. It is my understanding that the State of California has about the seventh largest economy in the world. Is that true?

Mrs. BOXER. That is correct.

Mr. REID. Is it true that the Senator from California represents over 30 million people?

Mrs. BOXER. About 33 million people.

Mr. REID. I come from the neighboring State of Nevada, which has about 2 million people. We have a lot of things we would like to be talking about. The Senator talked about environmental issues. Our States share beautiful Lake Tahoe. There are environmental issues we need to be talking about that would protect that beautiful gem we share. We need to talk about minimum wage, fair wages, and the fact that women who work comparable jobs should make the same amount of money as men. We need to talk about campaign finance reform. I am sure, representing 33 million people, the Senator believes—and we came to the House of Representatives together in 1982—that we in the Senate should act and be treated as Senators, not as Members of the House of Representatives. There is nothing wrong with Members of the House of Representatives, but that is a large body and they need different rules than we do; is that not true?

Mrs. BOXER. My friend is exactly right. We did serve together in the House of Representatives, and it was a thrill to be there for 10 years. But there are differences between the two bodies. One of them certainly is the breadth and depth of the debate that goes on in the Senate as compared to the House. It is a different institution.

I think it is, in fact, a sad time. What happens when a piece of authorizing legislation comes before the Senate? We have the majority leader blocking our attempts to amend those pieces of legislation. My friend is right.

When I ran for reelection in the Senate in 1998, there were many differences between my opponent and me. It was a very hotly contested race. We talked about health care, campaign finance reform, protecting children from toxic waste; We talked about raising the minimum wage; We talked about more teachers in the classrooms. We talked about fixing school infrastructure because we have schools, I say to my friend, that are falling down because they are so old; We talked about the

importance of afterschool programs, preschool, cops on the beat, sensible gun laws, and ending violence at women's clinics. These were issues of great importance.

I told my constituents: Look, I don't know if we are going to win on all these issues because it could be that when I get back to the Senate, the other party will be in control and they are not for raising the minimum wage; they are not for campaign finance reform; they are not for afterschool programs, and a lot of these things. But I promise you one thing: I am going to put up a fight. We are going to have those debates.

So the point is, I say to my colleagues who may be listening today, it seems very strange that when a party is in control and they have a good number more seats than we do, they should not be so insecure that they don't even allow us to offer amendments to authorizing legislation; now they have decided to shut us down on appropriations bills when they are the ones who fought for that right themselves.

This is not an arcane debate. This is a very important debate. I think you have to put all of this in the context of how the minority party has been treated. I love this institution. I agree that we shouldn't legislate on appropriations bills. But I say that with a caveat—if we are treated fairly on all the other legislative vehicles; if we are allowed to offer amendments without having the majority fill up the so-called amendment tree and block us out; if we can have bills brought to this floor.

The Senator from North Dakota brought up a very important point. Because the majority leader wasn't ready to bring up the FAA reauthorization act, we did a 2-month extension. I wonder why. Can it be that he doesn't want to bring a piece of authorizing legislation to the floor because then he couldn't stop us that easily from bringing up our issues?

I don't know the answer to that. But I do know that I am going to join with a vast majority of Democrats to fight for the kind of Senate my dad talked to me about when I was a little girl, the kind of Senate where, regardless of political party, every single Senator has a right to bring an issue important to his or her State to the floor of this Senate. I think that is the least we could do.

I say to my distinguished whip, who does such a fine job in leading us on this side, that I really appreciate the fact that he is leading this particular effort. I think the issue of rule XXVIII is important because if we are going to shut down our ability to amend bills on the floor, we ought to shut down the ability of the majority to add anything they want in the conference that may not have passed either House. I don't know how that can be considered democratic.

Arcane though this debate might be, I say to the American people who may

be focusing in on this debate, it is very important to you. If you want your Senator, regardless of party, to be able to come to the floor of the Senate and bring up issues that are important to you, then you ought to work to make sure that this Senate is open and is fair.

Thank you very much. Mr. President, I thank the distinguished whip.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I assume we are having time to discuss the Senate resolution on rule XVI.

The PRESIDING OFFICER. The Senator is correct. The majority has 168 minutes 18 seconds. The minority has 93 minutes 31 seconds.

Mr. THOMAS. Thank you very much, Mr. President.

I wanted to talk about this issue because I feel very strongly about it. I have not been able to hear everything this morning, but it seems we have turned this into a little fairness technique which I have a little trouble understanding.

What we are talking about is whether or not you put authorizing legislation on appropriations bills. It seems to have been turned into kind of a contest of who is being treated fairly. I don't quite understand that, frankly.

There has been a lot of talk about the House. I served in the House. This is a different place. We have different rules—no question about that. We should have, and we will continue to have different rules.

Since I have been here, I think this leader has been very fair in operating to give everyone a chance to speak, as should be the case. On the other side of the coin, we haven't heard much about the fact that these appropriations bills are amended with things that have nothing to do with them, and we lose track of where we are going on these appropriations bills.

I think there is some responsibility on the part of the minority to feel that we need to accomplish something in this place other than simply introducing amendments that have nothing to do with the bill that is being considered. As you can see, I feel fairly strongly about that.

One of the things which I think is important is to separate the idea of authorizing committees from appropriations. That is why we have an Energy Committee; that is why we have an Armed Services Committee; that is why we have an Agriculture Committee—to talk about the policy in those particular areas, and to determine what the authorizations are going to be and what the role of Government is going to be. Then we follow with the appropriations bills, which also, by the way, have a great deal of power because, obviously, you can't do a great deal in terms of policy unless there are some funds with which to do it.

But when you do it the other way, as the minority apparently is urging, then

you avoid hearings and you avoid having any real discussion in committees on the issue. They apparently want to just come to the floor with the issue having had no background at all. I am afraid I don't understand that. It seems to me to be a little naive to suggest that we have rules of that type.

I wanted to talk a little bit about it.

Mr. REID. Mr. President, will the Senator yield for a question?

Mr. THOMAS. No. I will continue a little bit, and then I will be happy to answer the question when I am finished.

I think we ought to emphasize this idea of authorizations. I was happy to be on the appropriations committee when I was in the Wyoming State legislature. So I have had some experience with that.

The idea that you just simply ignore the authorizing committees and begin to do everything on appropriations is wrong, absolutely wrong.

How we got here I am not sure. The minority whip has been here longer than I and I suspect remembers when Democrats were in charge. But I think maybe he has forgotten a little bit about the way it operated then. As I understand it, when the Senator from Maine was in charge, it operated very much the same way. I am not suggesting that should be the case, nor am I suggesting it is. It seems to me that there have been real efforts to be as fair as we can be, and that should be. We need to do that.

In addition to having the opportunity to put everything on the floor, which I agree with, there is also a responsibility on the part of all of us to accomplish some things.

My recollection is that during the last number of months amendments that have come from the other side of the aisle have generally been to stop anything from happening. There are a good deal of examples of that. Frankly, that is very frustrating for me—to bring up something and then the bill has to be withdrawn from the floor because we have lost completely the direction of things.

What is this debate about? It is very simple. It simply says that in the precedence of the Senate, unless an amendment has to do with the same subject as does the appropriations bill, it is not allowed on the bill. You can make a point of order. And there has to be a majority vote to follow it up. That is pretty simple. I think it is fairly reasonable. If you are going to come in through the appropriations bill and put an appropriations amendment on it, you can have a point of order, have a vote on it, and, if it isn't appropriate, it isn't used. I don't find much of a problem with that.

I think we ought to get to the topic and talk about what it is we are doing rather than going through all of these gyrations of fairness, and so on, in terms of getting on the floor. If that is a problem, if that is a real problem, then we have to resolve that problem.

This is not the way to resolve that problem.

