

streets and saying our government is too strong, it's too powerful, it's time for us to live within the restraints of the Constitution.

So as I wrap up here tonight, we again talk about the need for the Constitution to limit the government, to limit the government's ability to come in and affect your freedoms and your life.

This country has been, in the past, the destination for anyone who wanted freedom to build their dreams here. They could come and do it. We are beginning to choke off the ability for even our own citizens to find their dreams and make them come true here. We are doing it one business, one industry at a time through taxation, through regulation, but more we are doing it through the unstable currency that we are creating through the printing of money.

It is time for us to get our fiscal house in order. It is time to recognize that the future is at risk, according to the OMB and the CBO both. If we don't act now, then we will not have an economic future any stronger than the Soviet Union.

It's my hope that we will begin to act as Americans today, not as Republicans or Democrats, to look at the challenges that we face, to take them on and to address them in ways that the American people say "yes." That is an appropriate action; that is a correct action.

It's my sincere belief that our best days are ahead of us because I believe the American people are going to insist that we take care of the economic mess that we, that we in Congress, have created over the last 70 and 80 years. We can't make promises that we can't keep with money that we don't have. We must correct it.

#### CONSTITUTION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 2011, the gentleman from Illinois (Mr. JACKSON) is recognized for 30 minutes.

Mr. JACKSON of Illinois. Mr. Speaker, last week I came to the floor of the House to talk about the history of law and human rights, and I suggested that history is a work in progress. I believe that the law is going somewhere from the earliest civilizations with eye-for-an-eye systems of justice through today, when countries like ours lead the way toward more freedom and more human rights for all.

We began this Congress with the reading here on the floor of the redacted version of the Constitution, not the Constitution with amendments. But that redacted version leaves out the historical struggle to create today's Constitution as a more thoughtful and a more inclusive document.

Mr. Speaker, America is one big corporation. The Constitution is the bylaws. We, the people, the board of directors, have the right to change our

bylaws in the Constitution and redirect the American corporation towards our priorities.

The American Constitution is a benchmark in that living history. We have amended it from time to time to make sure that we are closer to achieving a more perfect union for all Americans.

I believe we should continue that process, and amend the Constitution in several ways, including giving all Americans the right to a high-quality education, high-quality health care, and a clean environment.

I think we need to guarantee equal rights for women. If, in fact, the Congress had adopted the Equal Rights Amendment for women many decades ago, today 51 percent of all jobs and 51 percent of all households that are headed by a woman where there is no man would provide greater stability for the work that they already do.

But tonight, Mr. Speaker, I want to put my beliefs about why the Constitution should be amended into further historical context.

This week's Time magazine makes my point in ways that I cannot muster tonight on the House floor. It has a picture of our 16th President, Abraham Lincoln, crying, and it says, "Why We Are Still Fighting the Civil War."

And no American who is watching this debate on the floor of the Congress between Democrats and Republicans should be operating under any illusion that we are simply not on a battlefield, we are simply in the halls of the Congress. But we are waging one hell of a fight to build a more perfect union versus building more perfect States' rights.

I wrote about these issues extensively, Mr. Speaker, in 2001, very extensively in my book, "A More Perfect Union: Advancing New American Rights." In fact, my book's launch party was scheduled for the big Borders, World Trade Center, on September 11, 2001. Unfortunately, we had a scheduling conflict and couldn't make it.

So I want to talk tonight, Mr. Speaker, about the central conflict of American history, the debates over the role of the Federal Government between those who believe in States' rights above all and those of us who have a more national perspective and believe in creating a more perfect union. I think that's a more appropriate analogy for defining how the Congress is divided; not Democrats and Republicans, for some Democrats will vote for the continuing resolution offered by the Republicans supporting more and more cuts. It's really hard to tell where people stand.

But in Washington, either we are building a more perfect union for all of the American people, or we are building a more perfect States' rights. So, Mr. Speaker, I want to share a few quotes that I think help frame the debate.

