

transplant searches and procurement from donors must be covered as well in order to truly save lives.

Bone marrow transplants are just one example of a clearly life-saving and medically appropriate and necessary procedure that needs to be covered by health insurance companies.

The Republican bill leaves medical decisions in the hands of insurance company accountants and not in the hands of those who know best: the doctor and patient.

The Republican bill does not ensure access to specialty care; does not prohibit HMOs from offering bonuses to doctors for denying necessary care; does not prohibit drive-through mastectomies; and perhaps, worst of all, the Republican bill does not hold the health insurance plans accountable when abusive practices kill or severely injure patients.

Despite what those who would rather squander extra dollars for the health industry say, these protections would not result in a significant increase in costs. A recent congressional study concluded that the right to sue, which is in the Democratic Patients' Bill of Rights bill, would result in only an extra \$2 a month per employee.

These are just some of the 16 protections that are missing from this Republican fig leaf of a bill that are included in the Democratic Patients' Bill of Rights bill. The Republican bill flies in the face of those lives who have been lost or severely impaired by an incomplete, unfair and sometimes ruthless HMO system. This legislation is seriously flawed not only because it is extremely partisan and has completely circumvented the legislative process, but also because it does little to resolve some of the most daunting problems facing Americans today.

#### GENERAL LEAVE

Mr. PALLONE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

#### ISSUES OF HIGH NATIONAL IMPORTANCE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Georgia (Mr. BARR) is recognized until 12 midnight as the designee of the majority leader.

Mr. BARR of Georgia. Mr. Speaker, I would like to spend a few moments this evening engaging in what we used to as children called paint by numbers. The Speaker may recall those paint by numbers where, when you open a box of that paint by number, you are basically presented with what appears to be an incoherent picture, white with some black lines on it and some numbers. Only as you fill in the numbers so designated at some point does the full impact of that picture really become clear.

The paint by number picture about which I speak tonight has to do with

fundamental constitutional powers such as separation of powers and other very clear concepts and philosophy and powers designated explicitly or implicitly in our Constitution, in other words, very, very grave issues of high national importance.

The picture being painted by the administration is not one that is being painted directly through the normal time honored and constitutionally sound process of proposing legislation, fully debating that legislation, holding hearings on that legislation, making changes to that legislation, further debating that legislation, allowing Members and, indirectly, the American people to vote on that proposed legislation, reflecting their will, their desires, their needs, that is the will, the desire, and the needs of the American people, and then having a similar process of public vetting, as it were, take place in the Senate.

Then and only then would the President as the Chief Executive Officer of this country either approve or veto that legislation at which time, if it is signed reflecting, one presumes, the desires of the Chief Executive would it become the law of the land.

□ 2330

It would be, thereafter, subject to whatever scrutiny those who object to it, who might object to it, would raise through our court system.

That is how the system ought to operate. And whether each one of us agrees or disagrees with any particular laws so passed and so signed by the President, at least we have had the opportunity and the American people have had the opportunity through their representatives in this representative democracy to have input, to have an impact, and to understand what it is that is being proposed to ensure to the greatest extent possible that it reflects their views, their needs and their desires. That is the way it ought to be. That is the way normally it is.

Over the course of our Nation's history, we have had dozens of presidents. By and large, each one of them has respected that process. They understand that process, and they abide by that process, because they know it is essential to the fabric and the continuing of this great country.

Unfortunately, Mr. Speaker, what we have currently is something quite different. We have an administration that is attempting to govern by executive order and rules and regulations; attempting to come in through the back door, as it were, when the front door has either not yet been opened or deliberately closed shut by the people's representatives in this great body.

When you see these numbers being filled in, Executive Order 13083, for example, it does become frighteningly clear what is happening in America through essentially a subversion of the process of governing laid out in our Constitution. I would like to mention briefly, Mr. Speaker, just a few exam-

ples of this process, or lack of process, this evening.

Let us start with the big picture. Federalism, that concept embodied in our Constitution and honed to a fine art through decades upon decades of activities here in this body and our sister body across the Capitol and at the other end of Pennsylvania Avenue and, indeed, as well through the court system.

On May 14, 1998, perhaps just by coincidence while he was outside the continental United States of America in England, President Clinton signed Executive Order 13083, on May 14, 1998. This is an Executive Order entitled simply "Federalism," similar in its title and in its prefatory language to an Executive Order issued 11 years ago, in 1987, by President Reagan.

There the similarity ends. The Executive Order on Federalism issued in 1987 by President Reagan was a blueprint that was consistent in every respect with the concepts of Federalism embodied in and contemplated by the founders of our Constitution, our Founding Fathers.