We have some things that we have to do. We have to accomplish things right now. What do we have, 13 appropriations bills with which we have to deal? I think we have dealt with about seven. There are a number of examples of how nongermane issues have been raised and have been withdrawn. We have to withdraw the topic from the appropriations bill.

What we are doing is seeking to overturn the ruling of the Chair with respect to legislation on appropriations bills.

If the minority whip would like to make a comment, or ask a question, I would be more than happy to respond.

Mr. REID. Mr. President, I appreciate my friend yielding.

Rule XVI was changed by virtue of the majority voting to change it.

I ask my friend this question: The minority leader has filed an amendment to change rule XXVIII. Rule XVI would say that there would be no legislation on appropriations bills. Rule XXVIII goes one step further and says: Fine. If we are not going to legislate on appropriations bills, then a conference committee should only be able to take up matters in the bill that they are conferring and that has within it confined limits. Will the Senator comment on whether or not he believes, if we are going to change rule XVI, we should also change rule XXVIII which would mean that a conference committee cannot do things outside the scope of the two bills they are dealing with?

Mr. THOMAS. I can answer that very quickly. Yes, I agree with that. I think it is the same concept as coming to the floor with an amendment on an issue that has never been discussed, has never been authorized. To do that in the conference committee, I believe, is equally wrong.

Mr. REID. I appreciate that very much. We had here the senior Senator from New York who went on at some length, as only he can do, using an example of that huge bill last fall which the Senator and I came back to vote on—I came back from Nevada and he came back from Wyoming—that we had not even seen. I think we would be hard-pressed to say we could lift it, much less to have read it. Yet a few people in the conference committee, together with the White House, drew this bill. If we were working under the confines of rule XXVIII, that would not be possible. I appreciate very much the comments of the Senator from Wyoming, acknowledging that would also be a good idea.

Mr. THOMAS. I do think so. I do think it is the same concept there. What we want to avoid, in many ways, is putting more authority into this Appropriations Committee. It is a very important committee. I recognize that. But it ought not be the center of all of our activity, and it can be if we are not careful. So I think there is a balance in

both these areas. I support both the propositions that are here, and I hope we have some action that will put them into place.

Mr. REID. If the Senator will yield just for another comment, I serve on the Appropriations Committee. I am very fortunate; I have been able to do that since I have been in the Senate. But, having said that, I think we need to get a process where we are doing more legislating on authorizing legislation than what we are doing. Almost all of our attention is now focused on the 13 appropriations bills, and we have kind of lost track of the fact that we should be legislators on things other than appropriations bills.

Mr. THOMAS. I have listened just a little bit to the Senator and his associates, and I have the feeling you are not for changing the rules?

Mr. REID. I say to my friend from Wyoming, I think he is going to find a protest vote, saying we want a more open debate. We are going to support the change in rule XXVIII, and we are confident rule XVI will be changed if rule XXVIII were changed in addition to that. The minority leader is offering that as an amendment. I think it would be a pretty good day for the country.

But the conversations today on this side of the aisle, I say to my friend from Wyoming, have been to the effect we need to do more legislating. An example of the lockbox has been used. That is a very important concept, that we should lock away enough money from the surpluses to protect our Social Security system. But we would like to talk about that a little bit. Not talk forever; no one wants to filibuster that. That is something we believe in, too. But we may not believe in it exactly the way the majority has presented it to us. We have had three cloture motions filed on that particular bill and we have not been able to say a single word about it. That is what we are complaining about.

Mr. THOMAS. I understand that. I think it was five, but as a sponsor of the lockbox, I am very much for it. But in this instance it just seems to me that is what I am talking about, simply blocking it. There has been much opportunity to talk about lockbox. You can talk about it whenever you choose.

I guess the reason the Senator voted against cloture is because he wanted an opportunity to amend.

Mr. REID. That is right.

Mr. THOMAS. I do not think anyone could argue against the need for a fair process. But I think to talk about all those things with respect to rule XVI is inappropriate. I think we very much need this. I urge the Senator's support.

I thank my colleague.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. I ask unanimous consent a quorum call be initiated and the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative assistant 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.

Mr. REID. Mr. President, I see in the Chamber the distinguished Senator from West Virginia, JAY ROCKEFELLER. I yield 10 minutes to the Senator.

The PRESIDING OFFICER. The distinguished Senator from West Virginia is recognized for 10 minutes.

Mr. ROCKEFELLER. I thank the Presiding Officer, as well as I thank my esteemed friend from Nevada.

Mr. President, I came a bit earlier than was anticipated. I look forward to expressing what are some strongly held views on my part.

In a formal sense, I rise today to object to the reinstatement of Senate rule XVI. That is my purpose in being here. Up until 1995, it prohibited legislating on appropriations bills. That is the reason I formally rise.

The Republican majority, in fact, is responsible for overturning the rule which was designed to keep legislative matters unrelated to appropriations bills from bogging down the appropriations process. The Republicans themselves were responsible for overturning the longstanding Senate precedent by rejecting the ruling of the Chair, something that was given little notice and was little commented upon but is now of increasing monumental proportions.

I cannot support returning to the previous order because I respect the Senate. It seems to me anybody who has a sense of what the Senate was designed for and what the Senate is, what the Senate should be, what the American people expect the Senate to be, will vote as I will vote because to do otherwise is to diminish this body, which I think has been diminished substantially in the last 5 or 6 years in any event, in terms of its impact on American debate, its impact on discussion, its impact on the intellectual activity of the Senate, and, in fact, its impact on American society as a whole.

I happen to represent steelworkers, farmers, airport managers, veterans, rural people, patients, doctors, nurses, just as the Presiding Officer does. This Senator may have a few more steelworkers in his State than the Senator from Kansas does in his State; otherwise, we represent more or less the same people. I do not think these people ought to have their business pushed aside, their concerns, their worries, what they care about pushed aside in order to make the Senate's bill or the Senate's way of working more manageable, more efficient, more to the liking of the leadership, more House-like, more limiting, less substantial, less interesting, less of scope, less of dignity, less of the power of the tradition of the Senate.

(Mr. THOMAS assumed the Chair.)

Mr. ROCKEFELLER. I believe the majority is interested in controlling

debate. I have wanted to say this a long time, and I have not found the place to do it properly, but I find so today. I believe the majority—not the Presiding Officer who has changed since I began my remarks, who is an entirely different kind of person—the people who run the majority, who speak for the majority, who lead the Senate on behalf of the majority, are interested in controlling debate, minimizing debate in making the Senate more like the House from whence they came and in trivializing the Senate. Those are harsh words, but they come from a disturbed and unhappy Senator—not disturbed in a psychological sense, I point out to the Presiding Officer, but disturbed in the sense of not feeling good about the work I am able to do as opposed to the way it used to be a number of years ago when I first came to the Senate.

I wish I could tell my colleagues I believe the Senate is functioning in a way that means legislative business can occur on authorizing legislation, but I cannot. I wish the Senate would return to a more efficient appropriations process that does not deal with extraneous legislative matters, but under the Senate's current leadership, Members of the majority party have effectively gagged—there is no other word for it—the minority from raising policy matters on the Senate floor.

Every Tuesday, members of both parties have caucuses. Those caucuses, in the case of the Democrats, used to deal broadly with issues and with functions and divisions of responsibility and debate within the caucus. Now, for the most part, they are taken up with, how can we make ourselves heard? How is it that we can, by some manipulation or clever method, try to work our way through a loophole which allows us to bring up an amendment, to speak on behalf of our constituencies?

In every single caucus there is a question of how the majority is diminishing the minority, not in a way which would just be satisfying in the sense of a Republican making a Democrat feel less important or making a Democrat's role less important in the Senate, but in the sense of diminishing honest and open and real debate.

