

the False Claims Act. After the dialogue, and after DOJ changed its process, this official wrote to me and said he was satisfied that the law doesn't need to be changed. This official further says that after meeting with the local U.S. Attorney, he is confident in DOJ's intentions to not use the False Claims Act to go after honest mistakes.

In this case, the dialogue seems to have worked. Reason prevailed. Where reason has not prevailed is with those supporters of the McCollum bill who believe that the False Claims Act should be gutted anyway. There is a logical disconnect between the problems identified by the hospital industry, and the solution they now advocate.

Pure and simple, the False Claim Act is a tool against fraud. It is not to be used, and is not used, against innocent mistakes. There is clearly an agenda behind this bill. It is to remove the taxpayers' most effective weapon in its arsenal against fraud. And it is being pushed by some in an industry that has been clearly ravaged by those who have committed fraud.

There is no question that the vast majority of hospitals and hospital employees in this country are honest, civic-minded, and true public servants. Many are absolute heroes. Those in industry who get caught committing fraud threaten to give the industry a tarnished reputation.

If that is so, can't we also say that those who are pushing to gut the law also threaten to give the industry a tarnished reputation? After all, given the changes made by DOJ, there is no empirical basis for this bill. Just as changes were demanded of the Justice Department to refrain from taking action without a legal or factual predicate, shouldn't there be a legal and factual predicate for advancing this bill. There is none.

The McCollum bill is not designed to stop the prosecution of innocent mistakes. Rather, it would make fraud easier to accomplish more often. And, it would establish new "look-the-other-way" loopholes, including for on-going cases such as Columbia/HCA. And remember, this bill would do all that at a time when there's \$20 billion of potential fraud out there, fraud in the medical industry has been rampant, and the public has had it up to their keesters.

Is this what the supporters of the McCollum bill really think the public wants and needs? Do you really think the public wants a white flag of surrender in the war against fraud?

Specifically, the McCollum bill would do the following:

First, it would create a "fraud-free zone." No false claims case could be brought unless the taxpayers' damages are a "material amount." That "material amount" is unclear but it could be as much as ten percent. In other words, we will write off the first 10 percent of fraud. In effect, it legalizes or legiti-

mizes up to ten percent of what is now illegal. For a company like Columbia/HCA, for example, which pulled in more than \$6 billion from the taxpayers last year, the first \$600 million would be okay. For the entire Medicare program, which was \$210 billion last year, we could write off the first \$21 billion. That is a \$21 billion loophole. A real whopper.

Second, let us say a false claims case involved a "material amount." there are still three more ways a company could get off the book anyway. The McCollum bill would open up three more whoppers to raise that \$21 billion—"free fraud zone" to substantially more. Companies would be able to better insulate themselves from liability simply by, among other things, showing a commitment to setting up better procedures in the future despite defrauding Medicare today.

Finally, the bill would make it much harder to provide that claims were wrongfully submitted. The normal standard for civil statutes is "a preponderance of the evidence." The McCollum bill would raise it to "clear and convincing evidence." That is basically a criminal standard, not a civil one. Once again, reason has not prevailed in the formulation of this bill.

The McCollum bill would establish a fortress around the medical industry. It would prevent legitimate efforts on behalf of the taxpayers to punish those bad apples that undermine the integrity of health care programs and raid the treasury. The solution is not to gut the law. The solution was and is to take the steps DOJ has already taken, and to ensure DOJ stays on that rack in the future. We have addressed the process dealing with innocent mistakes.

At the same time, we need the toughest possible law to go after mistakes that aren't innocent. Those who continue down the road of supporting this bill pose a clear and present danger to the public's vital interests—to the highest quality of health care for our senior citizens, and to the integrity of how our tax dollars are spent.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

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

#### STATE DEPARTMENT AUTHORIZATION CONFERENCE REPORT

Mr. FEINGOLD. Mr. President, I rise to speak on the State Department authorization conference report debated on Friday and to be voted on tomorrow. Unfortunately, I was unable to participate in the debate on Friday, and I appreciate the chance to take the time now to express my views on this legislation.

I would like to express my extreme regret and disappointment that the debate over the important issues of the

long-overdue payment of our arrears to the United Nations and the reorganization of the U.S. Department of State has once again become a sideshow to an exercise by some Members of Congress regarding the issue of reproductive choice. I find it astounding that these members insist on holding our international commitments hostage to a desire to score political points on a domestic issue.

We should be on the floor talking about the important foreign policy priorities that were articulated during the Senate debate on S. 903. Instead, we are spending the majority of our debate time on this measure talking about one narrow issue that shouldn't even be in here in the first place!

As we all know, a minority of our colleagues in the other body successfully inserted language in this conference report that would impose severe restrictions on U.S. assistance to foreign non-governmental organizations engaged in family planning activities. These restrictions were inserted without consultation with the Democratic conferees. They were not consulted because they surely would have objected to these provisions. The restrictions fall into two basic categories.

First, the conference report would mandate that no U.S. population assistance may be given to any foreign non-governmental organization unless that organization certifies that it will not use its own funds to perform abortions during the period in which it receives U.S. funds. If the President chooses to waive this restriction, which I am sure President Clinton would do, funding for family planning-related activities would then be capped at \$356 million.

The second category of restriction would prohibit funding for organizations that lobby to change abortion laws in their own countries.

Mr. President, the authors of these restrictions see this version, that is, the provisions as written in this conference report, as a compromise of earlier iterations of restrictions on family planning. But—let us be very clear here—not only is this not a compromise, but the language is actually more restrictive than what we have seen before.

First of all, unlike the so-called "Mexico City" language, which has been considered each year as a rider to appropriations bills, the restrictions in this conference report would become permanent statutory changes. That is a rather disturbing concept.

Second, the waiver provision included for the President would result in a greater decrease in funding for family planning than we have seen in earlier versions. Many observers believe that the \$356 million cap amounts to a decrease of \$29 million, a cut that would come solely out of USAID's family planning account. But, the language in this conference report would also apply to "all funds for programs

and activities designed to control fertility or to reduce or delay childbirths or pregnancies, irrespective of the heading under which such funds are made available." What this means is that the cap would also apply to certain birth-spacing related programs that currently fall under other USAID accounts, and in fact, would represent a larger total decrease than is immediately evident—about \$44 million. That represents an 11 percent decrease in funding for these programs, which, Mr. President, I think we all would agree is rather substantial.

Third, the definition of "lobbying" that is used in the second restriction is disturbingly broad in that it would ban all sorts of public statements or the participation of individuals at public meetings. It is so bad that many of us call it "the global gag rule."

Finally, the President would have no waiver authority over this gag rule provision.

Let me turn for a moment to the substance of these provisions.

While proponents of the Mexico City language say they do not want U.S. dollars to pay for abortions overseas, the adoption of the restrictions in this conference report would actually increase the number of unintended pregnancies worldwide, and, correspondingly, the number of abortions and deaths of mothers and children due to high-risk pregnancies.

The funding at issue here has nothing to do with performing abortions and everything to do with preventing them. It is about family planning, and about a woman's right to know about all options that are legally available to her. It is about helping non-governmental organizations educate women around the world about family planning and other health care issues.

I firmly oppose all of these restrictions and will oppose this conference report because of them for several reasons, which I will discuss in turn.

First, U.S. assistance for family planning initiatives abroad is a sound investment that pays dividends including healthy women and children. According to the Johns Hopkins Population Information Program, approximately 120 million women in developing countries who need family planning services do not have access to them. Family planning services educate women about contraception, pre-natal care, birth spacing, the prevention of sexually transmitted diseases, and other important, life-saving issues. These programs have proven to be enormously effective—not only in improving the health of hundreds of thousands of women and children, but also in reducing the pressures that rapid population growth places on food and water, housing and education, and the environment in developing countries.

Second, this language reinstates—and expands—the Mexico City policy that prevents U.S. population assistance from being disbursed to non-governmental organizations that use other

funds to engage in abortion-related activities. This restriction does not prevent abortions, Mr. President, it increases their likelihood by cutting off funds to reputable family planning organizations which happen also to use their own money for abortion-related activities.

Finally, this language contains a troubling restriction on the freedom of speech of those working for family planning programs which receive U.S. funding. By linking funding for much-needed family planning assistance to the stifling of freedom of speech, the language runs counter to the very principles upon which our own nation was founded. We cherish our right to freedom of speech in this country, and the promotion of democracy and respect for basic freedoms around the globe represent an important aspect of our foreign policy.

The language in this conference report is an assault on free speech, one of the most fundamental human rights. In this country, citizens are encouraged to speak their minds and participate in the political process. In fact, the First Amendment states that "Congress shall make no law \* \* \* abridging the freedom of speech \* \* \* or the right of the people \* \* \* to petition the Government for a redress of grievances."

If the language in this conference report were adopted, it would mean U.S. citizens who have this constitutionally-guaranteed right would be forcing people in other countries to give up similar rights if they wish to keep receiving U.S. funding for family planning programs. The only way I can interpret this, Mr. President, is as an attempt by some Members of Congress to control the free speech of people in foreign countries relating to one particular issue about which they may not agree: abortion.

In essence, this language tells foreign non-governmental organizations which seek family planning assistance that they will get it if, and only if, they comply with a restrictive set of rules for how they may use their own money. It is a thinly veiled threat to pull much-needed funding if the word "abortion" is uttered to any woman seeking counseling at any foreign family planning agency that receives U.S. funds. This language violates the spirit of the Constitution which we have all sworn to uphold.

I would like to talk about two family planning programs that would be jeopardized if this conference report were to become law.

The humanitarian organization CARE is working with a local non-governmental organization that promotes dialogue within local communities and at a national level regarding important issues facing Bolivian women, such as violence against women, sexual harassment and lack of appropriate medical services. One of the most critical issues for discussion is the alarmingly high rate of maternal mortality in Bolivia—the highest in Latin America. Accord-

ing to the World Health Organization, a women in Bolivia has a 1 in 27 chance of dying from a pregnancy-related cause. This compares to women in the U.S., who have a 1 in 3,500 chance of dying from such circumstances. CARE's Bolivian partner works to educate women and men about the importance of family planning and the dangers of illegal abortion and how it contributes to Bolivia's appalling rate of maternal mortality.

Under the language in the conference report, U.S. funding for this Bolivian organization would be at risk because the organization makes "public statements" about women's health issues that may be construed as lobbying for abortion rights. This is a capable, effective organization that is addressing real needs within Bolivia.

My second example relates to South Africa. As Ranking Member on the African Affairs Subcommittee, I have had the opportunity to learn much about the success of family planning programs in Africa and, indeed, of U.S. assistance to such programs in Africa.

We all watched with awe and amazement as South Africans of all races participated in the first multiparty elections in that country in 1994. We were further inspired by the country's adoption of its first permanent, post-apartheid constitution which was signed into law on December 10, 1996, by President Nelson Mandela, one of the greatest heroes of our time. The Government of South Africa continues to consider various proposed amendments to the constitution on outstanding issues, and is also working on the implementation of many of its provisions. Not surprisingly, the Government is consulting widely with a variety of groups and interested parties from around the country.

Why, you may ask, am I talking about the South African constitution and South African legislation during a debate over family planning assistance?

Because, the language of this conference report would actually put limitations on the ability of South Africans to participate in the democratic process in their country.

The Government has asked Dr. Helen Rees, president of the Planned Parenthood Association of South Africa, to become an advisor to the National Department of Health and a member of the country's Medical Advisory Board to assist the Government in its implementation of a law enacted in 1996 concerning access to safe abortion during the first twelve weeks of pregnancy. Prior to this law's enactment, Dr. Rees had also helped in its drafting.

Had this conference report been law at the time of Dr. Rees' participation in the drafting of that law, the Planned Parenthood Association of South Africa would have lost its U.S. family planning assistance, even though her activities related to the drafting process were conducted without U.S. funds.

In other words, the Association might have been forced to suffer simply because the South African government chose to invest in Dr. Rees' expertise. Dr. Rees would have been forced to choose between allowing her organization to receive much-needed U.S. assistance or to become an active participant in the political process of her country. This is a totally unfair choice, and one that we, members of the U.S. Congress, should not be forcing foreign citizens to make. In fact, it contradicts what the Congress worked so actively for over the last several decades, and that is the freedom of all South Africans to be able to participate in their own political process.

I want to make my last point very clear, Mr. President. The language contained in this conference report would be unconstitutional if this were a piece of domestic legislation because it violates the First Amendment.

I repeat, this language would be unconstitutional if this were domestic legislation.

Mr. President, the United States has a long history of promoting democracy and basic freedoms around the world. This global gag rule runs counter to that tradition. If adopted, this language would not encourage free speech—it would squelch it.

None of these restrictions belong in this legislation in the first place, but now that they are there, I encourage all of my colleague, who all profess to support free speech and our constitutionally-guaranteed liberties, to defeat this conference report.

Mr. President, I ask unanimous consent that a February 27, 1998, editorial from the Washington Post, which makes some excellent arguments as to why this report should be defeated, be printed in the RECORD at this point.

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

[From the Washington Post, Feb. 27, 1998]

#### EXPORTING THE ABORTION DEBATE

It is scandalous that an unrelated domestic dispute over abortion is holding up congressional approval of funds for international purposes of vital American interest. One such purpose is to enable the International Monetary Fund to help troubled Asian economies, among other things, buy more American goods. A second is to pay up American arrears to the United Nations, an organization in the center of American efforts to banish proscribed weapons from Iraq.

The trouble arises from an amendment offered by Rep. Christopher Smith (R-N.J.) and supported by the House Republican leadership. Current law already bars any U.S. funding for foreign abortion-related services, lobbying or research. Mr. Smith would go on to revive the Reagan-Bush "Mexico City Policy." It denies American aid to any foreign nongovernmental organization that performs abortions or lobbies for abortion even with its own money.

In the domestic debate we support the side favoring choice. But of course both sides are principled in their fashion, and both stir important constituencies. You could call it a difficult but unavoidable fight among Americans.

But why must this fight be exported onto foreign terrain? The limitations that the

Mexico City Policy imposes upon the work of foreign nongovernmental organizations intrude directly upon the options available to poor countries to manage their own future. The anti-lobbying provision intrudes especially egregiously not only into the medical standards but also into the political practices of aid recipients. As Secretary of State Albright put it, that provision punishes nongovernmental organizations "for engaging in the democratic process in foreign countries and for engaging in legal activities that would be protected by the First Amendment if carried out in the United States."

The current House Republican position is to demand that the administration negotiate a compromise banning lobbying but allowing limited family-planning aid. The Clinton administration is right to want no part of a compromise that narrows the personal choices open to women abroad, interferes in the development policies of other countries and invades the public space they maintain for policy debate. House Republicans have attached the abortion measure to essential foreign-policy legislation, including United Nations reform and State Department reorganization. Their amendment constitutes a rank intervention into other countries' domestic business, and deserves defeat.

Mrs. FEINSTEIN. Mr. President, I rise today in opposition to Senate adoption of the Conference Report on the State Department Authorization Bill, which we will be voting on tomorrow.

I do so with disappointment, and concern. As an advocate of many of the good provisions in this bill, it is ironic to be arguing today against adoption of this Conference Report.

With its provisions to reorganize America's foreign policy institutions and to press for reform at the United Nations while paying off our arrears, I think it is fair to say that the State Department Authorization bill is one of the most far-reaching and important bills that we will consider this Congress.

I am disappointed, therefore, that Congress finds itself seemingly unable to pass this bill in a form which will allow it to become law.

Now, we find ourselves in this position today is because a few hard-line House Republicans, by insisting on the inclusion of language to restrict international family planning assistance, have been unwilling to compromise and be flexible in the interests of American foreign policy and national security.

Let me briefly state 3 reasons why I think that without the family planning restrictions this is a good bill.

First, this bill authorizes funding of both existing needs and the correction of long-time existing problems, such as a failing computer system, the construction of two major long overdue embassies, and the remediation of security and maintenance problems around the world. International law enforcement, narcotics abatement, and refugee programs are all increased under this bill.

Second, the State Department Authorization Bill takes an historic step in working with the administration and Secretary Albright to reorganize the foreign policy bureaucracy of the

United States, so that the Arms Control and Disarmament Agency, the United States Information Agency, and the Agency for International Development are brought within the State Department and other operations are streamlined.

The reorganization plan presented by this bill preserves the unique skills and capabilities of each of the current foreign affairs agencies while creating a new, streamlined, structure capable of meeting the challenges of the twenty-first century. It is a plan supported by the Chairman and Ranking Member of the Foreign Relations Committee and by the President and Secretary of State.

Finally, this bill also contains a package to allow repayment of our arrears to the United Nations, some \$926 million, with much-needed reform benchmarks designed to ensure that the United Nations will remain an effective organization in the decades to come.

I am an unabashed supporter of the United Nations. I believe a strong and effective United Nations is both important to the world and to the national interest of the United States.

With little fanfare or recognition the United Nations serves American interests each and every day. Through the UN High Commission for Refugees, it feeds and clothes homeless refugees in time of war. The World Health Organization fights diseases like AIDS. The United Nations Children's Fund combats childhood poverty, hunger, and sickness. The UN Development Programs helps the poorer nations of the world develop their infrastructures. The UN provides a forum for negotiating multilateral agreements on arms control, protecting the environment, and other matters that affect all nations.

The United Nations helps to protect peace and security in dozens of trouble spots around the world. Although we are often quick to criticize UN operations, we are slow to credit those successful U.N. peacekeeping operations in such places as the Golan Heights, Macedonia, Angola, and Kuwait—all important to American foreign policy concerns.

This is not to say the United Nations is without its faults. The need to reform and streamline the UN bureaucracy, refocus the budget structure, eliminate duplication, and add transparency to all its operations are all included in the 3 year time-period of this bill.

As the Ranking Member of the International Operations Subcommittee, I was involved in the initial discussions on UN dues payment arrears. The final result negotiated by the Secretary of State, the Chairman, and the Ranking Member is a tough, but achievable, series of reforms to be implemented by the United Nations over the next three years, during which time the United States will pay the \$926 million it owes in back dues.

Payment of these arrears is no trivial matter. The U.N.'s current financial difficulties are threatening to render it unable to implement many of its most important programs. Prompt payment by the United States of its arrears is the best way to ensure that the UN will be able to survive as a force for international peace and security in the post-Cold War era.

As someone who values the United Nations, I regard the United Nations arrears and reform package included in this bill to be a major step forward, and one of which we can all be proud.

That is why I find it so unfortunate that we are faced today with the prospect that all of these achievements will be for nothing. And why? Because a small group of abortion opponents in the House have tied up this Bill over the issue of the so-called "Mexico City" family planning language. In so doing, they are placing their own narrow domestic concerns and political agenda ahead of all the substantial achievements and reforms encapsulated in this Bill.

In short, unable to advance their agenda through the normal channels of congressional policy making (an agenda unsupported by the vast majority of the American people, I might add) they have decided to hold this bill hostage to achieve a major blow to family planning throughout the world.

Ironically, their opposition to family planning is antithetical to their goal of reducing abortions because family planning actually reduces the need for abortions, and without it terrible starvation and deprivation is visited upon millions in other lands. The irony is that no U.S. international family planning funds are spent on abortion in this or any other bill.

Since 1973, U.S. law has prohibited any USAID funds from being used to pay for abortions as a method of family planning or to coerce any person to have an abortion. Today each and any program supported by these dollars are voluntary, and none involve abortion. All programs are rigorously monitored to ensure strict compliance.

In Russia, where the average Russian woman used to have a stunning 7 or 8 abortions in her lifetime, family planning has made a huge difference. An active family planning effort has actually reduced the number of abortions in Russia from 1990 to 1994 by over 20%, from 3.6 million to 2.8 million. That is 800,000 fewer abortions in a four years period of time due to family planning efforts.

The story repeats itself over and over, wherever family planning exists. As our esteemed former colleague Mark Hatfield, who was a proudly pro-life Senator, reminded us each time we debated this issue, family planning assistance prevents abortions.

I also find the prohibitions placed on free speech contained in the Conference Report—in essence a global gag rule on responsible family planning discussions—to be unacceptable. Foreign

family planning providers would only be eligible for U.S. dollars if they agree to have their voices silenced. They could neither lobby nor discuss or educate under the terms of this Bill. The fact that the language included in this Conference Report dictates what public statements can be made, what conferences can be attended, and what educational materials can be produced with an entity's own funds I find an overreaching and dictatorial edict by a country that prizes free speech.

One of the most important and effective components of U.S. foreign assistance has for years been our family planning programs. These programs reduce poverty, improve health, and raise living standards around the world by enhancing the ability of couples and individuals to determine freely and responsibly the number and spacing of their children in some of the most overpopulated and depraved countries on earth. Most of us take these rights for granted. None of us knows the level of deprivation and suffering that exists outside our borders.

What we can not do now—what we should not do now—is allow a small minority of this and the other body to effectively stop any U.S. family planning efforts worldwide.

The President has stated that if the Conference Report passes with the family planning restrictions he will veto this bill. By including language in this Conference Report which we know will result in a veto we will sacrifice—needlessly and pointlessly—all the important work accomplished to date.

I sincerely hope and urge that there are sufficient votes in this body to reject this Conference Report, return it to Conference, remove the counterproductive language, and develop a report which the Senate can support, and which the President can sign.

I urge my colleagues to reject adoption of this Conference Report.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. Clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### HONORING LLOYD M. PELFREY

Mr. ASHCROFT. Mr. President, I rise today to commend Lloyd Pelfrey for his service to Central Christian College of the Bible in Moberly, Missouri. Mr. Pelfrey, an ordained minister of the Christian Church since 1953, will retire as President of the college on May 8, 1998.

President Pelfrey's service to Central Christian College started when the school opened in September 1957. He has worn many hats during his tenure at the school, serving as: the President of the college, the Acting President,

the Executive President, the Dean of Faculty, the Academic Dean, and a Professor of Old Testament. On April 6, 1973, Mr. Pelfrey became the fourth President of Central Christian College. He has held this esteemed position longer than any other president of the college.

Under President Pelfrey's leadership many exciting transformations have occurred at the college. He oversaw the completion in the construction of the Memorial building. Central Christian College received accreditation with the Accrediting Association of Bible College under President Pelfrey's administration. He also contributed to an increase in the college's endowment.

I wish President Pelfrey all the best and thank him for his service to the community of Central Christian College of the Bible. May God bless him and protect him in his future endeavors.

#### REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO SIGNIFICANT NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA—MESSAGE FROM THE PRESIDENT—PM 117

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

#### *To the Congress of the United States:*

I hereby report to the Congress on the developments since my last report concerning the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order 12978 of October 21, 1995. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c).

1. On October 21, 1995, I signed Executive Order 12978, "Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers" (the "Order") (60 *Fed. Reg.* 54579, October 24, 1995). The Order blocks all property subject to U.S. jurisdiction in which there is any interest of four significant foreign narcotics traffickers, one of whom is now deceased, who were principals in the so-called Cali drug cartel centered in Colombia. These persons are listed in the annex to the Order. The Order also blocks the property and interests in property of foreign persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, (a) to play a significant role in international narcotics trafficking centered in Colombia or (b) to materially assist in or provide financial or technological support for, or goods or services in support of, the narcotics trafficking activities of persons designated in or