It basically served over the course of the last 11 years to set forth a policy of the Executive Branch of government that unless there was a specific power on which any and all Federal agencies or departments could base prospective action involving powers normally granted to, subsumed by or exercised by state or local governments, then, in the absence of such clear express authority, President Reagan's Executive Order directed that the agency or the department contemplating such action should not and would not move forward with it. In other words, it was a limiting Executive Order.

What we have, Mr. Speaker, in Executive Order 13083, signed on May 14, 1998, by President Clinton, is an Executive Order that, while it purports to embody concepts of Federalism similar to that put forth by President Reagan, it does exactly the opposite.

Executive Order 13083 is a blueprint providing justification for any agency or department of the Executive Branch to involve itself in any activity, particularly those normally subsumed by or exercised by state or local governments, so long as that proposed activity falls into one of nine categories of activities that are so broad as to encompass virtually any activity any administration would want to involve itself in.

For example, number one, when the matter to be addressed by Federal action occurs interstate; two, when the source of the matter to be addressed occurs in a state different from the state or states where a significant amount of the harm occurs; three, when there is a need for uniform national standards; four, when decentralization increases the costs of government; five, when states have not adequately protected individual rights and liberties; six, when states would be

reluctant to impose necessary regulations because of fears that the regulated business activity will relocate to other states; seven, when action would undermine regulatory goals; eight, when the matter relates to international obligations; and, nine, when the matter to be regulated significantly or uniquely affects Indian tribal governments.

One does not have to be either a rocket scientist or a learned constitutional scholar to conclude very quickly that this list of nine categories of proposed Federal activity would encompass anything any administration would want to encompass. It goes far beyond, both in its express terms as well as in its implicit powers, beyond any powers contemplated to be granted to the Federal Government in the Constitution, far beyond even the very expansive notions of interstate commerce that have been used as an almost universal hook on which to impose Federal action in recent decades.

This Executive Order, unless stopped by the courts or by Congress, goes into effect August 12, 1998. Legislation though has been introduced by myself and others, H.R. 4196, the State Sovereignty Act of 1998, that would stop this Executive Order.

Let us erase at least those numbers "13083" from this paint-by-number process that we see this administration trying to sneak through on to the American people, our states and our local governments.

There is another Executive Order to which I would draw the Speaker's attention, signed exactly two weeks after the Federalism Executive Order. This one was signed by the President, numbered 13087, on May 28, 1998.

While this one is much shorter and more direct and limited in its scope, it reflects either a gross misunderstanding of the purpose and proper role of an Executive Order, or, again, a back door effort to subvert the normal process of legislating and governing in America.

This Executive Order, 13087, provides that sexual orientation shall be for Federal employment purposes and all other activities of Federal agencies or departments a protected category of activity.

□ 2340

It does this by amending Executive order number 11478 signed in August of 1969 by former President Nixon, which had to do with affirmative action in Federal agencies and departments. Therefore, through the Executive order signed by President Clinton on May 28, 1998, providing for sexual orientation as a protected category of activity for all Federal purposes by inserting that provision into the prior Executive order signed by President Nixon under this new Executive order, there will be an affirmative action program for sexual orientation in Federal agencies and departments.

This, despite an expressed decision by the Congress of the United States not

to pass legislation that would purport to make sexual orientation a protected category activity, and despite the fact that the Supreme Court of the United States has consistently refused to find or to grant a protected category for sexual orientation.

Those who support this Executive order claim it does not mandate an affirmative action policy, but it does. The expressed terms of the Nixon Executive order, for example, and I quote, "To promote a continuing affirmative program in each executive department and agency." And further, in its section 2, quote: "The head of each executive department and agency shall establish and maintain an affirmative program of equal employment opportunity for all civilian employees and applicants for employment within his jurisdiction."

That was the affirmative action Executive order which now, by virtue of a stroke of the pen by President Clinton, includes and mandates sexual orientation as among its protected class of activity.

Further, and even more unfortunately perhaps, Mr. Speaker, is the fact that this latest Executive order is poorly crafted, perhaps on purpose, perhaps simply by haste. Regardless of why, it is a very poorly crafted Executive order, because although its subject matter is sexual orientation as a protected class of activity, nowhere in it does it define what sexual orientation is. Nowhere in the United States code is there a definition of sexual orientation.