In the early years of our Republic, Gouverneur Morris, a Pennsylvania

delegate to the Philadelphia Convention, said, "I cannot conceive of a government in which there can exist two supremes." In 1787, Mr. Speaker, Gouverneur Morris was concerned that a dual system of State and Federal control might not work very well.

In his book "Dixie Rising," Peter Applebome writes, "Think of a place that's bitterly antigovernment and fiercely individualistic, where race is a constant subtext to daily life, and God and guns run through public discourse like an electric current. Think of a place where influential scholars market theories of white supremacy, where the word 'liberal' is a negative epithet, where hang-'em-high law-and-order justice centered on the death penalty and throw-away-the-key sentencing are politically all but unstoppable. Think of a place obsessed with States' rights, as if it were the 1850s all over again and the Civil War had never been fought. Such characteristics have always described the South. Somehow, they now describe the Nation."

Finally, Mr. Speaker, it's important to note a headline from June 24, 1999, from The Washington Post that read, "In 3 Cases, High Court Shifts Power to States." Of course, in over a decade since then, we have seen case after case at the Supreme Court, bill after bill in this House, that have furthered that trend.

This afternoon I want to talk about the center of conservatism, the center of the Constitution, the legal basis by which Republicans and some Democrats stake out their anti-Federal Government agenda. Mr. Speaker, there are two central issues that have dominated this country from its beginning. The first is the relationship between the Federal Government and the States. That question has been with us since the writing of our Constitution in Philadelphia in 1787; through the Supreme Court's first major decision in 1793, *Chisholm vs. Georgia*, during the antebellum period of the 1800s through the 1860s; through the Civil War and postbellum first and second Reconstruction periods; and it remains active and very much a part of our discourse today.

□ 1830

The second issue that has plagued the U.S. is race. It is the central dilemma in our Nation's history, and it has haunted us since 1619, when the first African slaves arrived on our shores—before the Declaration of Independence, before the Constitution, before the Bill of Rights through to the current period of Second Reconstruction.

Throughout history, the question of how to properly balance the national and State governments has confronted America: Are we 50 nation-states that voluntarily participate in a national federation but can ignore or withdraw from that federation at any time—like when 11 States seceded from the Union, or when 22 States filed a lawsuit

against the health care reform bill that passed the Congress this year and the President signed it—or are we one Nation, with a national common law that is indivisible, with liberty and justice for all?

These were perplexing and troublesome questions for the Founders and for the first three-quarters of a century of our existence. They still trouble us today. In a very real sense, it was the Civil War that converted us from a federation of States to a Union. The current common belief is that we are the latter. In practice, too often, we still try to operate like the former. Clearly, the ideology and legacy of States' rights lingers and continues to disrupt and interfere with our ability to build a more perfect Union.

For some, not building a more perfect Union appears to be the goal. Downsizing the role of Federal Government, or the "revolution of devolution" ideology that Newt Gingrich brought on the scene in such a forceful way following the 1994 Republican conquest of the House and the Senate, clearly is an obstacle to achieving national goals. Not building a more perfect Union is clearly the goal of the 112th Congress.

Under the guise of the budget, deficit reduction and spending cuts, today's Republican majority, with the help of some Democrats, is trying to push through bills that would drastically shrink the size and change the scope of the Federal Government. As a result, we're on the verge of a government shutdown, and many Republicans have cheered about the possibility of a government shutdown with loud applause.

Mr. Speaker, I believe that it will be impossible to build a more perfect Union until the ideology of States' rights and the legacy of devolution are politically defeated, as well as in the hearts and minds of the American people. It is currently a central part of the belief system of far too many Americans.

By decentralizing the essential decisions on economic issues such as full employment, health care, housing, public education, and justice, it simply guarantees economic injustice for workers and consumers, and it ensures inadequate health care, shelter, learning, and justice for all Americans.

Soon, millions of Americans will wake up with a shut down Federal Government and States in a fiscal meltdown. Their faith in their elected representatives and government to solve the bread-and-butter issues of their lives will be shaken, and Americans' confidence in our freedom system will be diminished.

The 50 States, acting individually or functioning merely in loose cooperation or voluntary association, simply cannot and will not adequately address policywise, administratively or financially these basic national needs. Only if these essential questions are addressed in a democratic, centralized and coordinated way can we even hope to build a better Nation.

There is no simple answer to this balance of power issue. The question of the relationship of the States to the Federal Government is an ongoing one. Times and circumstances change, and if government is to be relevant, responsive and accountable to the American public's real needs, the relationship, roles and balance of power between the Federal and State governments must adapt and adjust.

The balance of State and Federal power is not something new, and it cannot be settled "by the opinion of any one generation," wrote Woodrow Wilson in 1911. He continued, "Changes in the social and economic condition of society, in the electorate's perception of issues needing to be addressed by government, and in the prevailing political values require each successive generation to treat Federal-State relationships as 'a new question,' subject to full and searching reappraisal."

Politically, however, the reality of circumstances should not be used as an excuse to pursue an anti-Federal Government philosophy of States' rights. The guiding or dominant principle must remain true to the Preamble of our Constitution—to build a more perfect Union, not more perfect States' rights.

The idea of States' rights in the American Colonies preceded the formation of the Constitution and the United States. It rested on the idea of State sovereignty, that ultimate political power and authority resided in the States individually. A century later, States' rights became the means by which State governments defended slavery and perpetuated that peculiar institution with its elitist and perverted economic, political and social arrangements.

In fact, there is a difference between sovereign State rights and the States' rights ideology. Some matters do belong in the purview of the States. States' rights, however, come from a very different spirit and appeal, one that has historically defended injustice within the States.

During the colonial period, citizens strongly identified with and were loyal to their individual Colonies or States. For example, early frictions among the Colonies prevented them from working together to fight against French and Indian antagonists in the mid-1700s. Only their joint hatred of British domination joined them together in the Continental Congress as States in 1776 to fight and win a revolution. Even then, the hostilities among the States continued, postponing adoption of the Articles of Confederation until 1781.

Thus, internal mistrust among the States and external colonial and revolutionary experiences with England made most Americans suspicious and distrustful of undemocratic centralized Federal, central or national power. Indeed, when they drew up the Articles of Confederation in 1776 and ratified them in 1781, they made central authority so weak as to be unworkable for the idea of a union.

The Founding Fathers—women and people of color were not included—tried to correct this flaw when they drafted the Constitution in Philadelphia in 1787. Their mixed feelings and the politics surrounding "centralized," or Federal, and "decentralized," State, power led them to create a Constitution with divided powers both "within," legislative, executive and judicial branches, and "without," between Federal and State governments, that were deliberately ambiguous. It was a central issue of debate during the constitutional ratification process as well.

The new Congress quickly proposed ten amendments that secured these rights, including the 10th Amendment, which delegated to the States those powers not authorized or prohibited by the Federal Government. The 10th Amendment, powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the States, respectively, or to the people.

This has come to mean that if the Constitution specifically speaks to a right, then it is federally protected; but if the Constitution is silent on a particular issue, like slavery, it was reserved to the States, respectively. Only adding an amendment to the Constitution of the United States overcame the limitations of the 10th Amendment to guarantee freedom to the slaves.

However, if slavery, Mr. Speaker, at this time were a State right, then State rights can never be human rights in the American political context. Therefore, if succeeding generations of Americans believe in human rights, they must fight to overcome the limitations of this old amendment and the very slave system that it protected in order to provide progress.

If you believe in gay marriage, you must overcome the limitations of the 10th Amendment and not State by State, but fighting for your human rights in the context of the Constitution. If you believe in education for all, since the Constitution of the United States is silent on the question of education, you must overcome the limitations of the 10th Amendment to guarantee an equal high-quality education for all Americans. If you believe in health care for all Americans, you must overcome the limitations of the 10th Amendment, this old slave amendment, and guarantee the right to health care for all Americans in the Constitution; because the issues of slavery taught us, if slavery is a State right and if Virginia all the way around to Texas has the right to leave the Union, then States' rights can never be human rights.

