

One Hundred Ninth Congress  
**U.S. House of Representatives**  
**Office of the Democratic Leader**

March 22, 2006

President George W. Bush  
The White House  
1600 Pennsylvania Ave., NW  
Washington, D.C. 20500

Dear Mr. President:

We are writing to ask for a full explanation of what you and your senior staff knew about the fundamental constitutional problem in the Deficit Reduction Omnibus Reconciliation Act of 2005 when you signed the legislation on February 8, 2006.

Last week, Mr. Waxman asked White House Chief of Staff Andrew Card to respond to evidence that the President “placed himself above the Constitution” by signing the Reconciliation Act with knowledge that the bill before him differed from the legislation that passed the U.S. House of Representatives.

Today the *Wall Street Journal* reported that the Speaker’s chief of staff “called a high-ranking White House official” and “asked the administration to delay proceedings until the problem could be addressed by the House and Senate.” According to this account, “when the Speaker and Senate Majority Leader ... went to the White House for the Feb. 8 ceremony, they expected only a ‘mock ceremony’ – not a real signing of the parchment that had been presented in error.”

It is a basic constitutional principle – which every child learns in grade school – that a bill is not a law unless the same version is passed by both the House and the Senate and signed by the President. Yet there is now growing evidence that your actions on February 8 breached this fundamental tenet of our democracy with the full knowledge of high-ranking congressional and White House officials.

More than 100 years ago, the Supreme Court addressed whether a bill could become law if the version signed by the President differed from the version passed by the House and Senate. In the case of *Field v. Clark*, 143 U.S. 649 (1892), the Court held that the President could rely on the attestation of the Speaker of the House and the President of the Senate that the legislation before the President was the same as the legislation that passed the Congress. **But the Court also recognized that the outcome would be different if there were a “deliberate conspiracy” to ignore the Presentment Clause of the Constitution.**

As the Court wrote:

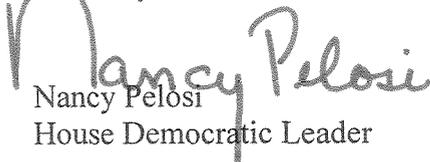
It is said that ... it becomes possible for the Speaker of the House of Representatives and the President of the Senate to impose upon the people as a law a bill that was never passed by Congress. But this possibility is too remote to be seriously considered in the present inquiry. It suggests a deliberate conspiracy to which the presiding officers, the committees on enrolled bills, and the clerks of the two houses must necessarily be parties, all acting with a common purpose to defeat an expression of the popular will in the mode prescribed by the Constitution.

Prior to February 8, the possibility of any President knowingly signing legislation that did not pass Congress was "too remote to be seriously considered" by most Americans. But if Mr. Waxman's letter and the *Wall Street Journal* are accurate, this possibility can no longer be dismissed as unthinkably remote.

We all share a common responsibility to uphold the Constitution, a responsibility that may well have been breached in the manner by which the signing of the Deficit Reduction Omnibus Reconciliation Act of 2005 occurred. Given the seriousness of the breach that has been reported, we request that you provide the Congress, as well as the press and the public, with a full and candid explanation of the activities of February 8 that turned the "mock signing ceremony" that the Speaker and Senate Majority Leader expected into a real one.

We look forward to your response.

Sincerely,

  
Nancy Pelosi  
House Democratic Leader

  
Henry A. Waxman  
Ranking Member  
House Government Reform