One week ago, Mr. Speaker, when we had the opportunity to talk with the acting Assistant Attorney General for Civil Rights, Mr. Bill Lanley, I asked him if he could define for us sexual orientation in the context of this Executive order or other matters within the jurisdiction of the Department of Justice. He could not. I asked him again today in hearings before the Subcommittee on Crime of the Committee on the Judiciary in the context of the next matter I will speak about if he could define sexual orientation. He made a stab at it, but he could not. Yet, we now have an Executive order that mandates sexual orientation as a class of activity for all Federal purposes and makes it a requirement that every Federal agency or department establish and maintain an affirmative action policy relating to that protected category of activity, yet it does not define what it is. Is this a recipe for mischief, or what? Yet Congress has had no say-so, nor have the American people had any input, into this legislation by Executive order.

Let us, however, assert our proper responsibility role, power and jurisdiction under the Constitution, and by legislation mandate that this Executive order not go into effect. Let us at least erase those colors from the paint-by-number drawing that this administration is forcing on the American people.

Thirdly, and related to that prior Executive order on sexual orientation affirmative action, Mr. Speaker, is legislation being supported without any hesitancy whatsoever, in the words of acting Assistant Attorney General Bill Lanley today, that would establish a new category of Federal crime, so-called hate crimes, which would include as a Federal hate crime harming somebody because of their actual or perceived gender or sexual orientation. Nowhere in the legislation or in the code is there a definition of either of those terms. Yet, this administration would saddle United States Attorneys all across this country, and certain Federal agencies all across this country, already overburdened in their efforts to protect the American people from legitimate crime, to now take from their precious resources and overburdened staffs personnel and resources and time to try and figure out what is a crime involving activity based on perceived sexual orientation.

This legislation should be defeated. If we do not, then I feel fairly confident the courts will, because of vagueness and other infirmities in its terms, but here again, Congress has expressly refused to recognize, as have the courts, so-called sexual orientation as a protected category of activity, and this administration should not be allowed to move forward in this backhanded, back-door way of subverting the will of the people of this country.

The gentleman from Arizona has joined us.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Georgia for the concerns he has brought to light this evening. As I watched on our television system while I was making calls to constituents in the 6th district of Arizona, I could not help but note that the very concerns the gentleman from Georgia outlines were raised with me this past weekend back in the 6th district.

I had occasion to visit Arizona's pleasant valley, the small town of Young, Arizona for their annual Pleasant Valley Days parade, and then Saturday evening in a neighborhood town-hall meeting in Mesa. Many citizens of the 6th district raised these precise concerns. And regardless of philosophical orientation, what the gentleman from Georgia points out tonight is absolutely correct, because in this Chamber and indeed, Mr. Speaker, throughout this government, there needs to be a reverence for and an adherence to the Constitution of the United States, which properly notes that the powers this government derives is conferred upon it by the people, and accordingly states that it is the legislative branch which has lawmaking authority, and the executive branch the responsibility to execute the law.

So this transcends political philosophy, for it is a question of constitutionality, and those who would seek to usurp in the executive branch the powers rightly conferred by the people on

the legislative branch of government are treading on dangerous ground.

□ 2350

I almost hesitate to use the term, for it sounds very strong. And yet this is what it in effect is. It is a subversion of the intent of our Founders to have those in the Executive Branch attempt to legislate by Executive order.

I would say, Mr. Speaker, this holds true regardless of party affiliation. For whatever reasons, those tempted in the Executive Branch to attempt to subjugate the American people to their visions and designs, independent of what the Congress of the United States says, and indeed in direct opposition to what the Congress has specified through the votes of the duly elected constitutional officers in this body and in the Chamber opposite who serve in the legislative branch.

So, Mr. Speaker, on behalf of many citizens of the Sixth District of Arizona, I rise to take to the well of the House to commend the gentleman from Georgia for properly pointing out that there are serious questions about the entire notion of Executive orders, and especially those which he has outlined here this evening. Again, concerns that transcend philosophical differences and go to the very fabric of our constitutional republic and the powers conferred upon us by the people through their expressions at the ballot box.

That is why I look forward to joining with my colleague from Georgia and others in this body to reaffirm what the Constitution sets up. That this body is set aside to deal with legislative remedies and law making. And that the Executive Branch exists to execute the laws passed in the Legislative Branch. And that, of course, our friends in the Judiciary, in that third separate but coequal branch of government, have the right to interpret and through judicial review determine the constitutionality of many different actions.

I share the concern of the gentleman from Georgia that the propensity for and the temptation of Executive orders seems to have run rife through this administration. That in the wake of the ground swell of popular support for a new conservative majority, there seem to be those in this city, located at the other end of Pennsylvania Avenue, who would move to ignore the will of the people as expressed by the duly elected constitutional officers.