The questions, Mr. Speaker, were many. And it should logically have followed exactly what this Congress is doing. If the Constitution is silent on health care, cut it. If it's silent on Medicare, Medicaid, LIHEAP, unemployment, housing, NIH funding, cut it. The Republican majority has placed it on the chopping block because they

argue it is outside the scope of Federal jurisdiction.

Mr. Speaker, what we have learned from this process and what we bring to the table is that human rights must be advanced by this Congress in order to broaden the definition of what it means to be an American.

□ 1840

Mr. Speaker, tonight I am joined by the distinguished gentleman from Louisiana. I want to welcome my colleague from the great city of New Orleans whose congressional district has experienced a State that is in a difficult financial condition. He has experienced natural disasters, and he cannot just rely upon his State legislature to solve these problems. He needs a strong Federal Government to close some of the profound gaps that exist in his congressional district, just as I need a strong Federal Government to close gaps that exist in my congressional district. But it is virtually impossible, Mr. Speaker, to close those gaps unless this Congress recognizes that we have an obligation to the American people, to those who have been left behind.

While slavery was clearly the cause of the Civil War, the non-slavery rationale for the Civil War and the argument that won it broad support in the South and almost won it international recognition was Madison's and Jefferson's interpretation of States' rights as self-determination.

That's why the tea party comes running up here saying the Federal Government should be out of business, turn it over to the States. With some practical examples of the limitations of what we are confronting, I am proud to introduce to some—and I am honored that he is joining me tonight in this colloquy and this discussion—the distinguished gentleman from Louisiana, Mr. CEDRIC RICHMOND.

Mr. RICHMOND. Thank you, Congressman JACKSON, for yielding to me and allowing me to participate in this conversation. And thank you, Mr. Speaker, for allowing us this opportunity to talk.

Congressman JACKSON, you well know that it starts back in the Second Congressional District of Louisiana when we start talking about the true and historical fight of States' rights versus the common good or what we can call a more perfect Union. Because had you left it to States' rights and the will of Governors and the legislatures of those Southern States, then Ruby Bridges, who was my constituent in New Orleans, would not have had the Federal marshals to escort her that day to Frantz School so that she could have the same education as everyone else.

So we have to remember when we talk about States' rights and the Federal Government and the fact that we are talking about a more perfect Union, we are talking about a Constitution. We are talking about a Congress, and we are talking about a court

system that should guarantee every child the same opportunity. Whether it is Louisiana, whether you are in Lake Providence, Louisiana, or whether you are in Boston, Massachusetts, you should have the same access and the same rights. So what we are talking about is a Federal Government that should insist and ensure that everyone is treated equally under the laws.

Now, the interesting thing when you talk about and you allude to States' rights, Congressman JACKSON, people talk about States' rights when it is convenient. And I come from a State in which they are talking about States' rights right now. It should be their right to offer health care as they see fit. It should be our job to cut all of the things that aren't essential.

However, I remember those days after Katrina when we were not saying States' rights. We were saying: Where is the Coast Guard? We were saying: Our levees have collapsed; we need the Corps of Engineers' help to rebuild them. And it took this Congress and actions and your vote to put \$14 billion into the Corps of Engineers' budget so that they could build the proper infrastructure around the city to protect the citizens there. Why did they do it? Because it was the common good. It was the right thing to do.

So you can't have it both ways when you talk about States' rights and when you talk about the role of the Federal Government. And now when times are difficult, we go back to the States' rights argument so that we can cut those things that the least of us need.

Mr. JACKSON of Illinois. How can the Federal Government or how can the States address unemployment individually? How can 50 States, one State at a time, address education? How can 50 States, one State at a time, address health care without some centralizing, unifying coordination from the Federal Government?

Mr. RICHMOND. Well, they can't do it. Part of it becomes when you take health care as a whole, when you start talking about the United States of America and health care for all, the United States of America and education for all, the United States of America and employment for all, you are talking about things that affect interstate commerce. Now you are talking about things that affect the future and well-being of this country as a whole, which directly puts it back into the powers of the Federal Government because it affects the Federal Government.

So you can't isolate it. That's what some would attempt to do now. I just don't think that it is possible to do. History dictates that you can't do it. What you will end up with is a system of unequal treatment to people based on arbitrary factors: where they live, what they look like, and all of those things.

So, Congressman JACKSON, I would just say that I think you are right on the mark when you are talking about

the role that the Federal Government should play. And you raised, just a couple of moments ago, that it is the Federal Government's role to dictate how we treat the unemployed. Now, we very well can't leave that up to States' rights.

Mr. JACKSON of Illinois. It may not even be a State priority to eliminate unemployment. In other words, there ought to be some national interest in making sure that 13 million Americans have a job, that they are working and they are paying taxes and that they can help reduce the deficit and the debt.

I hear from neither side, anyone come to this floor saying that we are putting forward an agenda to wipe out unemployment.

I yield to the gentleman.

Mr. RICHMOND. Well, Congressman JACKSON, my question to you was going to be: Have you seen a State react yet? Have you seen a State step up with their own jobs plan? Or have you seen a State address the inequality and the treatment of the unemployed so far?

Mr. JACKSON of Illinois. I have not seen. I have not seen it in any coordinated way. And as if to suggest that Illinois, just because of an invisible border between Illinois and Indiana, that Indiana's economy doesn't affect the Illinois economy, or the Wisconsin economy doesn't affect the Illinois economy, or the Iowa economy, another border State, doesn't affect the Illinois economy, what I have seen are Governors now in battles, offering incentives to corporations not to leave their State and cross State lines because we are not growing the economy evenly in all States together.

The absence of Federal coordination creates a disaster amongst the States, and we become less of a Union as States begin to offer incentives in a rush to the bottom to undermine workers, to undermine the quality of life for Americans by changing laws within States to undermine the quality of benefits that workers receive who even work within States.

This is part of the ongoing revolution that has been led over the last 5 or 10 years by the right wing, both in the Democratic Party and in the Republican Party, against the idea of the central government.

My question to you: How can we be a government of, for, and by the people and then be so upset at it when it is our government? when it is us?

Mr. RICHMOND. Well, it depends. And what we see in this climate right now, you see the anger out there of a generation of people and a large population of people who are upset at the way government is working. Now, there is one particular thing they can point out, which is the debt and the deficit. One way, which is the way that is being pursued today, is to just cut. Let's cut everything that is unpopular. Let's cut those things that go to the common good; those things that promote unity; those things that will help

people lift themselves up; and those things that will create opportunity for people.

We always said in this country that education was the best way to lift yourself out of poverty. What we are doing here in this Congress right now, we are cutting Pell Grants. We are cutting early childhood education. You can't do those things and then leave it up to the States because, as you so adequately addressed a few minutes ago, it is a competition between the States.

I had the privilege to go with my Governor before over to Germany to visit Thyssenkrupp to offer them incentives so they would come to Louisiana as opposed to going to Alabama. Well, we need a referee when things like that are going on. We need somebody who can coordinate and say some competition between the States is good, but it is our role to make sure that all Americans are treated fairly and that everybody has the opportunity to succeed.

Mr. JACKSON of Illinois. I think the lesson comes particularly from African American history, which I think is appropriate. We don't talk about it up here enough. I'm not ashamed or afraid to come and talk about it.

When African Americans were fighting against slavery and fighting from 1619 to 1865, the passage of the 13th Amendment, the legal argument that was used to justify—to justify—why slavery needed to continue was the 10th Amendment. States' rights.

Virginia said, You don't have a right, Federal Government, to come here and tell us what to do. Georgia said, you don't have a right, Federal Government, to come here and free slaves. You don't have a right, Federal Government, to come into Alabama and tell us what to do. You don't have a right, Federal Government, to come to North Carolina and tell us what to do.

□ 1850

And here we are in 2011 with an element of the Congress of the United States and a tea party outside of the Congress of the United States telling us: Federal Government, you don't have a right to come into our State and give somebody health care. You don't have a right to come into our State and end the foreclosure crisis. You don't have a right to come into our State and provide a higher quality of life for all Americans.

Oh, yes, but you do have a right to give some people a tax break. You do have a right to help these corporations. You do have a right to bail out Wall Street, but you don't have a right to bail out the individual.

