

§ 13214 **SEC. 13214. THE BYRD RULE ON EXTRANE-
OUS MATTER IN RECONCILIATION.**

§ 13214(a) **(a)–THE BYRD RULE ON EXTRANEIOUS MATTER IN RECON-
CILIATION. — Section 20001 of the Consolidated Omnibus
Budget Reconciliation Act of 1985 is amended —**

§ 13214(a)(1) **(1) in subsection (a) —**

§ 13214(a)(1)(A) **(A) by inserting after “(a)” the following: “IN**

¹⁸²⁸(...continued)

in limited circumstances. These changes guard against what the conferees believe might be an overly broad interpretation of an opinion of the Attorney General issued on January 16, 1981, regarding the authority for the continuance of Government functions during the temporary lapse of appropriations, and affirm that the constitutional power of the purse resides with Congress.

H.R. CONF. REP. No. 101-964, 101st Cong., 2d Sess. 1170 (1990), *reprinted in* 1990 U.S.C.A.N. 2017, 2875.

The managers referred to the opinion of Attorney General Benjamin R. Civiletti of January 16, 1981, regarding the authority of the Government to continue certain functions during a temporary lapse in appropriations. The opinion interpreted section 1342 of title 31, which stated (in relevant part):

§ 1342. Limitation on voluntary services

An officer or employee of the United States Government or of the District of Columbia government may not accept voluntary services for either government or employ personal services exceeding that authorized by law *except for emergencies involving the safety of human life or the protection of property.*

31 U.S.C. § 1342 (1988) (emphasis added) (subsequently amended).

The opinion spun the highlighted language out to cover more than it would appear to cover on its face. To qualify for the exception (according to the opinion) “there must be some reasonable and articulable connection between the function to be performed and the safety of human life or the protection of property.” In sum, the President would have been able to rely on this opinion to continue many public safety functions without seeking appropriations from Congress. The change limits the President more closely to the language of section 1342.