So, again, just as I heard Saturday afternoon in Young, Arizona, and Saturday evening in Mesa, Arizona, I rise to compliment the gentleman from Georgia, to pledge publicly that I will work with him because the people have this concern. And as Dr. Franklin said to a bystander, "Here, sir, the people govern."

Not the executive, but the people working their will through their duly elected constitutional representatives.

Mr. BARR of Georgia. Mr. Speaker, reclaiming my time, I thank the gen-

tleman from Arizona, although his presence here this evening and his words are not surprising to me. He is say well-known champion of the Constitution and is a tireless and very eloquent advocate for its principles. I appreciate his support and his words which he speaks many times from the well of this House, and in his district.

If I might, Mr. Speaker, two other quick examples, and there will be more to be sure in succeeding hours here on the floor of this House, because the issues are more important, much more important than can be dealt with in one evening's discussion.

Many of us have heard for quite some time, I know the gentleman from Arizona has as well, of a national ID, a national identification card. "May we see your papers, please?" Yet up to this point, that really has been a theoretical discussion.

Well, it is theoretical no longer. By rules proposed in the Federal Register on June 17, 1998, the public comment period for which will end on August 3, 1998, the Federal Government is setting in motion a comprehensive and very proactive policy and mechanism for the establishment of a single national identification card.

Now, one might think, well, that would be something that would be subject to great discussion and debate and would certainly be something, because of its importance and its legal ramifications, something that would be sponsored by the Department of Justice or the FBI. Not so. It is being sponsored and implemented by an agency well-known to everybody with clear jurisdiction over such key judicial and constitutional matters as this, by the National Highway Traffic Safety Administration.

Time will not permit, Mr. Speaker, to go into all of the details of this. I will at a future date. Suffice to say that in the numerous pages promulgated in the Federal Register on June 17 of this year by the National Highway Traffic Safety Administration, is a comprehensive laundry list of all of the specific information and indeed the format in which that specific information shall be included in a national identification card. At its core will be the Social Security number.

This has been followed up already, Mr. Speaker, by another proposal which is becoming known to those citizens, such as the gentleman from Arizona, who are concerned about privacy rights, separation of powers and other constitutional principles, the national health identification card or health identifier.

We do not need to use our imagination to know exactly where this leads us. We need only to look at our friends across the Atlantic Ocean, Great Britain. During the Christmas holidays this past Christmas, Prime Minister Tony Blair instituted by executive fiat, similar to his friend here in Washington, the President of the United States, a national identification card which is

called, oh, so benignly, a Smart Card. And this is simply a prelude to a European identification card for the European Union, which will then become part of what many would hope and envisage as an international identification card.

Lastly, the Second Amendment well-known to at least most of us in this Chamber preserves for the American people expressly in our Constitution the right to keep and bear arms. Also expressly embodied in our Constitution is the principle that only the House of Representatives shall have the power to levy taxes. Yet what the FBI has proposed again in proposed rules and regulation, not legislation subject to full, open, and fair debate and voting by the American people through their representatives, but through rules and regulations, the FBI is proposing a gun transfer tax.

Moreover, Mr. Speaker, and I know this is of concern to the gentleman from Arizona whose citizens cherish not only the Second Amendment but the entire Constitution, the FBI is also proposing to begin and maintain a registry of all law-abiding gun owners in this country.

We have legislation, H.R. 3949, that would strike the proper balance and rescind and stop this unconstitutional power grab. I urge, as I know the gentleman from Arizona will, support for this so that here again we do not allow those numbers to be painted in through the unconstitutional colors of this administration.

In closing, if I have any time I will yield to the gentleman from Arizona, but in closing, let me do something that I purposefully did not do at the beginning of this discussion about paint by numbers. Let the American people understand and know what the title is of this paint by numbers being proposed by the Clinton administration. It is abuse of power.

There is a remedy for that, which we may indeed get to in this Congress. But let us begin now through legislation and the light of day and stopping these unconstitutional moves by this administration.

Mr. Speaker, I yield to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Georgia, and again it is almost as if my friend joined me in Arizona this past weekend, because these exact concerns, enumerated here on the floor by the gentleman from Georgia, were exactly the concerns I heard not only from the two groups with whom I met personally, but on talk radio in the Phoenix market and in a variety of different venues.

I would certainly commend the comments of the gentleman from Georgia, and also point out to the gentleman and to our other colleagues, Mr. Speaker, that the gentleman from Pennsylvania (Mr. GEKAS) and I have prepared legislation that again amplifies the Constitution, that the sole power to

tax resides here in the House of Representatives, not with any bureaucratic organization or organization of the administrative branch.

Mr. Speaker, I yield back to gentleman from Georgia.