So I think, Mr. RICHMOND, that we have a unique perspective around the 10th Amendment that we need to bring into this debate. I'm hoping the Black Caucus joins us in that conversation.

But let me ask you, Mr. RICHMOND. In Louisiana, if offered an opportunity by this government to receive more resources to fix schools, to fix levees, to

build infrastructure, would your State send the money back?

Mr. RICHMOND. Absolutely not. Not only would my State take it, but there's a new report out by a conservative group that shows that Louisiana receives more aid than every other State except one and for the first time our State budget has more Federal dollars in it than State dollars.

So I want to be clear about what you hear about States' rights. And this is not just in Louisiana. Right now 27 States have more Federal money in their budgets than they do their own State dollars. So they're not turning down State assistance when it comes to providing those things.

And I just want to tell you that it's so convenient, and the 10th Amendment couldn't address everything, and the Constitution could not address everything at the time, and we can't pretend that it did. What we have the responsibility to do, as Members of this Congress, is to make sure we apply common sense to what the Founders were doing.

You see no mention of the Internet in the Constitution. That's our road to now deal with it. So now that we talk about a complex program to give every American the basic right to health care, you are not going to see that in the Constitution. But what you see in the Constitution and what the overriding theme is, is a more perfect Union. And this government has the responsibility to do that.

So when we start talking about energy assistance to our seniors who can't afford it, you will not see those things in the Constitution. But when you apply common sense, which is what we were elected to do, to a living, breathing document, it would follow that we have not only the right but we have the responsibility and the obligation to do those things for the States.

Mr. JACKSON of Illinois. Mr. RICHMOND, I understand that my time is about to expire.

But our men and women who are fighting in Afghanistan and fighting in Iraq, they're fighting to defend that flag. They're fighting to build a more perfect Union. It's shameful that Members of this Congress aren't fighting for that flag, aren't fighting for a more perfect Union, aren't fighting to expand opportunities for our men and women when they return from Afghanistan and Iraq.

There is nothing more tragic in this current hour, Mr. Speaker, than the idea that our men and women could come home to unemployment, could come home without health care, could come home to homes that are in foreclosure, Mr. Speaker. The 112th Congress needs to do something about that.

I thank the gentleman from Louisiana for participating in this Special Order.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FRELINGHUYSEN (at the request of Mr. CANTOR) for today and the balance of the week on account of surgery.

#### BILL PRESENTED TO THE PRESIDENT

Karen L. Haas, Clerk of the House reports that on April 6, 2011 she presented to the President of the United States, for his approval, the following bill.

H.R. 4. To repeal the expansion of information reporting requirements for payments of \$600 or more to corporations, and for other purposes.

#### ADJOURNMENT

Mr. JACKSON of Illinois. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 54 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, April 8, 2011, at 10 a.m. for morning-hour debate.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

1106. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Removal of the List of Ports of Embarkation and Export Inspection Facilities From the Regulations [Docket No.: APHIS-2009-0078] (RIN: 0579-AD25) received April 4, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1107. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Dichlormid; Pesticide Tolerances [EPA-HQ-OPP-2005-0477; FRL-8866-2] received March 16, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1108. A letter from the Deputy Secretary, Department of Defense, transmitting the Department's annual Developing Countries Combined Exercise Program report of expenditures for Fiscal Year 2010, pursuant to 10 U.S.C. 2010; to the Committee on Armed Services.

1109. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Repeal of Restriction on Ballistic Missile Defense Research, Development, Test, and Evaluation (DFARS Case 2011-D026) (RIN: 0750-AH18) received March 17, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

1110. A letter from the Acting Under Secretary, Department of Defense, transmitting the Department's March 2011 Semi-Annual Report providing the progress toward destruction of the U.S. stockpile of lethal chemical agents and munitions by the Chemical Weapons Convention (CWC) deadline of April 29, 2012, but not later than December 31, 2017; to the Committee on Armed Services.

1111. A letter from the Chairman, Federal Financial Institutions Examination Council, transmitting the Council's Annual Report for 2010; to the Committee on Financial Services.