That is what I came to the Senate for in 1985—honest and real debate. I did not expect to win everything. I did not expect to lose everything. But I did expect to be able to debate, to be able to make my views known, as one can in a committee. All committees are run relatively fairly. The Finance Committee, the Commerce Committee, which I sit on, are run fairly by their majority leadership. This place is not; the floor of the Senate is not. We are gagged, as in the Patients' Bill of Rights doctors were gagged. We are not allowed to express our views.

I resent that enormously, I say to the Presiding Officer. It takes a lot away from being a Senator. I know no longer the greatness of the difference between being a Member of the House and being

a Member of the Senate. There is, of course, a difference. I stand here and speak, and I speak as I choose to speak, and nobody is stopping me, but that is because we have this arrangement for this day. For most of the rest of the time, morning business has been closed off—or had been—quorum calls were not honored, to be able to interrupt them, as this one was honored. It is a different body. It is a distressing situation. All of us, on both sides, all 100 of us, are diminished by the way this Senate is run.

Let me give an example of a piece of legislation, and it is not even the first one on the minds of most, but it is a big one in terms of this Senator: This legislative body's failure with respect to the FAA and the airport improvement reauthorization bill, which is, on the fourth time in less than a year, on the brink of expiring.

Last fall we threw a 6-month extension into the omnibus appropriations bill. When that expired on March 31, we did a 2-month extension—embarrassing—until May 31; then a 65-day extension—embarrassing—through August 6. And now we are close to August 6, and we may have to—and probably will—have to do yet another extension. All of these short-term extensions may make us feel better temporarily, but they are not solutions. They do not obviate the need to take up and debate and pass an authorization bill.

But we cannot debate it. We cannot debate anything on this floor except what it is the majority wants to debate. Then they fill up every tree, preclude every amendment, and we are all diminished, and the public process is diminished at the same time.

So in the current Senate environment, which I deplore, regret—I like the people who lead the Senate on the majority side, but I do not respect the way they lead this Senate. I think all of us suffer from the way they lead this Senate; that is, to make the Senate more like the House—puppets.

So in this current Senate environment, I am not willing to give up a single avenue for getting my work done. I will not support giving the majority one more way to cut off debate on important policy issues—such as aviation or the future of our Nation's steel industry, restoring money to Medicare providers who have been too deeply cut. We hear more about this than any other subject when we go home. Have we discussed it? No. Research and development, lots and lots of other things.

So the arcane rules of the Senate may not be at the forefront of the concerns of everyday Americans, but the rules of this Senate guide the way our democracy works or fails to work. They guide the way the people trust their Government, and they also guide the way people within the Government trust the Government within the framework of which they work as best as they can.

The legislative process is honorable. It is time honored. I fear that we are

dangerously close to the Senate losing its reputation and role as a great deliberative body.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. ROCKEFELLER. I recognize my time is up. I hope my colleagues will support me in objecting to the reinstatement of Senate rule XVI.

I thank the Presiding Officer.

Mr. REID. I say to my friend from West Virginia, through the Chair, how much I appreciate him being here today. The people of West Virginia are very fortunate to have Senators BYRD and ROCKEFELLER representing their interests. I appreciate the Senator's statement today very much. Mr. President, I yield 10 minutes to the senior Senator from Connecticut, CHRIS DODD.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank my colleague from Nevada. And I thank my colleagues who have spoken on this issue this morning, an issue that may seem to the general public as sort of an arcane debate involving the internal machinations of this body. But in my brief remarks this afternoon, I would like to suggest that this debate may be one of the most significant ones we have in this Congress because it is the process and the procedures which determine the ability of a minority in this body to be heard.

If that ability is constrained, is gagged, is muffled, then the public is denied the opportunity which the Senate, as a forum, has historically provided to the citizenry of this Nation, and that is a full airing of the issues that they should hear, that they should be aware of, as we deliberate the matters which will affect their lives and the lives of their families for years and decades to come.

So while a procedural debate may sound boring to some and may not sound as if it is of terribly great import to others, this is, in truth, a significant debate and discussion. Therefore, I add my voice to those who have raised concerns about a vote that will occur later this afternoon dealing with rule XVI of the Senate.

I am in somewhat of a unique position. I am standing next to my dear friend and colleague from West Virginia, who is recognized by all in this Chamber, regardless of party, and those who have come before us, as one of the truly great historians of the Senate, arguably the most knowledgeable person who has served in this body in its 210-year history when it comes to the role of the Senate both in terms of our own history as well as the role of senates throughout recorded history.

I am also in a unique position in that I am the inheritor of the seat once held by a distinguished Senator from Connecticut by the name of Roger Sherman. Roger Sherman, among other things, was the only Founding Father, as they are referred to, to have signed the four cornerstone documents, as we call them, of our Nation. He signed the

Declaration of Independence, the Articles of Confederation, the Constitution of the United States, and the Bill of Rights.

He was from New Haven, CT. I sit in his seat in the Senate, as you track a Senate seat from those who first represented the Thirteen Original Colonies in the Senate to the modern Senate of today. But maybe more importantly than his signature on those four cornerstone documents, he was the author of what was called the Connecticut Compromise. The Connecticut Compromise produced the Senate of the United States as a body.

There was a crisis, politically, at the time of the debate in the constitutional convention between large States and small States about where power would reside. Roger Sherman, along with others, proposed the Connecticut compromise, which gave birth to the Senate as a place where small States would be equally represented by the participation of two Senators from each State regardless of the size of the State.

But more importantly than that debate, it was also designed to be a forum wherein the rights of a minority could be heard. The rules of the House of Representatives—I served in that body for 6 years—were and are specifically designed to guarantee the rights of the majority. Majority opinion prevails in the House, and that is how it should be. We had come off a system ruled by one individual, a king. We wanted to establish a system of government where the majority opinion of the American people could be heard and their voices could result in opinions being rendered and decisions being made which reflected those majority feelings.

But the Founding Fathers and those who supported them in their wisdom understood there could be a tyranny of the majority, that quick decisions made rapidly without a great deal of thought or consideration could in some instances do more harm than good. So the Senate was created as a balance, as a counterweight, in many ways.

The Senate was designed to be a place where those majority decisions, as important as they are, would then have to be brought for further consideration in this Chamber where additional consideration and thought would be offered, where the views of those who may not have been heard in the House of Representatives could be heard, where the rights of a minority, including a minority of one Senator, would absolutely be guaranteed the right to be heard, as long as that Senator could stand on his or her feet and express their opinions—the filibuster rule which protects the right of one of us out of 100. Ninety-nine people cannot stop one Senator from speaking, once that Senator has gained recognition from the Presiding Officer. It is a unique set of rules, completely contrary to the rules of the House, where one Member of the House cannot command the attention of the entire Cham-

ber, or that person is limited to 5 minutes in talking and must get unanimous consent to speak for a 6th minute. In the Senate, that is not the case. As long as you can stand and be heard, no one can interrupt you or break the flow of debate.

There are many other distinctions which make the Senate unique and special, but that is certainly one of them.

This afternoon we are going to debate and vote on a rule which also goes to the very heart of whether or not the Senate is going to maintain its unique and distinct role as being sort of the antithesis, if you will, the counterweight, as was described by Thomas Jefferson when he argued against the creation of the Senate, that this would be the saucer in which the coffee or the tea would cool, where temperatures could be lowered, the heat of debate would be softened, consideration and thought would be given to the decisions that the majority had made in the other Chamber.

I come to this issue with a sense of history about Roger Sherman, in whose seat I sit, who authored the creation of the Senate with the Connecticut compromise, with a deep sense of appreciation for the role of the House, having served there, and also a very strong sense of the role that the Senate should play and why this debate on rule XVI is more than just an internal discussion, a debate among Senators that has little or no impact on the daily lives of the people we seek to represent.

As the ranking member of the Senate Rules Committee, I yield to no one except, as I mentioned earlier, the senior Senator from West Virginia, in my respect for the standing rules of the Senate, as intended by the Founding Fathers. The Senate is respected as the most deliberative body in the world. The rules, as I have suggested, of the Senate assure that such deliberation can occur, must occur, and that the rights of a minority will always be protected.

We are all familiar with the story of the conversation I mentioned a moment ago between Thomas Jefferson and George Washington in which Thomas Jefferson questioned the need for the United States Senate. Washington reportedly responded to Thomas Jefferson, as Jefferson was pouring his tea into a saucer to cool it during the informal discussion they were having, so legislation would be poured into the senatorial saucer to cool it, Washington suggested to Jefferson, and thus the value of the Senate.

Similarly, as reported by our own historian, Dick Baker, James Madison, writing to Thomas Jefferson, explained the Founding Fathers' vision of the Senate. Madison reminded Thomas Jefferson that the Senate was intended to be the "anchor" of the government. According to Madison, the Senate was "a necessary fence against the fickleness and passion that tended to influence the attitudes of the general public

and Members of the House of Representatives."

Within the first month of its convening, on March 4, 1789, this anchor, the Senate, recognized that to function efficiently rules were going to be required. Almost from the beginning there was a recognition of the need to separate the authorizing and appropriating functions of the Senate, the very matter with which rule XVI is concerned.

The first Senate rules were adopted on April 16, 1789, and the Senate adopted general revisions to those rules seven times over the 210-year history of our Nation, including revisions in 1806, 1820, 1828, 1868, 1877, 1884 and 1979. Although the current language of rule XVI did not appear until the 1979 revisions, the prohibition on adding general legislation to an appropriations bill had its roots in rule XXX of the 1868 revisions adopted in the 48th Congress. The 1868 general revisions were the ones last proposed by the special committee prior to the establishment of the Rules Committee as a standing committee in 1874.

I ask for an additional 5 minutes, if I may.

Mr. REID. Three minutes.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for an additional 3 minutes.

Mr. DODD. I thank my distinguished colleague from Nevada.

The 1877 general revisions expanded the 1868 rules to specifically prohibit amending general appropriations bills with general legislation, or with amendments not germane or relevant to the subject matter of the bill.

The next set of general revisions to the rules was adopted by the Senate during the 48th Congress, on January 11, 1884. These revisions renumbered the rules and consolidated the language regarding amendments to appropriations bills. The prohibition on including amendments to an appropriations bill dealing with general legislation as incorporated into Rule XVI.

Then in 1979, under the leadership of our colleague, Senator BYRD, a comprehensive revision of the standing rules of the Senate was adopted. These revisions contained the current language of rule XVI and rule XVIII, regarding the scope of conference reports.

I do not wish to belabor the history of the Senate rules with my colleagues, but I take this time to stress the historic importance of rule XVI in order to put the action of the majority leader in context.

The prohibition on legislating on appropriations bills has been part of the parliamentary fabric of this great deliberative body almost since its inception. And that should come as no surprise. The orderly consideration of legislation is paramount to the "cooling" effect of the Senate's deliberations.

For that reason, under normal circumstances, I would support the majority leader in his effort to restore the

rule XVI point of order against legislating on appropriations bills. Under normal circumstances, I would agree that the rules offer Senators ample opportunity to engage in debate on legislation. Under normal circumstances, I would agree that appropriations bills are too important to be the subject of legislative amendments, especially given the need to keep the Federal Government running.

But these are not normal circumstances, Mr. President.

What brings us to this debate, again, has nothing to do with the longstanding notion that legislation ought not to be included on appropriations bills. I don't know of anyone who disagrees with that longstanding proposal. If taken alone, everything else being equal, if all the other rules which guarantee the right of this body to function, as intended by the Founding Fathers, then I would stand first and foremost in a long line, I presume, of my colleagues in demanding that rule XVI be upheld and that legislation be kept off appropriations bills. Unfortunately, you cannot look at rule XVI alone today. We have watched slowly, some would argue rapidly, over the last several years how the rules of the Senate, such as rule XVIII, have been so fundamentally altered that today this body de facto functions as a 99-100 Member reflection, not the antithesis, not the corollary, not the counterweight, but as a reflection of the House of Representatives. That is not as it should be. This body ought to function very differently.

In the four and one-half years since the Republicans regained the majority in this Chamber, we have witnessed a profound and regrettable change in the way we do business. Instead of allowing legislation to come to the floor for amendment and debate, the majority has seemingly used every opportunity to limit the minority's right to offer amendments and be heard.

It is this attempt to silence opposing views that poses the greatest threat to the Founding Fathers' vision of the Senate as an anchor for our democratic form of Government.

For example, the majority has repeatedly employed the tactic of combining a motion to proceed to a bill with the immediate filing of a cloture petition—which, by definition, is designed to limit debate. The cloture petition is then used as leverage to obtain a limit on the number of amendments and the allotted time for debate on the bill. In some cases, the majority has even insisted on approving, in advance, the very few amendments that the minority has been allowed to offer.

My colleagues might be surprised to learn that from 1996 to the present, the majority has tried to silence the debate by forcing the Senate to vote on 102 cloture petitions. But what is even more remarkable is that 33 of these votes—or nearly one in three—involved cloture petitions on motions to proceed.

While the majority are certainly within their rights and consistent with the rules to offer so many cloture petitions, it is not the norm. In fact, during the 4 years immediately preceding the 1994 elections, the Democratic leadership also availed itself of the procedural tactic of filing cloture on a motion to proceed—twice, on the motor voter bill. In general, Mr. President, cloture petitions on motions to proceed have been used by this majority to attempt to dictate the terms of debate. It is almost as if the majority does not want the American people to hear this deliberative body speak.

But cloture petitions are not the only silencing tactic employed by our friends in the majority. They also rely on the arcane parliamentary maneuver known as "filling the amendment tree."

Mr. President, I am willing to bet that only a handful of people in the world—most of whom are present in this chamber today—could provide a clear explanation of how one "fills the tree." But the effect of such a parliamentary maneuver is clear. It is to choke off debate by making it impossible for any member to offer amendments that have not been approved by the senator who has filled the tree.

A review of the use of this tactic reveals that since 1995, the majority has "filled the tree", and thereby restricted debate, a total of 9 times. Most recently, this maneuver was used during the debate on the social security lockbox legislation and most notably on legislation to reform our system of campaign finance, where the tactic has been used repeatedly and with great effect to stymie the growing calls for reform.

Again, a comparison of the 4 years of Democratic leadership prior to the 1994 elections reveals that Senate Democrats used the parliamentary procedure sparingly—at most once. And the sponsor of the amendment at the time denied that the amendment tree had been filled.

Regrettably, Mr. President, since our friends in the Republican majority took office in 1994, there has been unprecedented use of parliamentary maneuvering to choke off debate and dictate the terms of the Senate's business. Under Republican leadership, the rules of the Senate no longer ensure the cooling off that was intended to take place here. Instead, the rules have become the majority's weapon to prevent the very deliberation, and even disagreement, that the Founding Fathers intended.

As we have seen time and again over the last 4 years, the most effective means for the minority to ensure that its voice is heard is by offering amendments for debate to must-pass legislation, such as the appropriations bills. Whether it be debate on raising the minimum wage for working Americans, or protecting taxpayers from arbitrary decisions by HMOs, the ability to amend appropriations bills has ensured

that the people's concerns can be heard.

If the Senate could return to the normal open and deliberative process that the founding fathers envisioned for it, I would welcome the reinstatement of rule XVI. But until that time comes, I must oppose the majority's efforts.

But if we are going to reform the rules, we should not stop with rule XVI. We should also restore rule XVIII to its original intent. Rule XVIII establishes a point of order against conference reports which contain provisions outside the scope of the conference. Again, under this majority, rule XVIII has been overturned so that today, conferees may insert any matter into privileged conference reports, even neither the Senate nor the House has debated the issue.

To deny Members the opportunity to be heard, to allow for a conference report to include extraneous matter never considered by either body, particularly when both Chambers are controlled by one party, to rush to cloture petitions with the incredible acceleration that the majority has authored over the last 4 or so years, undermines the role of this institution. One hundred of us serve in the Senate, have an obligation to represent our constituents, have an obligation to do the Nation's business. We also bear a collective responsibility, as temporary custodians of this valued institution, to see to it that its historical role will not be undermined, will not be changed by the precedents we establish in the conduct of our business.

Over the last 4 or so years, regrettably, the majority in this Chamber has so warped the rules of the Senate that the minority is denied the opportunity to raise critical issues the American public wants us to debate and on which they want to have our voices heard.

Without rule XVI, as presently enforced under the 1995 precedent, which allows us to raise the issues that we are denied to bring up under normal circumstances, and without rule XXVIII which prohibits matters which have not been publicly aired from being included in conference reports, it is not just a matter that I am denied the opportunity to be heard, it is that my constituents and the American public are denied an opportunity to be heard. We are their voices here.

So, for these reasons I will support the Democratic leader in his efforts to restore rule XXVIII to prohibit the majority from adding provisions in conference that have not been considered by either the House or the Senate. It flies in the face of common fairness to shut out the minority's opportunity to be heard on appropriations bills, but then allow the majority to have unlimited scope to add any provision to a privileged conference report.

I would urge my colleagues in the majority to think carefully before opposing Senator DASCHLE's amendment. When both the House and the Senate are in the hands of the same party, it

is tempting to ignore rule XXVIII and use highly privileged conference reports to pass legislation that the minority in the Senate might otherwise attempt to stall by use of the Senate's rules.

But such a short-term view can come back to haunt a majority if the leadership changes in one of the houses of Congress. The tactic the majority uses today to shut out dissent and debate and force through legislation can just as easily be turned against it tomorrow by an opposing party.

In the end, rule XXVIII maintains the balance between the House and the Senate. The rule ensures that neither House, regardless of party, has so great a leverage over the other that it can force legislation through without debate.

In conclusion, Mr. President, I want to make it perfectly clear that Democrats are not asking for the right to control the Senate. The voters determine who is the majority. But as the majority, the Republican leadership knows that on any issue it can summon the votes to thwart a minority victory. Nonetheless, the constitution provides for a body that is intended to engage in full and open debate.

I urge my colleagues to restore the Senate to its place as the deliberative anchor of Government by supporting the Daschle amendment and opposing the restoration of rule XVI at this time. And I urge the majority, on behalf of history, to modify their behavior in the Senate and allow this institution to function as its creators and founders intended.

I thank my colleague from Nevada for the time.

MR. REID. Mr. President, I express my appreciation to the ranking member of the Rules Committee, Senator DODD.

At this time, I yield 25 minutes to the former President pro tempore of the Senate, former chairman of the Appropriations Committee, and former majority leader, Senator BYRD.

THE PRESIDING OFFICER (Mr. ROBERTS). The Senator from West Virginia is recognized.

MR. BYRD. Mr. President, I thank the distinguished Senator.

We have just witnessed what is wrong with this Senate. I have been yielded 25 minutes. We don't have time today to properly discuss one of the most fundamental questions that ever comes before this Senate: fundamental freedom of speech; freedom of debate; freedom to offer amendments.

I am limited to 25 minutes. Yes, I agreed to this 6-hour rule, but you can see how it is playing out. Most of the 3 hours allotted to the minority are being played out over here. Nobody is talking on the other side. Perhaps one, two, or three Senators will. I think the distinguished Senator who now presides over the Senate made some remarks earlier. But the point of it is, the minority will have said about all it has time to say under this agreement,

and then its time will have run out. As a consequence, the majority will be able to speak during the latter hours or moments, and there won't be much time for real debate.

MR. PRESIDENT, I am in my 41st year in this body. I was in the other body for 6 years. I saw the actions of the other body. When I came to the Senate, I wanted to come to the Senate. I wanted to come to a forum in which one could speak as long as his feet would hold him, as long as he could stand, and the floor could not be taken away from him by the Chair, a majority leader, or anybody else. He could speak for as long as he wished.

For all these years, I have talked about this institution, about its importance in the constitutional system, about the fact that it is the only forum of the States, the only forum in this Government, where small States such as West Virginia have the same powers, the same prerogatives, the same rights, along with the same responsibilities as the States that are great in territory and in population, such as California, Texas, Florida, New York, and others. I wanted to be in this forum. William Ewart Gladstone referred to the Senate of the United States, as "that remarkable body, the most remarkable of all the inventions of modern politics."

But it is getting to where this Senate is not so remarkable. There are things unique about the Senate that were meant to be unique, that were made unique by virtue of the framers of the Constitution. Among those, of course, is the responsibility to approve the resolutions of ratification of treaties, to approve nominations, and to act as a court in the trial of impeachments. But aside from those several unique things, the two things in particular that make this body the most unique of any upper body in the world, the most unique Senate that has ever existed—and there have been many senates—is the fact that this Senate has the right to amend bills, and Senators have the right to speak and to debate at length.

THE RIGHT TO DEBATE AND THE RIGHT TO AMEND: The right to amend is mentioned in that provision of the Constitution that says revenue bills shall originate in the House of Representatives, but the Senate shall have the right to amend as in all other bills. So there it is. The Senate has the right to amend, and Senators have the right to debate at length.

Now, I have been majority leader. I have been elected to the majority leadership three times—twice during the Carter years and once during the 100th Congress. When I came to the Senate, Lyndon Johnson was majority leader; then there was Mike Mansfield; I was the next majority leader; Howard Baker then became majority leader followed by Bob Dole, and then, in the 100th Congress, I was majority leader again, George Mitchell followed me as majority leader and then Bob Dole became the Majority Leader a second time. Mr. LOTT is now the majority

leader. So I have seen several majority leaders operate in this Senate.

Mr. President, I think the Senate is losing its uniqueness in that we are being deprived, in considerable measure, of the right to debate, the right to debate at length. If I come up here and want a few minutes to speak about the departing of some deceased friend, or some other matter—it may not be one of the great moments in history—I can't come up here and speak as I used to be able to. I can't get the floor. And when I get the floor, I am limited. I don't like that.

I can understand the importance of having time limitations, and we do enter into time limitations. We have always done that, when there is a unanimous consent agreement limiting time, or the Senate is operating under a cloture motion. Otherwise, there is no limitation on debate and there is no germaneness of amendments under the Senate rules, except under rule XVI, when appropriation matters are before the Senate and also when cloture is invoked. Otherwise, we have freedom of debate.

Woodrow Wilson said that the information function of the legislative branch is as important as the legislative function. It is through debate that we inform the American people. It is through debate that we better inform ourselves.

I was in a meeting with the British over the weekend, the British-American Group. We met in West Virginia at the Greenbrier. Senator REID was there. Senators on both sides of the aisle were there, including the Senator from New Mexico, Mr. DOMENICI. We didn't win or lose. We each came away being better informed by the other side. We didn't agree with the British point of view on certain issues and they didn't agree with ours, but we all came away better informed. We had a better understanding of what their viewpoint was and the reasons for it, and, hopefully, they have a better viewpoint of our reasoning.

But here in the Senate, it has become dog-eat-dog. It has become very partisan—very partisan. Politics is very important, and political party is important. But some things are more important than political party. One of those things is the right to debate and the right to amend. It isn't for the benefit of the Democratic Party that I want the right to amend. It is not for the benefit of the Democratic Party that I want the right to debate. It is for the benefit of the American people. That is why the Senate is here. There were no political parties when this Senate was first created. But it seems that, anymore, the idea is that the majority is always to have its way while the minority is to be shut out and, in some ways, gagged.

That approach does not benefit the people of America.

I say these things with misgivings because I have many friends on the other side of the aisle. I think that the

Senators in the leadership on that side of the aisle are friends of mine. But we are talking about the Senate here today and not the party. I don't come to the Senate floor today emphasizing party. I am here today because I am seeing the right of the minority to engage in free debate and to offer amendments shut off in some instances.

There is a complaint here that too many amendments are offered on this side of the aisle to bills. This side of the aisle, as does that side of the aisle, has a right to offer whatever amendments they wish to offer.

When I was majority leader, I never said to the minority leader: Now, you are going to be limited. You have too many amendments. We are not going to take the bill up; or, we will let you have 5 amendments, or no more than 10. What are your amendments? I never said that.

I said to Members on both sides of the aisle: Let us know what your amendments are. Let the people at the front table here know what your amendments are on both sides. Call the Cloakrooms. Let's find out what amendments there are yet outstanding. There might have been 40. There might have been 55. There might have been 75. But I didn't go back and say: We are going to pull this bill down if you do not cut your amendments down to 10. Never did I say that. Never did I say you can only call up five, or so, amendments. How many do you have? Then we got the list. Then I said: Now, let's try to get a unanimous consent to limit the amendments to this number—whatever it was, be it 50 or 60 or whatever. Let's try to get an agreement to limit the amendments to this list.

So when we put that word out, other amendments came out of the wall—another half a dozen and another dozen. They just kept coming.

But finally we had a list of amendments. We agreed that those then would be all. Then we would go to the individual Members on the list and say: Are you willing to enter into a time agreement on your amendment?

Sometimes some of the amendments would peel off and we wouldn't end up with all that many amendments, or Members would be agreeable to a time limit. But never did I attempt to muzzle the minority.

I took the position, let the minority call up their amendments. We can move to table them. Or, in many instances, they insisted on an up-or-down vote, and we gave them an up-or-down vote. We could defeat the amendment, in many instances. But in some instances their amendments carried, which was all right. That is what the legislative process is all about.

The majority is not always right as we have often seen throughout the course of history. Many times the minority throughout history has been right. We are not serving the good interests of the American people when we muzzle the ox.

The Bible says: "Thou shalt not muzzle the ox that treadeth out the corn."

The Senate is the ox. It is the central pillar of this Republic. This isn't a democracy; it is a Republic. The Senate is the central pillar. The Senate is where we can debate at length and offer amendments.

As long as there is a Senate and men and women can debate to their hearts' content and offer amendments, the people's liberties will be secure. But once the Senate is muzzled, the people's liberties are in danger.

The majority is virtually all powerful here. They have the votes, which is all right, but they must recognize that the minority has rights. That is why the Senate is like it is. That is what it was meant to be—a bastion for protection of the minority.

Many times when I was leader I insisted on the rights of the minority on that side of the aisle. I said that there may come a time when we Democrats would be in the minority. I say that to the majority today. You have been in the minority. There may come a time when you will again be in the minority.

We must be respectful of the constitutional rights of Senators who represent the States and the people. We must be respectful of those rights. If it takes longer—if it takes longer than three days or a week to do the work—then let's do the work. That is why we are sent here.

But we should not forget the reason for the Senate's being. I came from the House of Representatives. I never wanted this body to become another House of Representatives. The Senate is unique in that respect, and we must not give away the uniqueness of this body. This is not a second House of Representatives. We ought to understand that. The Constitution made the Senate different from the other body, and we ought to do our utmost to keep this as an institution where debate is unlimited and where Senators have the right to offer non-germane amendments.

I don't enter into these bickerings and these discussions very often. I am no longer in the elected leadership. Senators do not hear me saying these things often. But I have always been interested in the Senate as an institution. If the Senate is not the institution that it was meant to be, whose fault is it? The people who make up the Senate—it is our fault.

I wanted to speak out on this. I am not interested in who wins on every political battle that is fought here. I am not interested from a party standpoint always. Party isn't all that important to me. But I am interested in the Senate. I want it to remain the institution that it was meant to be.

I wish we would get away from the idea that we ought to make this a more efficient institution. The Senate was not meant to be efficient. The institution was meant to be a debating forum where ideas would be expressed, and through the medium of debate the right consensus would be hammered out on the anvil.

I hear it said: Well, if there are too many amendments, the bill will be taken down. I would suggest that if we want to stop so many legislative amendments from being offered to appropriations bills, then let's call up some of the legislative bills. Let's call up authorization bills.

When I was the majority leader, there were times we had to authorize legislation on appropriations bills because the authorizing committees sometimes did not do their work. For example, there were years when we had to reauthorize State Department legislation on appropriations bills, because the authorizing committee simply did not do its work. But if bills reported from legislative committees are not called up in the Senate, Senators who are interested in amendments to such legislation do not have the opportunity to offer their amendments. Consequently, when appropriations bills are called up, Senators will offer legislation on appropriations bills, because it is their only opportunity. They have no other opportunity, no other legislative vehicle on which to call their amendments up, so they are forced to offer their legislative amendments to appropriations bills. That is why we have the problem with appropriations bills that we are having.

Another problem we are having when we go to conference with the other body is that major legislation that has not been before either body is added in conference. We talk about the upper House and the lower House. There is a Third House. The conference committee has become a Third House, where hundreds of millions of dollars, even billions of dollars and major legislation are added in conference and come back to each body in a conference report. We have no opportunity to amend that conference report. Authorizing measures are added in conference that have not been before either body. They are stuck in, in conference—in the "Third House," as I want to name it.

Another flaw in that operation is that it gives the executive branch too much power, in some instances all power, because, as we saw last year when it got down to the conferences on the final appropriations bills, eight appropriations bills were wrapped into the conference report, one I believe a supplemental, and tax legislation all in that conference report. These items had not been properly taken up before either body.

And, as a result, who sat in? Who made the decisions in conference? The decisions in conference for the more important legislation were made by the Speaker of the House, the majority leader of the Senate—both of whom were Republican—and the President's agents.

Who represented the Democrats in the conference? The executive branch. We Senate and House Democrats weren't represented in those higher echelons. We were left out. The Demo-

cratic minority in the House and Senate was not represented in the conference. It was the Republican leadership of both Houses and the President of the United States, through his OMB Director.

That is not the way it is supposed to be. That galls me, to think that in appropriations matters of that kind the executive branch calls the shots in many instances and we House and Senate Democrats are not even represented. The Democrats in the Senate, the Democrats in the House, are left out. That is not the way it ought to be. But that is the result of our delaying action on separate appropriations bills. Then they are all put into an omnibus bill. At the end, we vote on that bill without knowing what is in it. How many hundreds of millions, how many billions of dollars may have been added in conference? And we vote on the conference report when we really do not know what is in it. That galls me.

I think we ought to reinstitute rule XXVIII. I voted to uphold the Chair when rule XVI was changed here, and when the Senate overruled the Chair, I voted to uphold the Chair. I favor the reinstitution of rule XVI. But because of the muzzling of the minority, because the minority is not allowed to offer as many amendments as we need to offer, I am going to uphold the Chair's position today.

MR. REID. I yield the Senator 5 more minutes.

MR. BYRD. I thank the Senator.

I am not going to vote to go back to rule XVI. I want to go back. I do not like the vote I am going to cast. But how else am I going to protest?

I think the minority should have the opportunity to offer its amendments, and not jerk a bill down just because amendments are coming in from the minority side.

Another thing: There is no rule of, as I say, germaneness or relevancy in the Senate. When we call up bills, except for the two instances which I referred to there, cloture and on appropriations bills under rule XVI, there is no rule of relevancy to say: Cut down your amendments; we will give you 5 amendments or 10 amendments and they have to be relevant. Who said they have to be relevant? The rules of the Senate don't say they have to be relevant. But if an appropriation bill is the only vehicle you are ever going to have on which to try to take a shot at something that is not relevant, you have to take it. And the minority is being robbed of that opportunity. The minority is being placed under the gag rule. It is being laid down here: You will do it our way or we will jerk the bill down. You have to do it our way. You have to limit your amendments to 5 or 6 or 8 or 10—no more. That is not in this Senate rule book. That is not in

this Constitution. And it is not in the best interests of the American people that the Senate is being run that way.

Personally, I have a very high regard for the leadership on the other side, for

the individuals themselves. I have a high regard for Senators on the other side of the aisle. Some of the finest Senators I know sit on that side of the aisle. Some of the most knowledgeable Senators I know are on that side of the aisle. Some of the smartest Senators are on that side of the aisle.

But, Mr. President, I am talking about the Senate as an institution, and I do not want and I do not intend to see us run over continually and denied the opportunity to offer amendments, and to debate, without a shot being fired.

I stacked the legislative tree very few times when I was leader. But very few times did I resort to that. My rule was one of the basic reasons for the Senate to let the minority have their rights, because as long as the minority have their rights in this forum, the people's liberties will not be taken from them. I want the minority to be given their rights.

Mr. President, I am going to close with the words of Aaron Burr, who spoke to the Senate in 1805, on March 5, after presiding over the Senate for 4 years. He said:

This House is a sanctuary; a citadel of law, of order, and of liberty; and it is here—it is here, in this exalted refuge; here, if anywhere, will resistance be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hands of the demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this floor.

Mr. President, I think we are seeing something akin to its expiring agonies because the Senate is not being allowed to fulfill its purposes for being. It is not being allowed to work its will. The people are being denied. It is not just the Democrats at this moment who are being denied, it is the people who are being denied the right of the minority in this Senate to speak their wills, to offer their amendments, to fully debate the legislation that is in the interests of the people.

In the interest of the people, I urge the leadership, I implore the leadership to stop thinking so much, as apparently it does, in terms of who will win today—"we have to win on this one." Let's think of the people. Protect the rights of the minority, allow full freedom to debate and amend, and the people's rights and the people's liberties will be secured.

THE PRESIDING OFFICER (MR. THOMAS). The Senator from Texas.

MR. GRAMM. Mr. President, I yield myself 20 minutes.

THE PRESIDING OFFICER. The Senator is recognized for 20 minutes.

MR. GRAMM. Mr. President, Senator DOMENICI and I are here to talk about the tax cut, but I cannot listen to our dear colleague from West Virginia without giving a little bit of response.

First of all, I agree with virtually everything the Senator from West Virginia has said. I do believe we tread on our institution and we potentially reduce its ability to preserve our freedom and our Republic when we engage in

partisan politics. I agree with virtually every word Senator BYRD said.

We all know we have used the appropriations process to offer amendments that were not part of any national agenda, that did not represent any real debate on behalf of causes, but in many cases both parties have engaged in the kind of politics where the minority—and that minority changes sides from time to time. I hope that will not occur in the future, but knowing institutions as I do, I am sure it will. What happens is, too often, the minority delays the work of the majority, and then at the time for electioneering accuses the majority of not getting its work done. If we ought to preserve this great institution and all we love about it and all it stands for for America, one of the things we have to do is to prevent partisan abuse of the system.

When we voted to overturn the Chair now several years ago, I was very reluctant to overturn the Chair. I found myself in a position of having a colleague who had offered an amendment with which I strongly agreed and who also was in a position where it was critically important to her to see the Chair overturned. I knew no good could come out of it. I thought it would be easier to fix than it has turned out to be. I intend to vote to fix it today.

I do not believe we ought to be legislating on appropriations bills. The distinguished Senator from West Virginia is correct in that it has become so easy for the authorization process to be disrupted that we have virtually trivialized authorizations. Authorization committees often go an entire term without having any kind of authorization bill passed. Legislation builds up, we end up putting it on appropriations bills, and in doing so, we also hurt the institution.

I have heard every word our colleague from West Virginia has said. I believe we do need to set a threshold for offering legislation on an appropriations bill. It can be overcome with 51 votes. But every Member has to know that when they do that, when they overturn the Chair, they open that avenue for anyone else to do it in the future. In doing so, we take down a small shield which I think is as big as it needs to be, because there are times when the minority deserves the right to speak, and if they feel strongly enough about it and they can convince a majority to do it, they have a right to do it.

I intend to vote today to put rule XVI back into place. I do not intend to be in any hurry to see it pulled down again because it is a very good and important barrier.

Mr. REID. Will my friend from Texas yield for a question?

Mr. GRAMM. I will be happy to yield very briefly.

Mr. REID. Mr. President, I appreciate the Senator's statement regarding Senator BYRD's brilliant statement, but I also say to my friend from Texas, there is also going to be an amendment of-

ferred by the minority leader to change rule XXVIII—Senator BYRD spoke at some length about that—to stop the procedure whereby we wind up with an appropriations bill that is 1,500 pages long, that has been negotiated by two or three people from the House, a couple of people from the Senate, the President's emissaries, and we get this big bill. A rule XXVIII change would say if you have a bill going to conference, you can only deal with the matters brought up in conference. Does my friend from Texas also agree with Senator BYRD that it would be a good idea to change that?

Mr. GRAMM. I do not believe I will. It is something that should be looked at. I remind our colleague from Nevada that our effort today is not to change the rules of the Senate but to put the rules back where they were before we overrode the Chair on the endangered species provision to an appropriations bill, now several years ago.

Senator BYRD has raised a critically important issue. Too much work is done in conference. Anyone who has ever chaired a conference—and I am relatively new at it as a new committee chairman—immediately discovers that the only rule of the conference is you have to get a majority of the members to sign the conference report. Other than that, for all practical purposes, there are no rules.

This should be looked at, but I am not ready today to change the rules of the Senate. I am ready to go back and undo a mistake that we made some 4 or 5 years ago. I will be willing to look at this. I will be willing to study it, to participate in a discussion about it. We ought to hold hearings on it and look at it, but I am not ready to overturn the rules of the Senate today.

Mr. DOMENICI. Will the Senator yield?

Mr. GRAMM. Yes.

Mr. DOMENICI. Mr. President, first, I did not understand what the Senator from Texas said when he talked about 20 minutes and he and I being on the floor. Did he intend to share that?

Mr. GRAMM. I had intended to use less than that. The Senator can get any amount of time he wants.

Mr. DOMENICI. I ask unanimous consent that when the Senator from Texas is finished, I be allowed to proceed for up to 20 minutes thereafter.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Parliamentary inquiry. Will the Chair state how much time the minority has remaining and how much time the majority has remaining. I think that will be helpful to the two Senators on the other side of the aisle.

The PRESIDING OFFICER. The minority has 33 minutes; the majority has 144 minutes.

Mr. REID. I will take 1 minute and say to my friend from Texas, the activities today on rule XVI are directly related to the rule and the same thing on rule XXVIII. All we are trying to do with rule XXVIII is to restore it to the way it used to be, just like rule XVI.

Mr. DOMENICI. I wonder if the Senator will permit me to make an observation on my time.

Mr. GRAMM. Mr. President, he can make it on my time.

Mr. DOMENICI. I was here, as was the Senator from Texas, when the distinguished Senator from West Virginia, Senator BYRD, spoke. What kept coming to my mind was: When are Senators from authorizing committees expected to bring their bills to the floor and have votes? I came up with a very simple conclusion, with which my friend, Senator BYRD, will not agree, but I want to state it anyway.

The problem we find ourselves in where Senators must offer authorizing legislation time and time again on appropriations bills comes about because this institution, this beloved Senate, insists on doing every single appropriations bill every single year. There is no time for anything else. That is the real problem. Then we do a budget resolution every single year. I believe there is a number around that we use up about 67 to 70 percent of the available time of the Senate on just those two functions.

I hope, as we consider trying for 2-year appropriations and 2-year budgets, my good friend from West Virginia will be participating. We would like to hear his views. But I hope we can make the case that for the betterment of this institution, which he expressed my views on today when he spoke of how important it is to America, I have learned, as he has learned—when I came to the Senate, I was not steeped like him, so I did not know about it—it is to be a revered institution, and I want to keep it that way.

My last observation is, I think I might have been able to get up—not under your majority leadership, but sometime during my 28 years here, most of which was as a minority Member—and make the same speech you just made as to the leadership on that side of the aisle when your side was in the majority, because when you have what we are having take place here with fair regularity, as we try to pass 13 appropriations bills, and we hear the other side—not you, Senator—the other side say: You will not pass them until we get to take up our agenda—and their agenda is not appropriations; it is a list of eight or nine items that are their agenda; and in this body they are probably minority views, but they want to get them up—then I say that is a challenge to the majority leader.

That is hard stuff, because how do you then get the appropriations bills done and not have six of them wrapped up into one, which you just talked about, and put everything else in it but the kitchen sink?

So, frankly, I appreciate your discussion today. Clearly, it is intended to help your side of the aisle in a debate on whether or not the appropriations bills should have more authorizing amendments on them that Senators on your side want to offer. In joining

them, I commend you. It is pretty obvious to this Senator you have joined them so that you can make their case that they ought to be permitted.

But I also say, if you were in Senator LOTT's shoes, or if I were, and you were being told on every one of these bills this is another one we are going to get something that is the minority agenda, and you will have to vote on it or else, I would be looking for ways to get the appropriations bills done.

Mr. BYRD. Would the Senator yield?

The PRESIDING OFFICER. The time is under the control of the Senator from Texas.

Mr. GRAMM. I am happy to yield.

Mr. BYRD. The Senator has asked me a question. He said: If you were here and Senators on the other side of the aisle said that—

Mr. DOMENICI. I did not make it a question. But if you think it is a question—

Mr. BYRD. I thought you said—

Mr. DOMENICI. I ended with a period; it wasn't a question mark.

Mr. GRAMM. I yield.

Mr. DOMENICI. But I will be glad to have your answer.

Mr. BYRD. The answer to that is, call up authorization bills. Let Members on this side offer their non-germane amendments to them. Then come to the appropriations bills, and the Senators on this side will have already had their chance. Call the legislative bills up. Why not have those bills called up? What are we afraid of?

The numbers are on that side of the aisle. As I said to the distinguished majority leader on one occasion: You have the numbers; you have the votes. Why not let the Democrats call up their amendments? You can beat them. You can reject them. You can table them. But if you do not have the votes to defeat them, perhaps that amendment is in the best interest of the country. And the Senate will have worked its will.

May I close by saying this—and I thank you for giving me this privilege—reference has been made to the time when I was majority leader, very graciously by the distinguished Senator from New Mexico, because he stated it was not done during my tenure of leadership while he has been here. But over one-third of the Senate today—over one-third of today's Senators—were not here when I was majority leader of the Senate.

I walked away from that position at the end of 1988 and became chairman of the Appropriations Committee in January 1989. More than one-third of the Senators were not here when I was majority leader. Even the distinguished majority leader, Mr. LOTT, was not in this body when I was majority leader.

But when I was majority leader, I say again, I attempted to protect the rights of the minority because I saw that as one of the reasons for the Senate's being.

I thank both Senators. Both Senators have been very kind to me and very courteous. I think very highly of them both. I respect their viewpoints.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. We are always kind to the Senator from West Virginia for two reasons: One, we love him; and, two, we know that we had best not be unkind to him because we know he is smart and tough.

TAX CUTS

Mr. GRAMM. Mr. President, I want to say a few words about taxes. I want to deviate from my background in schoolteaching to be brief because I have to run over for a 2:30 meeting on the banking bill and I want to hear a little bit of what the Senator from New Mexico has to say before I leave.

We are beginning a debate that is a very proper and important debate. I am frustrated in this debate because, in trying to discuss this issue with the White House, we have a concerted effort on their part to try to confuse the issue and mislead the American people as to what the choices are.

I want to direct my comments to the choice we face. Basically, we have the great and good fortune of having two things that have occurred at the same time. No. 1, beginning in the mid-1980s we started the process of gaining control over spending. It was not a dramatic change in policy, but over the years we have seen a gradual slowdown in the rate of growth in Government spending, beginning in the mid-1980s.

In the early 1990s we started to see an explosion of productivity as modern technology became incorporated in the workplace in America, and the result has been rapid economic growth and, with that economic growth, a growth in Federal revenues. We therefore have a situation which anyone would dream of having during their period of service in public life, and that is, we have a very large budget surplus.

Initially, the President proposed spending part of the surplus that comes from Social Security. I am proud to say that Senator DOMENICI, I, and others rejected that, and finally the President reached an agreement with us, in the best spirit of bipartisanship, that we were not going to spend the Social Security trust fund.

We are trying to lock that into law in the so-called Social Security lockbox. We have an agreement with the President on the principle. We have not reached an agreement with the President and with the minority party in the Senate on exactly how to lock it up, but we are working on that.

The debate we are beginning today is a debate about what to do with the surplus that comes from the general budget that does not come from Social Security, and, try as they may at the White House to confuse the issue and to mislead the public, there really are two stark choices being presented to the American people.

The first choice is presented by the President and his administration. In regard to what is called the President's

mid-session review, the Congressional Budget Office, which is the nonpartisan budget arm of the Congress, reviewed both the Republican budget and the budget submitted by the President. They concluded that the President's budget proposes \$1.033 trillion worth of new Government spending on approximately 81 new programs, above and beyond increases for inflation.

That \$1.033 trillion of new spending that the President's budget has proposed is so big that it not only uses up, for all practical purposes, the non-Social Security surplus, but in 3 of the next 10 years it will require plundering the Social Security trust fund or running an outright non-Social Security deficit because the level of spending is too big.

As an alternative, Republicans have proposed that out of the \$1 trillion non-Social Security surplus, we give \$792 billion back to the working people of America who sent the money to Washington to begin with and that we keep \$200 billion plus to meet the basic needs of the country and to meet uncertainties we might face.

That is a pretty clear choice. The President's budget says spend \$1.033 trillion on new Government programs. That is how they would use the non-Social Security surplus. Our proposal says, take about 80 percent of it and give it back to working people in broad tax cuts and keep 20 percent of it to meet critical needs and to deal with contingencies.

If that were the debate we were having, Republicans might be winning the debate, we might be losing the debate, but we would be having a meaningful debate. The problem is, the administration continues to mislead the American public and basically to claim they are not proposing to spend this money. While proposing \$1 trillion of new spending, they say that, by giving less than \$800 billion back to the public in tax cuts, in the words of the President, we "imperil the future stability of the country." This is quoting the President at a fundraiser, naturally, in Colorado, that by giving this \$800 billion back in tax cuts, we "imperil the future stability of the country." Yet to spend \$1.033 trillion on new programs, the President would do wonderful things for the country.

If the President were honest enough to stand up and say, Don't let Senator DOMENICI, don't let Senator LOTT, don't let Senator GRAMM give this money back to working people, let me spend it, I would have no objections to the debate. But I have to say that it begins to grate on a person when day after day after day this administration says things that are verifiably false with a level of dishonesty in public debate that is without precedent in the history of this country. No administration in debate on public policy has ever been as dishonest as this administration is. When you look at the actual numbers in their budget and then listen to what they are saying, it is as if