Mr. BARR of Georgia. Mr. Speaker, I thank the gentleman from Arizona and look forward to further discussions on these very important matters.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YOUNG of Florida (at the request of Mr. ARMEY) for from noon on July 21, and for today and July 23 and 24, on account of personal reasons.

Mr. SERRANO (at the request of Mr. GEPHARDT) for Thursday, July 23, on account of family business.

Mr. FORD (at the request of Mr. GEPHARDT) for today on account of personal business.

Mr. GREEN (at the request of Mr. GEPHARDT) for after 4:30 p.m. today.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PAPPAS) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, today.

Mr. KASICH, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PAPPAS) and to include extraneous material:)

Mr. HAMILTON.

Mr. KIND.

Ms. PELOSI.

Mr. MURTHA.

Mrs. CAPPS.

Mr. KANJORSKI.

Mr. ORTIZ.

Mr. BARCIA.

Mr. BLAGOJEVICH.

Mr. TRAFICANT.

Mr. STARK.

Mr. SANDERS.

Ms. HOOLEY of Oregon.

Mr. LIPINSKI.

Ms. JACKSON-LEE of Texas.

Mr. CONYERS.

Mr. VISCLOSKEY.

Mr. MCDERMOTT.

(The following Members (at the request of Ms. ROS-LEHTINEN) and to include extraneous material:)

Mr. HAYWORTH.

Mr. ENSIGN.

Mr. LEWIS of Georgia.

Mr. DUNCAN.

Mr. WELLER.

Mr. MCCOLLUM.

CORRECTION OF CONGRESSIONAL RECORD OF JULY 20, 1998, PAGE H5954, AND THE CONGRESSIONAL RECORD OF JULY 21, 1998, PAGE H6067

#### SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1418. An act to promote the research, identification, assessment, exploration, and development of methane hydrate resources, and for other purposes; to the Committee on Science, and in addition, to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. 638. An act to provide for the expeditions completion of the acquisition of private mineral interests within the Mount St. Helens National volcanic Monument mandated by the 1982 Act that established the Monument, and for other purposes; to the Committee on Natural Resources.

S. 1069. An act entitled the "National Discovery Trails Act of 1997; to the Committee on Resources.

S. 1132. An act to modify the boundaries of the Bandler National Monument to include the lands within the headwaters of the Upper Alamo Watershed which drain into the Monument and which are not currently within the jurisdiction of a Federal land management agency, to authorize purchase or donation of those lands, and for other purposes; to the Committee on Resources.

S. 1403. An act to amend the National Historic Preservation Act for purposes of establishing a national historic lighthouse preservation program; to the Committee on Resources.

S. 1510. An act to direct the Secretary of the Interior and the Secretary of Agriculture to convey certain lands to the county of Rio

Arriba, New Mexico; to the Committee on Resources.

S. 1695. An act to authorize the Secretary of the Interior to study the suitability and feasibility of designating the Sand Creek Massacre National Historic Site in the State of Colorado as a unit of the National Park System, and for other purposes; to the Committee on Resources.

S. 1807. An act to transfer administrative jurisdiction over certain parcels of public domain land in Lake County, Oregon, to facilitate management of the land, and for other purposes; to the Committee on Resources.

S. Con. Res. 105. Concurrent Resolution expressing the sense of the Congress regarding the culpability of Slobodan Milosevic for war crimes, crimes against humanity, and genocide in the former Yugoslavia, and for other purposes; to the Committee on International Relations.

#### BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following titles:

On July 21, 1998:

H.R. 2676. An act to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

H.R. 1439. An act to facilitate the sale of certain land in Tahoe National Forest in the State of California to Placer County, California.

H.R. 1460. An act to allow for election of the Delegate from Guam by other than separate ballot, and for other purposes.

H.R. 1779. An act to make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing improvements.

H.R. 2165. An act to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 3862 in the State of Iowa, and for other purposes.

H.R. 2217. An act to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 9248 in the State of Colorado, and for other purposes.

H.R. 2841. An act to extend the time required for the construction of a hydroelectric project.

#### ADJOURNMENT

Mr. BARR of Georgia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 59 minutes p.m.), the House adjourned until tomorrow, Thursday, July 24, 1998, at 10 a.m.

#### EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for official foreign travel during the first and second quarters of 1998 by Committees of the U.S. House of Representatives, as well as a consolidated report of foreign currencies and U.S. dollars utilized for speaker-authorized official travel during second quarter of 1998, pursuant to Public Law 95-384, and for miscellaneous groups in connection with official foreign travel during the calendar year 1997 are as follows: