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Senate

(Legislative day of Monday, March 6, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN ASHCROFT, a Senator from the State of Missouri.

PRAYER

The guest chaplain, the Reverend Dr. Neal T. Jones, Columbia Baptist Church, Falls Church, VA, offered the following prayer:

Let us pray:

Gracious Heavenly Father, we thank You for the support of our constituents: optimists, pessimists, and realists. We ask Your help in passing legislation that will meet the needs of all our people.

Save us from optimism that exaggerates human goodness and ignores evil capacities. Deliver us from pessimism that looks at light and calls it darkness. Deliver us from pessimism that cloaks the world in black. Also, take us beyond the borders of realism. We need more than diagnostic accuracy and cold verdicts of limited human insight.

We, therefore, ask You to raise us above optimism, pessimism, and realism to hope. Help us to trust You, the One before, after, and within—always in charge of history. We praise You for giving us existential usefulness because of eternal trust.

In Jesus' name. Amen.

The PRESIDING OFFICER. Thank you, Reverend Jones.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 9, 1995.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN ASHCROFT, a Senator from the State of Missouri, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. ASHCROFT thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, this morning the leader time is reserved, and there will now be a period for the transaction of routine morning business until the hour of 11 a.m. with Senators permitted to speak therein for up to 5 minutes each with the following Senators to speak for up to the designated times: Senator THOMAS 10 minutes; Senator BAUCUS for 25 minutes; Senator DASCHLE for 30 minutes; Senator MCCONNELL for 10 minutes; and, Senator BREAUX for 15 minutes.

At the hour of 11 a.m. the Senate will resume consideration of H.R. 889, the supplemental appropriations bill.

We expect rollcall votes throughout the day and into the evening.

I am not certain how many amendments are pending. I guess it depends upon the disposition of one particular amendment. We will see what happens as we hopefully make progress on this important bill today.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein for up to 5 minutes each.

Mr. THOMAS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. THOMAS. I thank the Chair.

(The remarks of Mr. THOMAS pertaining to the introduction of S. 518 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BAUCUS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The Senate is conducting morning business. The Senator from Montana is recognized to speak for up to 25 minutes.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS, Mr. CONRAD, and Mr. DASCHLE pertaining to the introduction of the legislation are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. DASCHLE addressed the Chair.

(The remarks of Mr. DASCHLE, Mr. DORGAN, Mr. BUMPERS, Mr. KOHL, and Mr. FORD, pertaining to the introduction of S. 519 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Kentucky is recognized to speak for up to 10 minutes.

Mr. MCCONNELL. I thank the Chair.

LEGAL REFORM

Mr. MCCONNELL. Mr. President, the House of Representatives is in the

midst of Legal Reform Week and on its way to passing three bills which, if enacted, would dramatically overhaul and improve our civil justice system. So, Mr. President, the first thing I would like to do is commend the House for its determination and its commitment to change the legal system.

With the exception of the general aviation bill last year, no court reform legislation of any sort has ever gotten anywhere in the Congress.

So the House this week is about to do something truly historic. Over in the House and over here I hope we now realize the civil justice system is broken.

Injured parties wait too many years to have their cases heard. While a few win big damage awards, many people suffering personal injuries do not get adequately compensated for those injuries. We know that for every dollar spent in America in these tort cases only 43 cents makes it to the injured party and 57 cents is taken up by the courts and the lawyers; 57 cents out of every dollar for transaction costs. That is not civil justice. More than half the money goes to transaction costs—lawyers, and expert witness fees, as well as administration of the court system.

Not only do victims fare poorly in the current legal system, but scarce economic resources are drained from more productive uses. Municipalities and nonprofit organizations must absorb spiralling insurance costs, threatening the important public services they provide. No small businessman can afford to be without a lawyer because of the liability maze. And, ultimately, the burden falls on the American people—as taxpayers and consumers, paying more for Government services and higher costs at the checkout counter.

In fact, enactment of legal reform would give the American people a much deserved tax break—a break from the litigation tax that is strangling our economy. This tax break, unlike all others, will not even require a budgetary offset. And, even more significantly, it will not impact the Social Security trust fund.

Perhaps if we add some specific language protecting Social Security to these bills, we will pick up a few Democrat votes. And, maybe then the President could support legal reform. Because as we learned from Attorney General Reno this week, the administration is strongly opposed to the legal reform effort. Interestingly, the administration's unhappiness with these initiatives focuses on federalism—State's rights. I am quite amazed by this approach; after all this administration has not met a problem that could not be solved without a new or expanded Federal program. We only need to remind ourselves of the health care debacle. It is only on this issue—legal reform—that they have suddenly found the 10th amendment.

The fact is, the problem is a national one, and Congress has ample power to act, consistent with the commerce clause of the Constitution. Former Judge Robert Bork has eloquently disposed of the federalism issue in a letter he recently wrote to the Speaker. I ask that Judge Bork's letter be printed in the RECORD.

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

WASHINGTON, DC,
February 27, 1995.

HON. NEWT GINGRICH,
Office of the Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I understand that several provisions either already in H.R. 956, the Contract With America's legal reform provision, or proposed to be included in it, have been criticized as unwarranted intrusions on the authority of the States.

The provisions include virtually all the reform measures that have been discussed over the previous several Congresses, including limits on punitive or non-economic damages and joint and several liability (whether applied to product liability suits or broader categories of cases); defenses relating to compliance with applicable federal regulations; regulation of contingency fees and other aspects of attorney conduct; and various statute of limitations reforms.

There can be little question that these reforms are well within the scope of Congress' authority under the Commerce Clause of the Constitution as it has been interpreted for many years. Beginning in the 1930s, the courts have read this Clause as a comprehensive grant of authority to Congress to regulate virtually any type of activity affecting the national economy. The measures under discussion indisputably fall within this broad category of regulation.

As you know, I have long believed, like many scholars and jurists (and many Members of Congress), that these broad interpretations of the Commerce Clause are questionable, and arguably out of keeping with the scheme of coordinate sovereignty intended by the Framers of the Constitution. Rather than simply resting on the federalism case law, therefore, I believe those measures are justifiable and necessary to protect the balance between State and Federal authority contemplated by the Framers. They could not have foreseen the spectacular growth, complexity, and unity of today's economy. It cannot be said with any certainty that they would not have passed a measure like H.R. 956 in today's circumstances.

The problems addressed by H.R. 956 are national problems. That is true not only because interstate commerce is affected, and not only because products and services are made more expensive as insurance costs rise, but also because the plaintiffs' tort bar chooses to sue in jurisdictions where awards of compensatory and punitive damages are highest. As a consequence, a state like California or Texas can impose its views of appropriate product design and the penalties for falling short on manufacturers and distributors across the nation. This is a perversion of federalism. Instead of national standards being set by the national legislature, national standards are set by the courts and juries of particular states.

No problem more preoccupied the Constitutional Convention than the necessity of protecting interstate commerce from self-interested exploitation by the States. Madison observed in Federalist No. 42 that no defect in the Articles of Confederation was clearer than their inability to protect interstate commerce. And in Federalist No. 11, Hamilton made clear that one of the key purposes of the new Constitution was to prevent interstate commerce from being ''fettered, interrupted and narrowed'' by parochial state regulation.

The civil justice reforms under discussion are all designed to vindicate this central constitutional purpose. It can no longer be disputed that abusive litigation is having a profoundly adverse impact on interstate commerce. Indeed, a growing body of evidence suggests that the very purpose of much of this litigation is to discriminate against interstate commerce on behalf of local interests. Although discrimination of this type was anticipated by the Framers, the misuse of litigation to achieve this effect is a relatively recent development. It is not surprising, therefore, that Congress has not previously found it necessary to regulate in this area.

It is thus neither inconsistent nor hypocritical for Congress simultaneously to protect interstate commerce from parochial discrimination and to protect States and localities from unwarranted federal interference. Both steps are essential to maintain the constitutional balance established by the Framers. Clearly, over the last fifty years the overwhelming trend has been towards the unwarranted expansion of Federal authority at the expense both of the States and of individual liberties, and Congress can and should reverse that trend. But this fact should not blind us to the continuing necessity of protecting interstate commerce from parochial, discriminatory regulation by states and localities. Federal intervention for this purpose is not merely constitutionally permissible, it is important to vindicate the Framers' constitutional design.

Sincerely,

ROBERT H. BORK.

Mr. MCCONNELL. Mr. President, there is only one objection to reforming the legal system. And it is the objection of the trial bar. They may be getting beat in the House, but they have not really begun to fight. We will see them use their muscle in the Senate. They will throw everything they have at us. They will wrap themselves in the tragic stories of real people who have suffered injuries. And they will let Ralph Nader and his network of organizations which they—the trial lawyers—fund argue on their behalf.

Contrary to their assertions, our reforms will not hurt victims. We want to help victims get fairly compensated without long, drawn-out litigation. We want to encourage those responsible for injuries to settle with injured parties early. And, the House bill moves in the right direction.

But as the debate shifts to the Senate, I want to encourage my colleagues to look seriously at the McConnell-Abraham bill, S. 300. Our bill reverses the incentive structure of the legal system. We set up rewards for early settlement. We want to put more money in the hands of victims. Our limitation on attorney contingent fees, as the Washington Post editorial page noted this week, will do just that.

Mr. President, I ask unanimous consent that the Washington Post editorial be printed in the RECORD.

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

[From the Washington Post, Mar. 8, 1995]

CIVIL JUSTICE REFORMS

House Republicans are moving quickly to pass a series of bills designed to reform the civil justice system. At least three separate measures are expected to go to the Senate before the weekend: a bill concerning the payment of attorneys' fees, another making changes in securities fraud law and a third setting new rules for the payment of punitive damages and changes in product liability law.

Not every bill deserves support in its present form. But there is no denying that the majority party has taken on a problem that has been festering for some time. In their favor, it should also be noted that some of the more defective provisions of the ''Contract With America'' on this subject have already been improved by compromise and will probably be further fixed by the Senate.

The ''loser pays'' provisions of the first bill, which was passed yesterday, would have required unsuccessful litigants to pay winners' lawyers fees. It was always a bad idea. Taking any case to court would have been extremely risky, especially for those of modest means. As originally drafted, the bill deserved to be defeated. But it has been modified so that a loser must pay only if he has rejected a settlement offer and after trial is awarded less than that offer. Better, but still not perfect. The Senate should consider an alternative offered by Sens. Mitch McConnell and Spencer Abraham that would provide an incentive to litigants to settle (immediate payment and hourly attorneys' fees) and a penalty (reduced contingency fees in some cases) to attorneys who don't. Both measures are designed to encourage early settlement of disputes, but the McConnell-Abraham bill is less Draconian.

Securities fraud provisions have also been softened to take into account some of the suggestions offered by the chairman of the Securities and Exchange Commission, Arthur Levitt. The problem here—frivolous class-action lawsuits against a company as soon as its stock drops—is a real one. As reported by the House Commerce Committee, this bill drew support from almost half the Democrats. But additional changes may be warranted to protect stockholders in meritorious cases.

The most hotly contested bill will be considered last. It would limit punitive damages in all civil cases to three times compensatory damages including pain and suffering, or $250,000, whichever is more. It would also narrow the risk of manufacturers' and sellers' liability in certain cases involving defective products. Many of the latter provisions make sense. Why not limit damages if the user has altered or misused the product, or if the accident was caused by drug or alcohol abuse? As for punitive damages, reform is overdue. Guidelines and limits must be set, whether caps are $250,000 or $1 million or something higher. Juries are at sea and sometimes come in with awards that are neither reasonable nor justified.

Yes, the fear of high punitive damages may keep manufacturers on their toes. But so would the fear of large fines payable to the public treasury in case of egregious misconduct. The system of providing unpredictable multimillion-dollar awards to single plaintiffs in order to deter corporate misconduct is unfair and inefficient. A shift to fines would make sense. Barring that change, clear guidelines on punitive damages are needed.

Mr. MCCONNELL. Mr. President, our early offer provision, which builds upon a bill introduced by House Minority Leader GEPHARDT 10 years ago, will pay victims all of their losses, while taking many cases out of the court system altogether.

Our Nation is suffering from, as one editorial cartoonist called it, lawsuitenitus. It is a contagious disease and it is raging at epidemic proportions. The cure is a strong dose of legal reform. The only ones who will not like the medicine are those who thrive on the disease and profit from the spread of lawsuitenitus by earning huge fees.

Mr. President, we will have a number of bills here in the Senate to consider—the McConnell-Abraham Lawsuit Reform Act; the McConnell-Lieberman-Kassebaum Health Care Liability Reform and Quality Assurance Act; the Product Liability Fairness Act will be introduced next week, and there will be other initiatives. I look forward to comprehensive hearings on these bills, in the Judiciary, Commerce, and Labor Committees.

I am genuinely excited about the possibility of something happening on this issue. I remember being here 10 years ago as chairman of the Courts Subcommittee of Judiciary in 1985 and 1986, and we had numerous hearings on the subject of tort reform. But I knew we had no chance. We have had no chance for years. One of the positive results of last year's election, Mr. President, is that civil justice reform is now on the front burner and that genuinely excites this Senator who has had a great interest in this issue for many, many years.

And, most importantly I am hopeful we will enact reforms which give the American people a legal system that is fair, equitable, and accessible for the resolution of their disputes.

Mr. President, I thank you for your time.

I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

THE CONGRESS CAN BREAK THE TELECOMMUNICATIONS POLICY STALEMATE

Mr. BREAUX. Mr. President, for more than 10 years the Congress has deferred to Federal courts on making and shaping telecommunications policy. Antitrust law intended to remedy anticompetitive practices when AT&T dominated all facets of America's telecommunications services is the basis of court controlled communications policy. The resulting breakup of AT&T in 1983–84 under Judge Greene's modified final judgment is still the policy basis for keeping the brakes on the future development of this critical industry: Telecommunications is the engine of America's continuing race into the information age.

Technical complexities and the massive scale of economic returns for potential competitors in the industry have made it difficult to arrive at any industry-led agreement on fair and just terms for bringing full competition to reality. Certainly such an agreement would simplify congressional efforts to unleash the industry from Federal court edicts so that the benefits of open competition will bring new and lower cost services, increased employment, and a continually improved telecommunications infrastructure.

Right now, Mr. President, between 50 and 65 percent of all U.S. jobs involve information processing, goods, or services; 90 percent of jobs created over the last 10 years were information related.

But there is more to come if we in the Congress can fashion reasonable legislation for evenhanded treatment of potential major competitors. Telecom giants are poised to spend billions over the coming 10 years to restructure their networks. One estimate of capital spending by the Bell companies alone on the information highway for equipment and infrastructure between 1994 and 1998 is $25 to $50 billion.

Mr. President, I believe that we can supercharge and sustain this potential growth if we fashion communications laws that will assure all telecommunications competitors that each of them will have a fair chance to thrive in fully competitive markets. We have a situation now in which each competitor is fearful of a law that will give an unfair advantage to equally powerful competitors.

As I see it, Mr. President, the key to establishing open competition in telecommunications is to deliver a fair process for freeing the grip that Bell operating companies now have on the local exchange system. Ideally, Mr. President, if any telecom carrier can have interference-free, open access to the local exchange to fully compete for the delivery of telecommunications, video, and information services to homes and businesses and at the same time allow for the regional Bells to have access to and the ability to provide long distance service for their customers, we would have created the stimulus for maximum growth in this industry.

But the Bell operating companies, Mr. President, are understandably reluctant about engaging in a process of enabling open access to the local exchange if it means tying their hands while equally strong competitors are raiding their customer bases. I am considering legislation that would require the Bells to provide to competitors interconnection to Bell company local exchange switches; provide access to network features on an itemized basis; provide technology that will allow consumers to move to a competitor and keep the same telephone number, and take other steps to assure State and Federal regulators that their systems are open to full competition.

The Bells are concerned, Mr. President, that this process of opening up the local loop under some legislative proposals will not be satisfied until

competitors: Long distance, cable television, electric utility companies with massive capital, and customer bases of their own will have permanently eroded Bell Co. customer bases. This is not a situation, Mr. President, of a world-dominant AT&T competition with and upstart, customer-poor MCI in the early 1980's. Major Bell company competitors are customer are customer rich, and they are capital rich. They are more than capable, Mr. President, of competing on a level playing field.

I have discussed these issues and my suggestions with the Long Distance Companies Coalition, with cable television representatives, and with Bell company executives, and they agree that my idea offers a possible compromise and is worth further discussion.

I believe that if we can assure each competitor, region by region, that none of them is to have a headstart or an unfair advantage in the race to acquire customers for new services, that we can reach an accommodation that will lead to the passage of important and far-reaching telecommunications legislation in 1995.

I believe that we can do this, and I believe it is urgent that the Congress direct our attention to this in this session. I urge my colleagues to help and join me in crafting a workable telecommunication fair competition amendment. I think my suggestion is one that can be ultimately agreed to by both the long distance carriers, the cable companies, as well as the regional Bells. It is an idea and a concept that needs further discussion, further debate, and further exploration by the various interests that are going to be affected by it. I think it does provide us an opening which I think is significant and one that hopefully the companies and people affected will take advantage of.

Mr. President, I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

EXTENSION OF MORNING BUSINESS

Mr. REID. I see the Senator who offered an amendment on the floor and a Senator who is going to speak.

The time for morning business is about to expire. I ask unanimous consent that I be allowed to speak as in morning business until 5 after the hour.

The PRESIDING OFFICER. Without objection, it is so ordered. Morning business is extended until 11:05.

HEALTH CARE

Mr. REID. Mr. President, as most know, I offered an amendment on Social Security that led ultimately to the defeat of the balanced budget amendment. I am glad that we had the debate on the balanced budget amendment. I think, No. 1, it indicated that we have a problem with the deficit. No. 2, we need to do something about the deficit and No. 3, we should not use Social Security as a method of trying to mask the deficit.

Mr. President, while we are having all this talk about a balanced budget, one of the areas we have not talked about and that we should talk about is health care. Why should we talk about health care?

Mr. President, one of my colleagues on the other side of the aisle was quoted in the Washington Post on February 15 saying, ''Health care is not very bright on anybody's radar screen, if it shows up at all.''

Mr. President, it may not show up on the radar screen of some Senators in this body, but it shows up on the radar screen of the people of America. Health care is still brightly flashing in the minds of the American public.

The Gallup Poll taken before the end of this year, completed December 30, showed that almost 75 percent of the American people felt that reform of the country's health care system should be a top or a high priority for Congress within the first 100 days.

Mr. President, nobody is talking about health care. We should talk about health care. A CNN poll showed that approximately 60 percent of those surveyed say that if a major illness were to occur in their family, they could not handle the costs of that major illness at all. There is a problem with health care. If we are wondering why the deficit is being driven up, we need look no place else other than the high cost of health care. There are interesting phenomenons occurring in the country. We have some managed care operations that are ongoing.

We find that doctors are not being paid as much, hospitals are not being paid as much, but the consumer, the patient, is being charged more. Where is that money going? Who is the great middleman that is making all this money? Who is that? And should we identify him? Health care costs are increasing and we should do something about it.

Mr. President, I received a letter from a friend of mine in Las Vegas who is a physician. He was complaining about a patient who was injured in a car accident in California, a Nevada resident. This patient was injured and spent 31 days in the hospital.

Now, how much would a hospital bill be for a day? Would it be $1,000 a day, $2,000 a day, $3,000, $4,000, $5,000, $6,000, $7,000, $8,000, $9,000? Ten-thousand dollars a day is what it cost the patient before he was allowed to come back to Nevada; $10,000 a day is what it cost that patient in the hospital.

I think, by any standards, that is steep, and I think certainly, Mr. President, we should be concerned about that.

If we are wondering why we are having trouble balancing the budget, let us look at health care. A man spends 31 days in the hospital and his bill is $278,000 for the hospital and $33,000 for the physician.

Well, health care may not be on the screen of some Members of this body, but health care costs should be on the screen of every one of us. Health care costs are insurmountable for State and local governments and the Federal Government, even though we do not talk about it any more.

We brought a health care reform bill on the floor last year. We debated it at length. We lost the issue. Now I guess we are just not going to talk about it any more, even though health care cost is the No. 1 cost driving up deficits all over this country.

Uninsureds—I am only talking about uninsureds, I am not talking about underinsureds—uninsureds, Mr. President, have increased in the last 2 years by 2 million people. Now it is up to 41 million Americans. Eighteen percent of the people in the State of Nevada have no health insurance.

We have introduced legislation through the minority leader, certainly not nearly as comprehensive as last year—and that is an understatement—but we have introduced legislation to address these problems. I direct this body's attention to S. 7, which deals with some of the big problems facing health care, including paperwork reduction, administrative simplification, to help in rural areas. I see my friend from Illinois on the floor. He has been a leader in trying to provide health care for rural Americans.

Specifically, S. 7 will provide portability, limit preexisting condition exclusions, prohibit companies from raising rates when consumers get sick, and require that all insurers offer at least one plan with the same benefits available to Members of Congress.

The bill will also provide assistance for families and small businesses through tax incentives and modest subsidy programs. Specifically, this bill will reinstate the self-employed tax deduction, a proposal supported by 50 Members of this body in a letter to the majority and minority leaders.

S. 7 will reduce paperwork and provide administrative simplification by implementing standard billing and claims forms. This legislation also provides privacy protection for an individual's health records, strengthens fraud and abuse efforts, and reforms our medical malpractice system.

Two other elements in the bill which I particularly support are measures to provide cost and quality information to consumers and the provisions to enhance rural health care delivery. By providing consumers with accurate cost and quality information on health plans we can put the buying power in the hands of the consumer.

S. 7 will help rural areas establish telemedicine networks and financially viable rural health plans. The Washington Post in its health section recently cited a University of North Carolina at Chapel Hill study which found that of the 50 million Americans living in

rural areas, more than 21 million are in locations that don't have enough health care professionals to meet their needs. Moreover, the study found that 2,000 primary care doctors are needed in rural areas.

The elements of this bill were supported by both sides of the aisle in last year's debate and were contained in several health care proposals put forth by both Republicans and Democrats. Thirty-three Democratic Senators have rallied around a sound set of principles for health care reform and invited our Republican colleagues to join us in addressing this important issue. These principles includes: Insurance market reform, 100 percent health insurance tax deductibility for the self-employed, affordable coverage for children, assistance for workers who lose their jobs to keep their health coverage, and a wide range of accessible and affordable home, and community-based options for families caring for a sick parent or a disabled child.

I believe these principles are ones we, as Members of the Senate, and representative of our constituents, can support. S. 7 and the Democratic principles for reform are a sound starting point. I remain committed to working for reform of our health care system, and I hope we can work together to provide working American families with the quality health care they deserve, at a price they can afford.

I would only say, Mr. President, that if we ignore health care in this body, we are ignoring the No. 1 cost issue facing people all across America. And before we stop hearing the words ''balanced budget'' and all the debates that took place in that regard, let us not forget about health care. If we are ever going to address the deficit that accumulates yearly in this country, we must be concerned with health care or we will never handle the problem.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from Nebraska.

If I may interrupt the Senator from Nebraska, under the previous order, morning business was to expire at 11:05.

Mr. EXON. I ask unanimous consent that morning business be extended for at least 5 minutes, for the purpose of brief remarks by the Senator from Nebraska.

The PRESIDING OFFICER. Is there objection to extending morning business by 5 minutes?

Mr. EXON. Mr. President, I would just like to say a few words with regard to the bill that was introduced today.

As the body well knows, I favored the constitutional amendment to balance the Federal budget. I am sorry that it did not pass. But now that it has failed, we need to press ahead to build what discipline we can into the budget process.

We are introducing today a statutory requirement that would have most, if not all, of the teeth that the constitutional amendment to balance the budget would have instituted.

The bill requires the Budget Committee to report out a resolution that shows us when we will get to a balanced budget without using the Social Security trust funds.

The practical effect of this requirement would be to require the Government to run surpluses in the unified budget, surpluses that would start to reduce—and I emphasize, reduce—the debt held by the public and prepare us for the financial needs of the next century.

Our bill enforces this requirement with a 60-vote point of order against budget resolutions that do not show how we get to balance.

The bill allows for waiver in wartime and in recessions, using the same mechanisms that Congress put in the Gramm-Rudman-Hollings law.

As for the schedule, the Budget Act requires the Senate Budget Committee to report a budget resolution by April 1.

The Budget Act requires the Congress to complete action on the budget resolution conference report by April 15. I hope we can meet that deadline.

Last year, the Senate Budget Committee reported the budget resolution on March 18.

The year before last, when Congress enacted the deficit reduction bill that has reduced the deficit by over $600 billion, the Senate Budget Committee reported the budget resolution on March 12, and Congress completed action on the conference report on April 1.

We look forward to working with the Republican majority to expeditiously fashion a budget resolution that shows us how we will get to a balanced budget and get on with the obvious work in this area that we must do.

I reserve the remainder of my time and I yield the floor.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES!

Mr. HELMS. Mr. President, for about 3 years I have been making daily reports to the Senate regarding the exact Federal debt as of the previous day.

We must pray that this year, Federal spending will begin to be reduced. Indeed, if we care about America's future, Congress must face up to its responsibility to balance the Federal budget.

As of the close of business yesterday, Wednesday, March 8, the Federal debt stood (down to the penny) at $4,848,281,758,236.20, meaning that on a per capita basis, every man, woman, and child in America owes $18,404.16 as his or her share of the Federal debt.

It's important to note, Mr. President, that total Federal debt a little over 2 years ago (January 5, 1993) stood at $4,167,872,986,583.67—or averaged out, $15,986.56 for every American. During the past 2 years (that is, during the 103d Congress) the Federal debt has escalated by more than $6 billion, which illustrates the point that so many politicians talk a good game at home about bringing the Federal debt under control, but vote in support of bloated spending bills when they get back to Washington.

If the Republicans do not concentrate on getting a handle on this enormous debt, their constituents are not likely to overlook it 2 years hence.

ATTACKS IN PAKISTAN

Mr. KERRY. Mr. President, yesterday we learned of the attack on three Americans on their way to work at the United States Consulate in Karachi, Pakistan. While they were stopped at a traffic light, gunmen jumped out of a yellow taxi and opened fire with AK–47 assault rifles.

Two of the Americans were killed: Jackie van Landingham, a secretary; and Gary Durell, a communications technician. And I know I speak for every Senator when I extend our deepest sympathy to the friends and families of these two Americans who were killed in service to their Nation in a changing and often dangerous world.

Mr. President, the third American, a young man from Framingham, MA, Mark McCloy, who worked in the consulate's post office, was injured in the attack and was taken to Agha Khan Hospital. He is now in stable condition. Last evening I spoke with his mother, Muriel McCloy, in Massachusetts, and I have assured her that the United States is doing everything we can to bring those who are responsible for this terrorist act to justice; and I assured her that we would do everything we can to bring her son home safely.

Mr. President, this attack reminds us of the dangers that exist in the world and the courage of those who choose to serve their country in spite of those dangers. We cannot underestimate the commitment of foreign service personnel who serve at a time when the post-cold-war world realigns—and the national, regional, religious, and cultural interests of peoples in every country are put to the test of sovereignty and self-determination. The courage and contribution of the men and women of the foreign service in this new world deserve our admiration and our respect.

So, Mr. President, though we are saddened by this tragedy, we are also strengthened in our appreciation of the contribution of those who serve. To the thousands of Americans around the world who have suffered the separation from families and home, from friends and loved ones, to embark on a great adventure to promote peace, understanding, and the principles of American foreign policy—in the name of those who have paid the ultimate price—we salute you.

Mr. President, for Jackie van Landingham and Gary Durell the adventure came to an end in a distant land, but for those of us at home who reap the benefits of their sacrifice, their memory will never die.

Mr. President, in light of this tragedy let us honor the thousands of men and women in the foreign service who ask little from us, but contribute a lot. And let us pray for the speedy recovery of Mark McCloy, and for the friends and families of those who, yesterday, gave their lives in service to their country.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 889, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 889) making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Bumpers amendment No. 330, to restrict the obligation or expenditure of funds on the NASA/Russian Cooperative MIR program.

Kassebaum amendment No. 331 (to committee amendment beginning on page 1, line 3), to limit funding of an executive order that would prohibit Federal contractors from hiring permanent replacements for striking workers.

AMENDMENT NO. 331

The PRESIDING OFFICER. Pending is amendment No. 331, offered by the Senator from Kansas, to committee amendment beginning on page 1, line 3.

The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, if I may speak for a few moments. I spoke last night, when I offered my amendment, about what I regarded as an exceptionally important issue. I would like to go through some of those same arguments again for those who might not have been in their offices or on the floor last night.

I offered an amendment that would prevent the President's Executive order on striker replacements from taking effect. I offered the amendment because I am deeply troubled by the precedents that will be set by this Executive order.

This is not a debate about whether there should or should not be the opportunity to replace striking workers with permanent replacement workers.

As we debate this amendment, Mr. President, we will hear a great deal on both sides about the use of permanent replacements. In my view, a ban on permanent replacements will upset the fundamental balance in management-labor relations that has existed now for 60 years. We have debated this issue for three Congresses now, and I know there are strongly held views on both sides.

That is not the only issue that is at stake here. The central issue before Members this morning is whether our national labor policy should be determined by executive fiat rather than by an act of Congress. I think this is an enormously important question, Mr. President, because it really does set a precedent that we should consider carefully.

By limiting the rights of Federal contractors to hire permanent replacements, the President has, in effect, overturned 60 years of Federal labor law with the stroke of a pen. I am not a constitutional scholar. But I do know that it is the President's role to enforce the laws, not to make them. By issuing this Executive order, the President has, in my view, overstepped his bounds.

For the first time, to my knowledge, the President has issued an Executive order that contravenes current law. The order will effectively prohibit one group, Federal contractors, from taking action that every other company is legally permitted to do under current law.

Regardless of what one thinks about the merits of the striker replacement issue, we should all be concerned about the precedent that this order will set. For example, what if a President decided to debar Federal contractors whose workers decided to go on strike?

Mr. President, the right to strike is legal, just as the right to hire permanent replacement workers for striking workers is legal. So it could eventually affect both sides of the coin if indeed we are going to start down this slippery slope.

Supporters of the President's action should think twice about the precedent this will set for future administrations that wish to alter labor law through the Federal procurement process. We will hear in the course of this debate that this Executive order is nothing new, that such orders were issued by previous administrations. The fact is that none of those Executive orders ran contrary to established labor law.

For example, President Bush issued an Executive order to enforce the Supreme Court's Beck decision. That order merely required employers to post a notice to employees informing them of the law. Its purpose was to enforce the law as set by Congress and interpreted by the courts.

No one's rights were infringed. No congressional policy was violated. No new rights were established. No existing rights were taken away. By contrast, this new Executive order overturns a legal right that has existed for 60 years and undermines the existing framework of our Federal labor law which Congress, for decades, has declined to change.

Mr. President, we all have sympathy for the situations occurring in plants today where there have been long ongoing strikes. We have sympathy for the hardships striking workers face. But I am a strong supporter of the collective bargaining process. If indeed we tie one hand behind our back, whether it is for strikers or for employers, we have harmed the collective bargaining process.

I urge my colleagues to look at the fine print of this Executive order. It sets out a new and unprecedented enforcement and regulatory scheme, all without the slightest input of Congress. The Executive order gives the Secretary of Labor the power to determine violations of the order, a power which Congress in similar circumstances has delegated to the National Labor Relations Board.

In addition, the Executive order gives the Secretary of Labor authority to write new regulations on who will be subject to the order. Not only does the Executive order circumvent Congress by making a new law, it also creates more new regulations.

According to the Washington Post today, at least part of the administration's motivation for issuing the Executive order stems from recent strikes such as Bridgestone/Firestone Co. We can all appreciate the emotions and upheavals that occur in any labor dispute. They are troubling to each and every one of us whether it occurs in our State or not. Just weeks ago the Senate overwhelmingly rejected a sense-of-the-Senate resolution urging intervention in the Bridgestone dispute.

Here again, the administration has chosen to go around Congress by this Executive order. Many on both sides feel quite strongly about the issue of striker replacements. I believe existing law provides an appropriate balance between the interests of management and labor. But we will also hear from those who oppose this amendment because they believe that using striker replacements is inherently unfair.

That issue will be debated, I am sure, at another time. We have done so in the past. Mr. President, that misses the point. Regardless of what we believe about striker replacements, it is up to Congress and not the President to set our national labor policy through legislation. We should not relinquish that authority by permitting this Executive order to stand.

Mr. CHAFEE. Mr. President, I strongly support the amendment being offered by the Labor and Human Resources Committee Chairwoman, Senator KASSEBAUM, which would prohibit funding for the implementation of the President's Executive order which was signed yesterday.

What does that Executive order do? It bars Federal contractors from hiring permanent replacement workers during an economic strike. A similar prohibition has already been included in the FEMA supplemental appropriation bill which is pending in the House.

In the event of a finding that permanent replacement workers are used in

any Federal contract exceeding $100,000, which is about 90 percent of the dollar value of all Federal contracts—in other words, this in effect covers all Federal contracts—the Executive order authorizes the Secretary of Labor to instruct affected agencies to terminate such contracts, if convenient.

While the Secretary may not compel agency compliance, he may then proceed to debar the contractor from receiving or performing any Federal contracts until the offending labor dispute is settled.

Now, Mr. President, I think it is regrettable that the President has chosen to circumvent the will of Congress on this issue. That is what is happening here. Legislation to prohibit businesses from hiring permanent replacement workers was the subject of a bipartisan filibuster in 1992 and again in 1994. This matter has come before this body twice in the last 3 years.

Senators feel very strongly that overturning this Supreme Court decision of Mackay Radio, 1938—which was some 55 years ago—either overturning that by legislation or by Executive order, many Senators believe would undermine the very foundation of modern labor relations policy. Namely, the collective bargaining process. In Mackay Radio the Supreme Court held that employers had the right to maintain business operations with the replacement workers in the event of an economic strike. That is what the Court said. Just as affected employees have the right to strike for better wages or benefits.

The change proposed would eliminate, in our judgment, any incentive for good-faith negotiation and bargaining and create an unlevel playing field to the detriment of the employers.

Now, the bottom line, Mr. President, is that the President's Executive order would force Federal contractors hit with a strike to accept union economic demands or face the prospect of a prolonged shutdown that could prove fatal to these companies. Alternatively, such businesses could elect to abandon the Federal contractual marketplace altogether.

One, that is an unlikely option for some of our large contractors; two, it is bad for our country. We do not want to eliminate prospective bidders. We want to have more bidders, and hopefully that would be achieved. That is what we seek. Certainly not possible under this legislation.

Now, Senators also feel strongly that this is a question of labor-management policy. This is not a procurement issue. The President somehow in order to achieve his goal put this in the terms of procurement issue. It is a labor-management policy, a labor-management situation.

The Congress, not the executive branch, must initiate any changes in our labor laws—that is where this matter belongs, in the Congress of the United States—and a change of the kind the President has proposed is clearly ill-advised and unwarranted. For this reason, I am certain that the President's decision to go forward with this Executive order will be challenged in the Federal courts.

H.R. 889, which is the legislation before us—not the amendment, but the basic bill we are debating today—provides urgently needed funding to the Department of Defense to shore up sagging readiness and to reimburse for services for unexpected contingencies in Haiti, in the Persian Gulf, and other hot spots of the world. It would be unfortunate, I believe, to delay this funding over the striker replacement issue, but the President's decision has left the Senate no alternative but to rehash this issue again and to prohibit its implementation, if possible.

The President's Executive order, in our judgment, for those of us who oppose the ban on striker replacements, is a job-killing one which, if left to stand, would harm our economy, would increase labor strife, would reduce productivity, and weaken the competitiveness of U.S. industry. Thus, I will vote for the Kassebaum amendment to prohibit its implementation, and I urge my colleagues to support the Senator from Kansas likewise. I thank the Chair.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise in opposition to the amendment of the Senator from Kansas. We will have an opportunity to debate the amendment, but I was interested in listening to the Senator from Kansas talk about the procedure which is being followed by the President and how this was, in effect, overriding existing law. I think that the examples that were touched on briefly, last night regarding the issuance of Executive orders or other examples that have been mentioned that were utilized by President Bush, for example, were of a different nature.

I take issue because prehiring agreements are basically legal and the Executive order by President Bush effectively excluded prehiring agreements, any prehiring agreement under Federal contract. It was thus in complete conflict with the existing law. We know that, because the definitive case at issue involving a prehiring agreement involved all of the work being done on Boston Harbor. That agreement was entered into and was subsequently upheld by the Supreme Court. It is, at the present time, working, and working extremely effectively, I might add. I will not take the time of the Senate right now to go into how effective that particular agreement has been in terms of the saving of resources and taxpayers' funds. But an effort to prevent prehire agreements certainly was an action that was taken by the previous administration, and I did not hear the chorus rise up at the time and talk about exceeding the authority and responsibility of the executive branch in moving ahead to address that issue. To the contrary, there was broad support for the President's action in that area.

But I would like to just take a few moments to put this amendment in some perspective. I think all of us understand the urgency and the importance of the underlying legislation and the importance of having it concluded at an early time. This legislation is important to our national security and national defense, a matter which has been raised by the Senator from Kansas. The Senator raises an important public policy matter with her amendment. I would have thought we would have addressed it in some other forum, although we will certainly welcome the opportunity to debate this because it is an extremely important issue affecting workers' rights. It is more of an effort, I feel—I do not want to draw conclusions in terms of the motivations of it—a real attempt to embarrass the President of the United States who has issued this proclamation on behalf of working families.

I think if we look over the period of just recent times, both on the floor of the U.S. Senate and also in our committee systems and also actions in the House, we find out, if we have a chance to go into it, that this is just one more step that is being taken by the majority in the House and Senate to undermine the very legitimate interests and rights of working families in this country. But I will have a chance to address that issue in just a few moments.

But let me bring focus to the particular matter which is before us in the form of the Senator's amendment. Our Republican colleagues have asserted that we need to act because the President has exceeded his authority by acting on a labor relations issue without specific congressional authority and that Congress has already rejected the President's action through last year's vote on S. 55, the Workplace Fairness Act.

In fact, a majority, Mr. President, in both Houses of Congress, supported making it unlawful for any employer to use permanent replacements. The ban was not enacted because a minority of the Senate was able to prevent the consideration of S. 55, but Congress never rejected the lesser step of prohibiting the use of permanent replacements by Federal contractors. We never addressed that issue. There was majority support to address this issue in the House of Representatives. It was bipartisan. There was majority support to readdress the whole striker replacement issue in the Senate, but a small minority was able to defeat that action and defeat that policy question. No action was taken on the particular authority of the President to take the action which he did yesterday.

President Clinton's action, in issuing this order, is simply an exercise of his well-recognized authority over procurement and contracting by the executive branch authorities, an authority that was exercised both by President

Reagan and President Bush, with no objections from those who are now expressing such dismay.

In 1992, President Bush issued two Executive orders dealing with Federal contractor labor relations which are clear precedents for President Clinton's action, which many of my colleagues on the other side of the aisle applauded rather than condemned.

The first of those two Executive orders required all unionized Federal contractors to post a notice in their workplace informing all employees that they could not be required to join a union and that they had a right to refuse to pay dues for any purpose unrelated to collective bargaining.

Those requirements are not requirements of the National Labor Relations Act, and not only were they never enacted by Congress, but proposed legislation to establish such rules had so little support that it was never even reported from the committee. Indeed, when President Bush issued that Executive order, his press secretary pointed to Congress' failure to act on the legislation as the President's reason for acting.

That is in dramatic contrast to the current situation on the whole question of permanent replacement where a majority of the Members of the House and even a majority of the Members of the Senate were prepared to act, wanted to act, and that action was foreclosed by a small group of Members in the Senate. In contrast to this situation, they could not even get the support for that particular proposal to get the measure out of committee.

So was there objection at that time either from the Senator from Kansas or others? Were there any protests from my Republican colleagues? There were not. It is clear that the objections that are now being raised to President Clinton's action are not based on principle or a consistent view of the President's authority with respect to labor relations in Federal procurement.

The second of the two Bush Executive orders on Federal contractor labor relations issued in October 1992 dealt with prehiring agreements, collective bargaining agreements that establish labor standards for construction work prior to the hiring of workers.

Prehire agreements are common in the construction industry and lawful under the National Labor Relations Act, yet President Bush, without any specific authorization by Congress, prohibited Federal contractors from entering into such agreements for work on Federal projects.

Did my Republican colleague object to the fact that President Bush was prohibiting a labor relations practice that Congress had chosen to permit? She did not, and neither did any of the other Republican Senators.

What is this really all about? The truth is that this debate is a continuation of our debates in the past two Congresses on the Workplace Fairness Act. Only now the shoe is on the other foot and it is clearly pinching our Republican friends. They forced us to get 60 votes to pass the act, which we were unable to do.

The basic principle behind the President's action has strong public support. In the latest poll from Fingerhut Associates, 64 percent of respondents said that once a majority of workers have voted to strike, companies should not be allowed to hire permanent replacements to take their jobs. The American people understand that this is a question of simple justice for workers.

That is what the issue is about, simple justice for workers.

It is unlawful for any employer to fire a worker for exercising the right to strike, and it should be equally unlawful for an employer to be able to deprive a striking worker of his job by permanently replacing that worker. It is as simple as that.

Repeatedly, when we are debating economic legislation and U.S. competitiveness in the world economy, Senators from both sides of the aisle praise the high productivity of American workers, their excellent skills, and their pride in their work. Yet much of the legislation we pass ignores the importance of treating American workers fairly. The Executive order is for the American worker. It will restore the balance of power intended between management and labor under the National Labor Relations Act.

Basically, the striker replacement legislation was to restore the balance which had existed for years and contributed so mightily in terms of our whole economic progress and our industrial strength. That balance has been shifted and changed in recent times with the strike replacement activities of a number of employers, and that has diminished the economic standing of American workers who continue to be the backbone of the American economy.

That farsighted act, the National Labor Relations Act, signed into law by President Roosevelt in 1935 as the cornerstone of the New Deal, recognized the inherent inequality between the ineffective bargaining power of a lone worker seeking to improve wages and working conditions and the overwhelming bargaining power of the employer.

As part of comprehensive legislation enacting the fundamental goals of national labor policy, the 1935 act guaranteed the rights of workers to form and join labor organizations and engage in collective bargaining with their employers. The act gave workers strength in numbers. It gave them countervailing power, capable of matching the power of the employers.

As the Supreme Court said in 1935 in a landmark decision upholding the constitutionality of the National Labor Relations Act, long ago we stated the reason for labor organizations. We said they were organized out of the necessities of the situation, that a single employee was helpless in dealing with an employer, and that he was dependent ordinarily on his daily wage for the maintenance of himself and his family; that if the employer refused to pay him the wages that he thought fair, he was nevertheless unable to leave the employer's employ and resist arbitrary and unfair treatment; that the union was essential to give laborers an opportunity to deal on an equal basis with the employer.

Today, as much as ever, the employees need the right to organize to improve their wages, working conditions, and enter into a dialog with their employers about how work should be arranged so that the firm can achieve its productivity, its profitability goals, while at the same time ensuring fair treatment for workers. But the right to organize and bargain collectively is only a hollow promise if management is allowed to use the tactic of permanently replacing the workers that go on strike.

No one likes strikes, least of all the strikers who lose their wages during any strike and risk the loss of health coverage and other benefits. Because both workers and employers have a mutual interest in avoiding economic losses, the overwhelming majority of collective bargaining disputes are settled without a strike, but the right to strike helps to ensure that a fair economic bargain is reached between employers and workers.

The labor laws give workers the right to join together to combine their strength, and the union movement has been responsible for many of the gains that workers have achieved in the past half century. The process of collective bargaining works. It prevents workers from being exploited and has created a productive balance of power between management and labor. And the cornerstone of collective bargaining is the right to strike. That right is nullified by the practice of permanently replacing workers who go on strike. The entire process of collective bargaining is undermined.

That is basically what is at issue here, as I described. That is the basic and fundamental matter of principle that is before the Senate today. It is as old as the debate in terms of our whole industrial development and strength as a country, and it is basic and fundamental to the issues of economic justice and social progress in our country. That is why it is such a principal issue that has to be addressed today and why it will need discussion and debate.

Both the National Labor Relations Act and the Railway Labor Act explicitly prohibited employers from firing employees who exercised their right to strike. As a result of a loophole created by the Supreme Court half a century ago but seldom used until recent years, the practice of permanently replacing striker workers allows employers to achieve the same result. The ability to hire permanent replacements tilts the balance unfairly in favor of business in labor/management relations, and it is

no surprise that business is lobbying hard to block this Executive order.

Hiring permanent replacements encourages intransigence by management in negotiating with labor. It encourages employers to replace current workers with new workers willing to settle for less and to accept smaller pay checks and other benefits. The Executive order will help restore the balance that has been distorted in recent years. It will reaffirm the original promise of the statutes and give workers the right to bargain collectively and participate in peaceful activity in furtherance of their goals without fear of being fired.

The Supreme Court's decision in the Mackay Radio case in 1938 is a source of the current problem, even though the issue is not squarely raised in the case itself. In Mackay, the Court ruled it was unlawful for an employer to refuse to reinstate striking union leaders when the employer had reinstated other striking union members. The Court refused to allow the employer to discriminate between strike leaders and other strikers. It ordered the employer to put the permanently replaced striking union leaders back to work. In fact, the Supreme Court did not even have before it the issue of the legality of permanently replacing striking workers, but language in the decision condoning the employer's hiring of permanent replacements has been interpreted as permitting the practice as long as the employer does not use it in a discriminatory way.

This aspect of the Mackay decision had no significant impact on labor relations for nearly half a century. Few employers resorted to permanent replacements or even threatened to use that tactic. Employers and workers had a mutual understanding that strikes are only temporary disruptions in an ongoing satisfactory relationship. Businesses responded to strikes in various ways, by having supervisors perform the work, by hiring temporary replacements, and by shutting down operations. Employers acted on the belief that their work force was valuable and not easily replaced and that once the temporary labor dispute was over, the two sides would resume the collective bargaining relationship that brought the benefits and stability to each.

In fact, a survey by the Wharton Business School in 1982 revealed that most employers found no need to hire any replacements during a strike. Many believed that hiring even temporary replacements was undesirable because it would make the settlement of the strike and resumption of stable labor relations more difficult after the dispute, and under those circumstances there was no need to seek a change in the law.

But in the 1970's and 1980's, this de facto pattern began to change, and most observers feel that the strongest signal for change came in 1981 when President Reagan summarily dismissed the PATCO, air traffic controllers who went on strike and permanent replacements were hired by the FAA.

The increased use of permanent replacements in recent years has been confirmed by a survey of the NLRB decisions and other reported cases. During the four decades from 1935 to 1973, the survey found an average of 6 strikes a year in which permanent replacements were used, but the number quadrupled to an average of 23 strikes per year for the period 1974 through 1991.

Mr. President, I have other remarks but I see my friend from Illinois and also Wisconsin on the floor. I know other colleagues are here, so I will yield in just a few moments and then come back and continue my discussion of this issue.

Mr. President, I am somewhat troubled by the whole pattern that has been developed in the period of these last several weeks and what it means for working families in this country. I cannot help but conclude that the actions that we have before us in the proposal of my good friend, the Senator from Kansas, is not unrelated to a whole stream of activities and statements and comments that have been made about the condition of working families in this Nation that are really the backbone of our country.

I can think of the recent discussion and debate that we had on an issue which is as basic and fundamental as the increase in the minimum wage. The origins of this minimum wage go back in time to a similar period that we had discussed, with the development of the National Labor Relations Act, where it was generally understood in the United States of America that if an individual member of the family was prepared to work 40 hours a week, 52 weeks of the year, that member was going to have a sufficient income so they would not be in poverty, so their children would not be in poverty, so that their wife would not be in poverty or their husband would not be in poverty—that they would not be in poverty. They would effectively be able to own their own home—hopefully be able to pay a mortgage—provide for their children, live with some sense of dignity and some sense of a future.

That was a part of the whole social compact that was basically supported by Republicans and Democrats alike for a considerable period of time. It really lost its thrust in the period of the 1980's, when an increase in the minimum wage was vetoed. Eventually a compromise was reached. We had an incremental addition of a 45-cent and a 45-cent increase in the minimum wage, and we saw that increase go into effect. And all of the various suggestions and recommendations that had been made about the loss of jobs failed to develop. What happened was that hard-working Americans—overwhelmingly women in our society; close to 75 percent of the people who earn the minimum wage are women in our society—they were able, not really to make it but to at least continue to work and to try to provide for their children. Make no mistake, the issue of minimum wage is an issue for children in our society as well as for those individuals who are working to make the minimum wage.

So a number of us introduced legislation to just raise the minimum wage—we thought 50 cents, 50 cents, 50 cents—over the period of the next 3 years to try to regain the concept that for a working family, work was going to pay, and that people who were prepared to work would be able to make sufficient income to provide for their families. Then we cut that back to 45 cents and 45 cents. These are effectively the same amounts that were accepted previously and supported by a President and supported in this body overwhelmingly, by Republicans and Democrats, and signed into law by a Republican President. We thought if we had that ability with a Republican President and a Democratic House and a Democratic Senate, that at least we would be able to do the same with a Republican House, a Republican Senate, and a Democratic President. We thought with a signing into law of 45 cents and 45 cents we would get back effectively to where we were in terms of purchasing power, to the purchasing power that would be available to families that had received the minimum wage a number of years ago, in the late 1980's—1989, 1990—under a law signed by President Bush.

We had the Republican leadership condemn this measure, saying they were unalterably opposed to the increase. Some even expressed opposition to any minimum wage. And we have been trying to see how we might be able to make that a part of the real Contract With America—the real Contract With America: Rewarding work. Rewarding work.

We do not need a great deal of hearings on that measure. I know I attended one, of the Joint Economic Committee, between the House and Senate. It was very interesting. The overwhelming number of independent studies, of 11 independent studies that reviewed the history of the minimum wage increase, showed no effective loss of jobs. All we have to do is look historically at the seven increases in the minimum wage since the time it had been actually implemented, and we find the same result. Nonetheless we have the harshness and the criticism of any increase, in terms of the minimum wage. So we have that out there on the deck for the working families.

If you had a little scorecard you could say, all right, now let us also try and repeal what the President did for working families on this Executive order: Opposition to that. You could write underneath it: Opposition to the increase in the minimum wage.

Then we come back to hearings in our Labor and Human Resources Committee about the repeal of the Davis-Bacon Program. All the Davis-Bacon Program says is we are going to have a

prevailing wage in various Federal contracting so the Government will have a neutral role, in terms of wages, in terms of performance of various work.

We have the assault on the Davis-Bacon Program. Who is affected by the Davis-Bacon Program? The worker's average income is $26,000 a year. What have we done to workers that are making $26,000 a year, in some of the most dangerous work in America? Outside of mining, construction is one of the two or three most dangerous employments in our country. Mr. President, $26,000 a year, and we are declaring war on those families.

No, we are not going to give working families a minimum wage increase. No, we are not even going to give the protections for a family earning $26,000 a year that wants to work in construction and build America—no, that is too much for those individuals.

So we say OK, we are not going to permit the President to protect workers on Federal contracts that are being threatened with permanent strike replacements, which have been part of our industrial tradition. We are against the minimum wage. Now we are against those workers.

Not only are we against those workers but we have a new gimmick. We are having what we call 8(a)(2) of the National Labor Relations Act, to try to promote company unions. We are not satisfied that the working relationship between employers and employees is a balance. We want something different. Sure, we had that matter discussed by distinguished and thoughtful men and women on the Dunlop Commission, but they did not recommend a unilateral action in terms of section 8(a)(2). They did not recommend that particular measure. They understood what was at risk on this measure. We have those who are trying to undermine even the heart and the soul of the concept of workers being able to come together to at least exercise their rights for economic gain. That is out there. So we have that on the table as well.

Mr. President, all we have to do is look at what has happened to workers' interests over the period of the last 12 or the last 15 years. On the one hand you see the extraordinary rise in profits—and we are all thankful that we have American companies and corporations that are being successful and being able to compete internationally and are experiencing some of the greatest profits in the history of this country. But it is virtually flat in terms of real wages and take-home pay for working families. It is virtually flat, if not diminished, in terms of the entry-level jobs and jobs at the bottom, effectively, 65 or 70 percent of workers who are out there. It is effectively flat or being reduced.

Every day their financial interests are being assaulted out there. Instead of being out here on the floor of the U.S. Senate saying: Look, they are the men and women who are the backbone of this country, what can we do to try to make sure that they are going to be able to live in some peace and dignity and respect? We cannot even wait a few hours in order to tag an amendment on something which is vital to our national security and begin the debate to diminish them. That is what this debate is all about: Do not let them get ahead a little bit, in spite of the fact that under the previous administration, under the Bush administration, they issued Executive orders and those that are supporting this particular proposal were then silent—for example with regard to the prehearing agreement.

The prehiring agreement was legal. He made it illegal. I do not want to hear talk about going beyond or exceeding the authority of the power of the President. I mean, give us a break, Mr. President, in terms of this measure. We know what it is about. I think the American people ought to understand it.

What is it about working families? Not only their interest, but what is it about their children? They are trying to raise the cost of their children going to college, raise the cost of the interest on those loans while those kids are going on to the universities and colleges across this country, raise that $20 billion over a period of 10 years, raise that $20 billion so that every son and daughter of that working family that is hardly able to put it together is going to pay even more. No; do not try to find ways to try to make it easier for the sons and daughters to continue on and get a higher education understanding that what you learn is related to what you earn. Make it more difficult.

This has been established as a matter of discussion and debate at the various Budget Committees and in the House Appropriations Committee. Make it more difficult. That is not bad enough. For their younger brothers and sisters who are going to school, they take their school lunch away from them. What is it about, Mr. President? What is it about this whole concept, whether it is the Contract With America or whatever it is, that is declaring war on working families? War on the children in terms of the kids and whether they are getting fed, or whether that kid may need a summer job. Eliminate all the summer jobs.

They eliminated 13,000 summer jobs in my State of Massachusetts. Those summer jobs came in the wake of the Los Angeles riots. I think we should learn a lesson. We wanted to try to get young people at the time when they are not involved in school to try to get them starting to do something gainful such as employment. They eliminate those summer jobs.

So they take away something that those younger brothers and sisters can eat and take away the employment in time of summer. Take that away. Cut back on the education programs. Say to the mayors of the various cities that are trying to do something in various areas of working families with their community development block grant programs, we are going to cut that as well. We are going to make it more difficult for you to try to make life somewhat better in terms of the inner cities.

Sure, Mr. President, we have to get our handle on the costs of escalating Government expenditures. But my good friend from Nevada, Senator REID, said it more wisely than I have heard here on the floor of U.S. Senate for some period of time. That is, you are never going to do it until you reform the health care system. You are never going to do it until you reform the health care system. Health care costs are going up at 10 or 11 percent, double the rate of inflation. It does not make sense just to put a cap on those Medicare and Medicaid costs because all you will do is transfer it to the private sector with all its inefficiency and back to those communities in all those cities that have those emergency rooms in inner cities. It is going to cause even more distress and poor outcomes in terms of health results as well as the cost of it. This is the serious matter of trying to do it.

So, Mr. President, I see my colleagues here on the floor. I hope that we will have a chance to focus on precisely this amendment. I think it underlines some basic kinds of protections which are not going to solve all of the problems that we are facing in terms of working families. But it seems to me at some time we just have to say we have had enough. We have had enough in terms of the continued assault on working families in this country. It is only the beginning of March.

We have only just touched very briefly on some of the measures that are going to affect the children. Cut back on the day care programs; day care programs for working families. Only about 5 or 6 percent of the needs are being met today, and we get a recommendation to cut back on those programs as well. So you are a mother. You want to go out and work. You are not going to be able to get any day care for your kids, as inadequate as it is today.

What is this common sense? What is it about the families that have children in our society that are the subject and the target of this kind of an attitude? It makes no sense.

This measure that we have now before us is related to that whole concept. It is unwise in terms of policy. It is unwise in terms of the interests of the workers that it is going to protect.

I will have more to say about it later in the debate.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mrs. KASSEBAUM). The Senator from Illinois.

Mr. SIMON. Madam President, I rise in opposition to this amendment. I think it is not in the national interest.

I simply remind my colleague from Kansas, who is the chief sponsor of the amendment, and all of my colleagues that consistency is not necessarily the virtue of any of us in this body. But I remind my colleague from Kansas, who is now the Presiding Officer, that on January 6 of this year, 2 months and 3 days ago I introduced a resolution, a sense of the Senate—nothing nearly as sweeping as the Kassebaum amendment—which simply said to the Bridgestone/Firestone Co., a wholly owned Japanese subsidiary with 4,200 workers, they ought to get together and have talks and not have the permanent replacement.

At that point, the distinguished Senator from Kansas, who is my friend, with whom I enjoy working on African issues and many other things, said:

> I know the Senator from Illinois is well-intentioned. But this is neither the time nor the place for Congress to be considering anything other than this very important bill which is before us. The amendment offered by the Senator from Illinois is completely extraneous from the matter at hand, and for that reason alone I believe the Senate should table his amendment.

If I may use the words of the Senator from Kansas, and just modify them slightly, I would say the amendment offered by the Senator from Kansas ''is completely extraneous from the matter at hand, and for that reason alone I believe the Senate should table her amendment.''

Her words were heeded by this body, and by a narrow margin that amendment was defeated. I hope this amendment will be defeated. It is part of what Senator KENNEDY was just talking about.

We have a very fundamental philosophical decision to make in Government—whether Government is going to help the wealthy and powerful, or whether it is going to help those who really struggle. My strong belief is the wealthy and powerful do a pretty good job of taking care of themselves, particularly with the system of campaign financing that we have in this country. And what we ought to be doing is trying to help people who struggle. This amendment goes in the opposite direction.

I point out that in the United States today only 16 percent of our work force is organized by labor unions. No other Western industrialized democracy has anywhere near that low a figure. If you exclude the governmental unions, that number drops down to 11.8 percent.

Not too long ago, George Shultz, the distinguished former Secretary of State and Secretary of Labor, made a speech that was quoted in the New York Times in which he said things are out of balance in our country, that the fact that labor union membership is so low, so small in our country, is not a healthy thing for the United States of America.

I agree with him completely. I think we need greater balance. That is the word that ought to be part of our dialog here.

The reality is that we had pretty good balance in labor-management relations over the years, since the early 1930's. When a Democrat came in, the National Labor Relations Board shifted a little bit on the side of labor, and when the Republicans came in, it would shift a little more on the side of management; but it was a pretty good balance. Then Ronald Reagan became President, and all of a sudden it got way out of balance. That has done real harm to labor-management relations in our country.

The minimum wage that Senator KENNEDY talked about is one part of providing a little balance. Real candidly, I think the minimum wage would do more in terms of welfare reform than any of the bills that I see before us that are labeled ''welfare reform'' right now.

But in terms of permanent striker replacement, I mentioned Bridgestone/Firestone, a Japanese-owned corporation. Permanent striker replacement is illegal in Japan; it is illegal in Italy, it is illegal in Germany; it is illegal in France; it is illegal in Denmark; it is illegal in Norway; it is illegal in Sweden. I do not know what countries I have skipped now, but the only countries outside of the United States of America where it is legal—the only democracies where it is legal to fire permanent strikers are Great Britain, Hong Kong, and Singapore. In every other Western industrialized democracy, that kind of action is illegal. Traditionally, we just have not done that in our country. I do not think we ought to be moving down that line. I think the President's action provides a little balance that is needed.

Let me add, Madam President, if this amendment is adopted, I am going to have a series of amendments on labor law reform. For example, if you have a pattern and practice of violating the civil rights laws of this country, you cannot get a Federal contract. I think it ought to be the law in this country that if you had a pattern and practice of violating labor laws, you should not be able to get a Federal contract. I think if you have a pattern and practice of violating worker safety laws, you should not be able to get a Federal contract.

When you organize—in Canada, for example, if you want to organize a plant or site, you have 30 days in which a majority of people can—the 30 days comes after you get the majority of people. You get a majority of people to sign cards and pay $1, and 30 days after that, that plant or site is organized. In the United States, it can draw out for 7 years before a plant is organized, and in the meantime, an employer, for all practical purposes, has the legal right to fire people for their union activity.

There are a whole series of things that can be done. If this amendment is adopted, we are going to have other amendments in this area. But I would get back to the fundamental point that my colleague from Kansas made to me when I proposed an amendment, which was just a sense of the Senate and had no permanent implication, as this one does, when she says, ''The amendment offered by the Senator from Illinois is completely extraneous from the matter at hand, and for that reason alone, I believe the Senate should table his amendment.''

The Senate listened to her then. I hope they will listen to her words now and table the amendment of the Senator from Kansas.

Madam President, I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Madam President, I did not expect to spend much time on the floor today discussing the subject of permanent striker replacement. As we have seen, we have had eloquent speeches by Members of the minority who have set forth an issue for us which was led to by action of the President just recently and the amendment by the Senator from Kansas.

I rise in favor of that amendment. Like many of my colleagues, I thought we had put this issue to bed last year when both the House and Senate considered S. 55 and it was rejected, or never even left the desk in the Senate.

President Clinton made his support of this type of legislation clear during the 1992 election campaign, and he and Secretary of Labor Reich have reaffirmed their commitment to a striker replacement bill on numerous occasions since. Clearly, the President would have signed a congressional bill if it had been laid on his desk. However, as we know, S. 55 never left the Senate desk.

The President certainly is free to attempt another legislative push for a bill like S. 55. I would not welcome the attempt, but it would be well within the normal flow of our governmental process for him to do so.

However, it is abnormal, unusual, and unprecedented for President Clinton to address this issue through the Executive order he issued yesterday.

The legal arguments against the President's action are many and compelling. Congress has spoken consistently on this subject in the context of the National Labor Relations Act for over half a century.

In 1938, the Supreme Court handed down the Mackay Radio decision authorizing permanent replacement of economic strikers. Since then Congress has considered amendments to the act several times, but it has never approved overturning Mackay.

So it is important to remember this, because as we go forward and talk about Executive orders and the power of Executive orders, it must be remembered that this present law is consistent with a U.S. Supreme Court decision.

An Executive order that directly contravenes the express will of Congress

calls into question significant separation of powers issues under the Constitution. For the past several weeks, we have heard very powerful arguments on the importance of this separation of powers in the context of the balanced budget amendment, and I expect we will hear more when we soon turn to consideration of the line-item veto.

These arguments, while perhaps valid, are speculative. In the case of the Executive order in question, the challenge is clear and present. An Executive, frustrated by legislative inaction, is seeking to accomplish by Executive order what has been explicitly denied him by the legislatures and which is inconsistent with the U.S. Supreme Court decision. I hope those of my colleagues who have been concerned about the issue of the separation of powers will see fit to support the Kassebaum amendment, regardless of their views on the merits of the legislation banning permanent replacements.

This is not to say that the President cannot use Executive authority to attach conditions to parties entering into contracts with the Federal Government. But that power has generally been used to force or encourage contractors to do something that is consistent with existing law or policy.

By contrast, the present order would deny contractors the right to take action which is authorized under the National Labor Relations Act, which has been upheld by the National Labor Relations Board and the Supreme Court, and which Congress has repeatedly refused to outlaw. Thus, the President's order swims upstream against the current of existing law and policy. In doing so, it is unprecedented and unsupportable.

Legal arguments aside, perhaps the most compelling evidence on the weakness of this policy comes from the administration itself. We witnessed, or more accurately did not witness, a stealth signing ceremony, where partisans were invited but the press was excluded.

In fact, the defense of the policy from the White House gives ''weak'' a bad name. Ostensibly, the policy is designed to ensure the quality of products the Government procures. This is an extraordinary position for at least two reasons.

First, it exhibits a total lack of faith in the Government procurement process. Apparently, all the administration's efforts to retool the procurement process have produced and Edsel, as it apparently will be unable to distinguish and reject faulty products in the absence of this Executive order. This is a very sad commentary on GSA, the Department of Defense, and every contracting agency.

But even if we could believe this sad state of affairs, it belies a fundamental misunderstanding of the dynamics of a strike. The alternative to permanent replacement workers is not a happy stable of industrious elves, but shutdowns, shorthanded shifts staffed by managers and supervisory staff, of temporary replacements. It is hard to see how these alternatives will result in the production of appreciably higher quality goods or services.

Back in the real world, the failure to meet standards would free the Government to contract with other providers. Future Federal contracts might be jeopardized as a result of failure to live up to contract terms. Thus, it would be a self-defeating act of the highest order for a contractor to put itself in this position.

If the administration were really worried about the impact of strikes and permanent replacement workers on the procurement process, then it would condition the receipt of Federal contracts on the assurance that performance of the contract would not be interrupted by a strike. That step, and that step alone, would ensure that a trained and stable work force would do the work throughout the contract.

Doing so, of course, would be a bad idea, because it would diminish the rights of one party to a collective bargaining agreement, it would reduce the pool of potential bidders and would likely increase costs to the Federal Government. But this description applies equally well to the administration's policy.

Madam President, I think it is clear that the President's purpose is not to aid the cause of public procurement, but that of partisan politics. It is a bad idea whose time will never come.

His action is a clear affront to the separation of powers, is of questionable legality, and will ill serve labor management relations and the taxpayers. Given all these considerations, I strongly support the amendment offered by the chairman of the Labor and Human Resources Committee, the Senator from Kansas, Senator KASSEBAUM, and hope that the vast majority of my colleagues on both sides of the aisle will agree that this step, putting aside all of the partisan politics, is just ill-advised from the perception of the separation of powers and for good policy.

It seems that no traditional labor law issue so galvanizes the actions of the interested parties as does the legislative debate on striker replacements. While all can agree that this issue cuts to the very heart of the collective bargaining relationship, there is wide disagreement on whether a ban of replacements would help or hurt the institution of collective bargaining.

At the outset, Madam President, we need to agree on whether there is a problem requiring a solution before passing that solution into law or mandating it by Executive order. My difficulty with the President's order is that I am not convinced there is a problem with the hiring of permanent striker replacements that requires any solution, much less the absolute ban advocated by this Executive order. Moreover, even the data produced in support of similar legislation over the past several years are at best inconclusive on whether use of permanent replacements is a growing trend in the business community or that it is any more prevalent now than it was in the past.

Madam President, the impetus for this Executive order is, to a large extent, driven by the celebrated cases where permanent replacements were used. Thus we have heard over the years about Eastern Airlines, Greyhound, the New York Daily News, and now Bridgestone-Firestone to name just a few. However, these and other examples of the use of permanent replacements do not suggest models of successful corporate strategies. To the contrary, many of these companies have suffered grinding reversals of their business fortunes, up to and including total business collapse, following the use of replacements. I do not believe that many companies will want to adopt a pattern of behavior which leads to such results. And again, of course, the statistics do not show that many have chosen to do so.

The Clinton administration has set in motion the process of taking a hard look at our system of labor laws. Toward that end, a blue ribbon Dunlop Commission was established with the mission of studying workplace cooperation and recommending ways of reforming worker-management relations to ''create an environment within which American business can prosper.'' That Commission has now issued its report and recommendations. It is significant to note that the Commission did not recommend the radical change in the law on replacements that the President's Executive order mandates.

From the beginning of the debate on this issue, I have suggested that we need to open up a broad-based discussion on the way in which labor relations disputes are resolved. I am a supporter of the American system of collective bargaining and I believe, for the most part, that it does a good job. However, the simple truth is that system works better for everyone in times of economic expansion than it does in connection with the setbacks and retrenchment found during a recession. This elementary fact probably has as more to do with any increase that may have occurred in replacement situations than does some fanciful conclusion about changes in employer attitudes brought on by President Reagan's handling of the air traffic controllers strike.

I for one would be willing to explore the options which exist in the area of alternative dispute resolution. We do have some history on this issue. There are segments of the American work force where the right to bargain collectively does not include the right to strike. The majority of these are within the public sector. In those instances, various systems have been devised for resolving disputes on which the parties themselves cannot agree. Perhaps it is time to begin moving away from the

ultimate labor warfare of strikes, lockouts, and replacement workers and toward some alternative system of dispute resolution for more of the private sector.

Madam President, this is not a new exercise that we engage in today. Elements found in the bill have been seen in legislative offerings at least as far back as the last big labor law reform effort in the 1970's. Further, significant legislative battles have been waged on the issue in each of the past two Congresses. The fact that there has been no evolution toward consensus in the terms of this debate is a sad testament to our collective failure to address this issue realistically.

Given the long history of the underlying issues, and the work of the Dunlop Commission, there are many aspects of collective bargaining that we might productively reexamine. For example, it troubles me that unfair labor practice strikers must wait so long for a resolution of their charges. Further, it might be profitable to examine stronger sanctions against those who engage in unfair labor practices. And as one who supported labor law reform in the late 1970's, I am certainly open to suggestions on ways to streamline the process of deciding whether or not a group of workers wishes to organize.

With specific regard to permanent replacement of economic strikers, for the past few years I have stated that we should look at the special circumstances presented in concessionary bargaining situations and first contract negotiations. As I stated on the floor of the Senate during the 1992 debate, the situation presented by an employer's demand for contract give backs or concessionary bargaining demands may well be one in which the use of permanent replacements is not justified. Adoption of a restriction on this practice would address most, if not all of the instances of abuse presented to Congress as demonstrating the need for legislation on this issue.

Similarly, in first contract negotiations, where there is no established bargaining relationship, I believe a third party intermediary could serve a useful role. Neither the Senate nor the House Labor Committees have examined these ideas in their handling of this issue. Rather, the limited amendments which the Democratic majority permitted to be offered in the House were persistently rejected, while in the Senate S. 55 remained almost defiantly unchanged even in the face of fatal opposition. In the current Congress, this issue is very low on the priority list for the committees of jurisdiction.

Perhaps the biggest revolution since the Mackay decision in 1938 has been the shrinking of our world. We were an insular power, one of many, and we emerged from World War II as the greatest economic power on the planet. This was not surprising given that our country was spared from damage during the war. Nor is it surprising that our preeminence has eroded in the decades that followed the war as other countries have rebuilt and retooled.

In 1938, we could afford to consider labor-management relations in isolation. In 1994, we no longer have that luxury.

Enforcement of the present Executive order will change the face of labor relations in this country. Clearly that is the intent, but is it in the best interest of the country? That is the question. I have yet to hear sufficiently compelling answers to prompt me to vote for legislation doing what the order attempts to do. The fact that the President has opted to proceed by Executive order does not change my mind or prompt my support.

Accordingly, while I remain open to the possibility of passing meaningful and wise legislation in this area, this Executive order is not such legislation. Thus, I will vote to stop its implementation and enforcement.

Madam President, I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

(Mr. JEFFORDS assumed the Chair.)

Mr. FEINGOLD. I thank the Chair.

Mr. President, I rise to oppose the amendment offered by the Senator from Kansas that would prohibit the U.S. Labor Department from expending funds to enforce the President's recent Executive order barring Federal contracts with contractors that use permanent replacements.

Mr. President, I am very pleased to follow the Senator from Illinois and the Senator from Massachusetts, who were extremely eloquent in pointing out how terribly unfair this practice of the use of permanent replacements really is.

The President has issued the Executive order, in my view, simply to restore a measure of equality to Federal labor law by guaranteeing the workers the right to strike without the fear of being permanently replaced. In this case, it relates particularly to those whose wages are being paid with Federal resources, being paid by Federal taxpayers' dollars.

I do not think Federal resources should be used to put people out of work. These are people who are exercising their rights under the Federal labor law.

Unfortunately, the measure of the Senator from Kansas would block the President's ability to protect these workers and companies that are Federal contractors.

Mr. President, this would be the second time in less than a year that the supporters of striker replacements have used what I consider to be subterfuge to undermine striking workers. In the 103d Congress, the opposition used parliamentary tools to prevent a vote on S. 5.

The Senator who is occupying the chair right now spoke a few moments ago and said he thought we had put this permanent replacement issue to bed. Well, in my view, we have not done that. We have not even given it a nap. We did not give it a chance. In fact, the American people, although some people did not like the outcome, elected a President in 1992—he did get a majority of the electoral votes—who was openly and clearly committed to passing and signing a ban on the use of permanent replacement workers.

So, no, this issue has not been put to bed. This issue has not been given a fair vote on the floor of the Senate and this issue has not gone away, regardless of the hopes of the folks who did prevail on November 8.

I believe that this particular amendment does a great disservice to the working men and women of America. In my State of Wisconsin, the abusive use of permanent replacement workers by a few—not most, but by a few—employers during labor disputes has a pretty long history. And it is an issue that I have been pretty deeply concerned about for many years. In fact, when I was serving in the Wisconsin State senate, I was the author of the Wisconsin striker replacement bill and had the opportunity to testify before a committee of the other body here when I was still serving in the State Senate, asking that there be a Federal law banning the use of permanent replacement workers.

But the issue has not even come close to resolution. These folks, trying to exercise their right, their legitimate, lawful right to strike, have still been harmed and undermined by the use of permanent replacement workers.

Mr. President, I know that the use of permanent replacements is a many faceted issue. But to me at its core, this is the question that it raises: should workers have the right to use the strike as an economic device during times when negotiations with their employers break down? That is really the question. Because that is the issue when permanent replacement workers are used.

It effectively destroys the lawful right to strike. The National Labor Relations Act of 1935 clearly guarantees the right of workers to organize and engage in concerted activities, and included in that series of rights is the right to strike.

Workers and management have always shared relatively equally in the risks and hardships of a strike. It is no picnic for either side. Workers lose income and their families, and often whole communities, face economic insecurity and the threat of losing their homes and their savings. At the same time, a clear incentive has existed for management to come to an agreement, as they struggle to maintain production and productivity in their market share with a more limited work force.

That is the relative balance that has existed in the past, prior to the early 1980's. Because of that balance, as a general rule, strikes were to be avoided by both sides, if possible, and that was the driving force behind the success of

collective bargaining and peaceful negotiations.

For many years, even during strikes, labor and management were able to cooperate and come to an agreement. That is what I observed growing up in a very strong General Motors-UAW hometown, Janesville, WI.

Management now often advertises—instead of negotiating, they advertise for permanent replacements, the moment a strike begins, sometimes even in advance. I have seen advertisements preparing to hire a nonunion force in anticipation and, in fact, in the effort to precipitate the strike.

The threat of permanently lost jobs casts a pall over the entire bargaining process and breaks down that mutual incentive to come to a peaceful collective agreement. Mr. President, as the power of the strike becomes more and more tenuous, the voice of the labor negotiators over his or her employment weakens considerably.

I do not believe, at a bare minimum, that Federal resources, Federal tax dollars, should be used to do more of this, to erode the power of working people. If the use of permanent replacements is allowed in federally financed work, we then become directly involved in further weakening the voice of the working sector of this country, or even maybe worse, maybe we are in the process here of silencing the voice of working people for good.

It reminds me, Mr. President, of an act of kicking someone when they are down. I am not saying that is the intention of the Senator from Kansas. In fact, she is the last person in this whole body that I would accuse of trying to kick someone when they are down.

I am afraid that the effect of this, the unwillingness to say the Federal tax dollars should not be used in order to assist the use of permanent replacement workers is, in fact, kicking working people when they are down, when they have seen many rough years, many years of unfair advantage to employers in management relations, many years of jobs being lost overseas, sometimes in the name of free trade, but often to the detriment of the people that have helped build this country.

During disputes between employers and employees, Government should at the very least act to ensure that both sides are playing on a level playing field. The Federal Government should not act to give an advantage to one side or the other.

At times, such actions in the past have given that advantage in the form of police protection for strikers and nonstrikers. At other times, in the form of court proceedings.

I might add that employers still have many options in overcoming or surviving a strike. There are many things they can do, apart from this very harsh act of using permanent replacement workers. They can hire temporary employees, they can stockpile inventory in advance of a potential strike, or assign supervisors to take over some aspects of production. I know this is not a first choice. But of course neither is striking ever a first choice of the working people who feel compelled to go on strike. These options exist for the employers. They have always been available to employers, and they are if no way limited by the President's Executive order.

Mr. President, last year the Washington Post ran an excellent editorial called ''Women and the Right to Strike'' which pointed out that as a class, women and minorities are the most in need of protection against the use of permanent replacements. They are overrepresented in low-skill low-wage jobs where it is easy to find and train replacements, while they are also in need of those jobs simply to meet the most basic necessities.

Mr. President, I find this attempt to prevent the Executive order in this case to be very surprising in light of the emphasis on welfare reform that has come through as a very important part of the so-called Republican contract. The notion of welfare reform, which I agree with, is that if somebody can work they should work.

If we are going to pass some important legislation this year to make that much more likely, what is the message of this amendment to those who are being encouraged to go to work? The message is, you will lose your welfare benefits, you will leave your children and go to work, you will not necessarily be guaranteed health care. As we know, we do not have universal coverage. We have universal coverage for the people on welfare, but not necessarily for those who work.

So this is the message that the new majority wants to give to people on welfare who want to go to work. Go to work, for maybe the same amount, maybe a little more, and you may have your jobs torn away from you in a very short period of time by the use of permanent replacement workers. No job security. No meaningful right to strike. It is the worst message we can possibly send to those people who are genuinely striving to leave welfare.

Mr. WELLSTONE. Mr. President will the Senator yield?

Mr. FEINGOLD. Mr. President, I am happy to yield to the Senator from Minnesota.

Mr. WELLSTONE. I gather from what the Senator has just said that he is trying to make a connection between welfare reform and welfare recipients—who are, in the main, women, single parents—being able to find a job they can count on. With ''a job you can count on'' meaning a decent wage with decent fringe benefits.

In the State of Wisconsin, has the Senator seen situations where workers have been essentially forced out on the strike and permanently replaced? Has the Senator actually seen that happen in Wisconsin? Can the Senator give, so that people know what this debate is about, are there some examples that come to mind, as a Senator from Wisconsin?

Mr. FEINGOLD. I thank the Senator from Minnesota for his question.

Mr. President, in response to the question, have we seen this happen in Wisconsin, the answer I am sorry to say is yes. Increasingly, through the 1980's and early 1990's, there were systematic efforts in certain places to use permanent replacement workers.

Among the ones that stick out is what happened to people in De Pere, WI, when International Paper chose to use permanent replacement workers. I held a hearing as a State senator, at the time, and heard some of the most compelling and troubling testimony I have ever heard as an elected representative from families that were broken by the loss of that job security that the Senator has described. In fact, I am quite sure that some of those folks were forced from being workers to being on welfare, as a result.

I saw the same thing near Milwaukee, in Cudahy, WI, another very tense, and difficult, public hearing when the story of that situation was laid out. Closer to my own home in Madison, WI, a lot of pain, a lot of hurt, and a lot of destruction of family—another value that the new majority likes to talk about.

In the context of the Stoughton Trailer strike involving UAW workers, I always like to say my very first political encounter as a kid was when my father took me down to the UAW plants in Janesville to the Walter Reuther Hall. I remember that the gatherings there, there were a lot of Democrats there, there were Republicans there, too, in those days. It was not necessarily a partisan issue. It was pretty good spirit there in the 1960's. But when I returned in 1988, to that same hall, it was not an upbeat spirit. It reminded me of a wake, because people felt absolutely dejected and abandoned because of the use of permanent replacement workers. We have had it all over the place.

I want to reiterate to my friend from Minnesota, Mr. President, it is a small percentage of the employers, but, unfortunately, sometimes it is some of the biggest employers. Sometimes it is some of the best jobs. And it cuts at the heart of the feeling that we want to be able to give people that if they do a good job for a company and come to work on time and produce a good product, they should be able to keep that job, generally speaking.

That is something that has to be as much a part of the American dream as home ownership or little league baseball.

Mr. WELLSTONE. Will the Senator yield for another question?

Mr. FEINGOLD. I am happy to yield.

Mr. WELLSTONE. Mr. President, this Executive order really applies, as I understand it, to Government agencies that work with contractors with contracts of $100,000, or more, and only in

cases where those contractors permanently replace striking workers, not temporarily replace, then the Government would no longer be willing to continue with the contract. Is that correct?

Mr. FEINGOLD. Mr. President, that is my understanding. It is not as extensive as the kind of law I would like to see passed.

Mr. WELLSTONE. And ultimately this would affect very, very, few companies because we have no reason to believe that most of the contractors doing business with the Government would engage in such a practice.

So my question is as follows: This debate now on this amendment almost becomes a debate about more than just this aim of the Senator was talking about welfare and the reports of welfare reform with jobs being key.

Does the Senator, based upon your experience in Wisconsin, does the Senator feel that this whole issue of permanent replacement of striking workers is key to the question of balance between labor and management so that people, working people in the country, whether they are in unions or not in unions, will have the ability to represent themselves and bargain and have a decent job at a decent wage for their family?

Has this amendment become really more of a debate about decent jobs for people, more of a debate about families having an income that they can live on, more of a debate about really working families and middle-class families; is that the way the Senator sees this?

Mr. FEINGOLD. In response to the question of the Senator from Minnesota, it almost has to become a broader debate. I do not believe it was the intent of the Senator from Kansas to have it be. I do not know how you can talk about just the narrow issue of particular companies, and I think the Senator from Minnesota is right that there maybe is not going to be Federal money to do this. But it does bring up the whole issue of what kind of consistency is there between this sort of amendment and the agenda that we have been talking about in this Congress and will talk about having to do with getting people to work.

Mrs. KASSEBAUM. I wonder if the Senator from Wisconsin will yield to me for a moment for a question? Going back to a question between the Senator from Minnesota and the Senator from Wisconsin a minute ago.

Mr. FEINGOLD. I will be happy to.

Mrs. KASSEBAUM. First, you implied this Executive order would not affect very many companies, that it will only touch on a few Federal contractors. I notice there is some confusion about this that maybe you can clarify.

There has been some question as to whether it would or would not affect the Bridgestone/Firestone strike for which, of course, there have been permanent replacement workers. For all intents and purposes, it has been thought that this Executive order was only proactive, not reactive. It states:

> The provisions of section 3 of this order shall only apply to situations in which contractors have permanently replaced lawfully striking employees after the effective date of this order.

In section 3, there is some confusion. It says:

> When the Secretary determines that a contractor has permanently replaced lawfully striking employees, the Secretary may debar the contractor, thereby making the contractor ineligible to receive Government contracts.

So I think it could be read that the Secretary of Labor could, as a matter of fact, go back and say that if there were permanent replacement workers, then the contractor could be debarred from Federal contracts. This places us, of course, right in the middle of a major management/labor dispute. One which, of course, is taking a real toll.

I would like to ask the Senator from Wisconsin, who has the floor, if he knows what the clarification may be? I think this could cause real confusion.

Mr. FEINGOLD. I defer to the Senator from Minnesota on that particular aspect, except to say when the Senator from Minnesota asked me how many firms do I think this would apply to, my saying I did not think it would apply to many firms was to the fact that I hope and believe most firms would not do this.

If this, in fact, does apply to the current situation you refer to, it would not trouble me. I am not going to represent what exactly that language does. I am happy to take a look at it. My view is that use of permanent replacement workers in any context where Federal dollars are involved should not be permitted.

That is what I would want it to be, but I did not, of course, draft the Executive order, and I would have to defer to the Senator from Minnesota if he knows the specific answer.

Mr. WELLSTONE. Mr. President, I thank the Senator from Kansas for her question. The President's Executive order would cover them, but the existing contract could not be terminated. It is my understanding that they would be barred from future contracts, and that is the distinction. I think that is the purpose of this Executive order.

I might also add that when I asked the question of the Senator from Wisconsin, my working assumption—which I think is a correct one—is that ultimately we are talking about what kind of companies might, in fact, engage in this practice, because the Senator from Wisconsin is correct; most companies are good corporate citizens and good businesses and do not engage in this practice. Probably we are talking about very few cases.

Mrs. KASSEBAUM. Mr. President, I appreciate the answer. I think it is still very unclear, and I think it indicates why there would be a lot of uncertainty about this Executive order. I appreciate the answer.

Mr. FEINGOLD. Mr. President, if I may conclude, I know the Senator from Minnesota wishes to speak.

The senior Senator from Massachusetts referred to the people who would be affected by the use of permanent replacement workers as the backbone of our country. That is exactly what they are. They are not the people who so many people like to rail against who are not willing to work who can work; these are people who work, who have worked hard, who report to work every day, many of whom have to have both parents working to make ends meet. They are trying awfully hard to make it. All they want is to know that this country, whether it be a Democrat majority or a Republican majority, is committed to helping them get to work and have a job and make an honest living.

I thought that is what this whole welfare debate is about; that everybody is better off if they are working and that if they are not working, they are taking advantage of the rest of us. That is what I thought it was about. I thought that is why so many working people are frustrated and irritated by our current welfare system.

What kind of a mixed message is it to kick people who are working and not guarantee them the right to strike at the same time you tell them get back to work and help us out in this society by working and paying your taxes and make our economy go? It does not add up.

This Republican agenda is contradictory. Are we for deficit reduction, or are we for tax cuts? Are we for getting people back to work, or are we for driving people out of work by the use of permanent replacement workers? Which one is it? Where is the sense of community? Where is the sense of helping somebody when they are down? Where is the sense of making sure that if somebody is really trying to work, that we will do whatever we can to make sure that that job has some stability, has decent wages, some rights, some health insurance. Which is it?

I believe that every Member of this body is committed to those principles in their heart, but when you look at the agenda and the way that it works at cross-purposes with an amendment like this, it is very, very troubling; and it is hard for me to tell the hard-working people in Wisconsin, those who are part of organized labor, in particular, that you really mean it, that you really mean it when you say you want people to work. If you want them to work, give them a fair chance to have a balance to keep those jobs when the management is being unfair.

Mr. President, I strongly oppose the Kassebaum amendment for the reasons I have outlined. I encourage my colleagues to vote against it.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair. I thank my colleague from Wisconsin for his strong words on the floor.

Mr. President, I could read from my prepared statement. I think I would rather not. I just would like to try to lay out, if you will, the basis of my position and marshal evidence. I think that it is very important that the U.S. Government not be on the side of contractors who have permanently replaced their workers who have gone out on strike.

Let me say one more time, as I understand this Executive order, if the Secretary of Labor issues such a ruling and it is clear that a contractor with a $100,000-or-more contract has, in fact, permanently replaced striking workers, then that company could be barred from future contracts after the careful, deliberative process set forth in the order is exhausted. I think that is the key clarification.

I think that this Executive order is very important. I do not think it is very important so much because, in fact, it will end up covering that many businesses. I think it will be rather narrow in scope, but I think it is important that the Government be on the side of what I would call basic economic justice.

A word on the context, Mr. President. In the early 1980's, there was the PATCO strike, and many striking air traffic controllers were permanently replaced. I think what has happened—and I wish this was not the case, and maybe it had something to do with the mergers that took place in the 1980's, maybe it had something to do with different hard-nosed management approaches—but what happened really, with the PATCO strike I think being the triggering event, is that we moved into a different era of labor/management relations wherein the implicit contract between workers and management was torn up.

In addition, I would argue that in the international economic order—and the Senator from Illinois was quite correct when he said the United States almost stands alone among advanced economies without having some protection for a work force against being permanently replaced—I think the key for our country is going to be a trained, literate, high-morale, productive work force.

I know the Senator from Kansas agrees because I have seen her work and admire her work in promoting this.

I think the disagreement we have is that when people can essentially be crushed—and I have seen too many people who have been crushed in my State of Minnesota—when they go out on strike because they feel they have no other recourse but to do so, it leads to just the opposite of what we need when it comes to real labor/management cooperation.

The process is fairly simple, and I wish I did not have to identify this process. It is not an invention on my part. Too often, companies—I am very pleased to say not most companies, not most businesses—provoke strikes as part of a plan to replace striking workers and bust unions. And this is a relatively small number of rogue employers. I think, in fact, many businesses would greatly benefit from this reform because they are not the real culprits here. But too often, certain employers will force a unionized work force out on strike, permanently replace them, then move to have the union decertified. That is union-busting, plain and simple.

Now, Mr. President, it could very well be that part of this debate about this amendment—although I think the Senator from Kansas can speak for herself better than I ever could; I do not actually think this is her framework—but as I see it, as I analyze the votes on this amendment and this question, at least some of the votes, some of the votes are going to really have to do with the larger question than this amendment.

The larger question than this amendment is this Contract With America—I think it is more a con than a contract—that we see being pushed forward with a vengeance in the House of Representatives. The connection I make is that I think what we see happening right now—and it is why I come to the floor feeling so strongly about this amendment, because of this larger context—is an effort on the part of some of the leadership in the House to overturn 60 years of people's history. I actually do not think that this ''Contract With America'' is an attack on the 1960's. It is an attack on the basic reforms put in place in the thirties, which have served us well for decades.

Now, Mr. President, some of us, or some of our parents—in my case, I guess it was my grandparents—gave a lot of sweat and tears to make sure that in the 1930's we moved forward as a Nation with some protection for people against strikebreaking, some protection against the fear of being unemployed, some protection against jobs that paid wages on which people could not support their families. This is when we protected in law the right to form or join a union. This is when we developed some of our collective bargaining machinery. This is when we passed minimum wage legislation. This is when we passed Social Security. This is when, Mr. President, if we want to talk about contracts, we actually built a contract in the United States of America the purpose of which was a more just system of economic relationships for people.

But, more importantly, I think it was a huge step toward greater stability in the workplace, and toward greater fairness. We no longer said if you own your own large corporation and you are powerful, then you matter, but if you are a working family, you do not. This was an important contract.

Quite frankly, Mr. President, I see a real effort in the Congress, especially on the House side, to rip this contract up.

Mr. President, there are an estimated 14,000 workers that are covered by the NLRA that are permanently replaced each year by American employers and thousands more under the Railway Labor Act.

Now, there was a report done by the General Accounting Office in January 1991—and maybe there is a more recent report. I think all of us agree that GAO does very rigorous work, and in this report the GAO indicates that since 1985, employers have hired permanent replacements in one out of every six strikes and threatened to hire replacements in one out of every three.

Mr. President, the right to strike has become the right to be fired. You could, if you wanted to, just travel around the United States, and in State after State you could talk to priests, ministers, rabbis, mayors, small business people, union people, and others affected by long and bitter strikes that divided communities all too often precipitated by the use of outside replacements.

In my State of Minnesota, I could give many, many examples of men and women who essentially were forced out on strike. Nobody goes out on strike on a lark. But they were faced with a package of concessions that they could not make in terms of their own economic situation and their basic dignity. The companies knew they could do it to them. The companies wanted them out on strike. The companies then permanently replaced them and then decertified them. That is union busting.

Now, I think this Executive order just simply says that the U.S. Government will not be on the side of union busting. This Executive order—and again, that is why I think it is such an important issue that goes beyond this Executive order—says that the U.S. Government will be on the side of working families, that the U.S. Government will be on the side of collective bargaining rights, that the U.S. Government will be on the side of the right to strike, and that the U.S. Government takes the position that the right to strike should not become the right to be fired.

I do not know how many of my colleagues—maybe many or maybe very few—have actually visited with families who have essentially been wiped out because the husband or the wife or both were permanently replaced. I have. And I do not say ''I have'' to suggest that I care more about working people than anyone else. Many Senators do. We reach different conclusions, sometimes, as to the best way to support families.

But I have seen, and I will say this to my colleague from Kansas—I have seen too many broken dreams and broken lives and broken families, all caused by permanently replacing men and women. It is just shattering.

I will say this to my colleague from Kansas, I will, with every ounce of strength I have as a U.S. Senator, fight to end this practice. That is why this amendment assumes a larger importance than this amendment. That is why this amendment assumes a larger importance, and that is why this amendment must be stopped.

There were many of us—one is no longer here on the floor of the Senate because he retired, certainly he was one of my mentors, Senator Metzenbaum from Ohio—who fought and fought and fought for change. S. 55 would have been the change. That would have prohibited employers—I am not talking about just contractors with the Government—from permanently replacing striking workers. It was filibustered. Let me repeat that one more time. It was filibustered.

I remember meeting—I think Sheila came out with me—on a Sunday morning in Minnesota with a group of workers who had been permanently replaced. They were outside with their families. It was raining. Certainly there were as many women as men who worked for this company. I remember saying to them: I really have some hope that we will be able to pass this legislation.

I do not think they thought that meant they would get their jobs back. But it represented some real hope for them, because they had been very courageous. What this company asked of these workers, I say to my colleague from Kansas, was unacceptable. I do not think there is a Senator here who would have been able to have accepted those terms.

They went out on strike. They were scared to death. They knew they probably were going to lose their jobs, but it was a matter of dignity. You know, dignity is important to people.

I said: We have this piece of legislation and I believe the United States of America is going to join the other advanced economies by providing some protection for working people, working families. But we could not get a vote on it. It was filibustered.

Mr. President, now we come to this amendment by my good friend from Kansas, which is an attempt to effectively overturn the President's Executive order. The Executive order, which sends I think a very, very important and positive message to people in this country, which is that the Government is not going to be on the side of companies that permanently replace workers, companies that quite often force people out on strike, in keeping with a typical pattern—forcing people out on strike when people cannot accept these concessions which are unreasonable; then bringing in permanent replacements; then decertifying the union; and then busting the union. The U.S. Government will not be on the side of union busting.

I think this amendment also brings into focus on the floor of the U.S. Senate a whole question of this Contract With America. I believe that. I do not think that is the intent of the Senator from Kansas, but that is why I feel so strongly about this debate, about this amendment.

I say to my colleague from Wisconsin, what is now going on—actually legislation that is being passed on the floor of the House of Representatives—is beyond the goodness of people in this country. It is mean-spirited, because it targets the citizens who are the most politically vulnerable and who have the least political clout. That is why I have come out with this amendment on children over and over, which the Chair voted for and my colleague from Wisconsin voted for, to get the Senate on record in favor of ensuring that nothing we do this year will create more hungry or homeless children.

When I first came out with this amendment at the beginning of the session, a sense-of-the-Senate amendment, there were some colleagues who thought this is just symbolic. Some people said this is just politics. But, my gosh, look at what has happened on the House side, and what is coming over here to the Senate. We can see what is happening to the school lunch program, the school breakfast program, nutritional programs, the child care centers. Look at the headlines every day. The other day on the floor of the Senate I observed: Here is a front page Washington Post piece with a title, not ''Can Johnny Read?'' but ''Can Johnny eat?'' And you begin to wonder. This is not the America we know.

I insist that this debate is all about families. I know my colleague has a question and I will be pleased to yield, but if I can just make this last point. I think, whether we are talking about nutrition programs and children, whether we are talking about Pell grants, or low-interest loans for higher education; whether we are talking about affordable health care or whether we are talking about minimum wage; or the Small Business Administration—guaranteed loan programs, 8–A loan programs and the like—or whether we are talking about jobs, jobs that families can count on, jobs that pay a decent wage with decent fringe benefits—that is the core question here.

On this question I think the administration is in the right. I think this Executive order is extremely important and ultimately it gets down to the question, to quote an old song, ''Which Side Are You On?'' It happens to be an old labor song sung by Florence Reece—''Which Side Are You On?'' Which side is the Government on? Is the Government on the side of companies that permanently replace workers, that crush workers? Or is the U.S. Government, the Government of the United States of America, on the side of working people and working families?

I want to continue to speak but if the Senator has a question I will yield.

Mrs. KASSEBAUM. Mr. President, no, I do not. I would simply, though, make a statement. This is not about the Contract With America. This is not about whose side one is on. I would say to the Senator from Wisconsin, what this is about is the ability of the President, by an Executive order, to change the labor law of the land which has existed for 60 years.

The debate on whether to have a permanent replacement of workers can come at a different time. I am sure it will. It has through the past two Congresses. But that is what troubles me—and I know the Senator from Wisconsin has the floor. It is not a question so much as to state indeed what this debate is about.

Mr. WELLSTONE. Mr. President, I say to my colleague from Kansas that I respectfully disagree. The reason I say that is I do not believe that we can decontextualize this amendment proposed by my colleague from the reality of the agenda that is being pushed by the Republican Party in this 104th Congress. I believe all of the parts are interrelated. That is the way I view this amendment. I view this as being connected to all these other questions. Is there going to be adequate nutrition for children? Whatever happened to affordable health care? Are people going to be able to afford higher education? How come the proposed cuts are so targeted, as Marian Wright Edelman and others have said over and over again, on the most vulnerable citizens? Why are we not willing to raise the minimum wage? And what are we doing, coming out with an amendment that essentially tries to undo an Executive order that only says the U.S. Government ought not to be supporting companies that permanently replace workers, given, I think, a rather bleak and shameful history of the last decade or so as to what has actually been happening to working people in this country?

So I say to my colleague, I respectfully disagree.

Does my colleague have a question?

Mrs. KASSEBAUM. No. I will respond when the Senator from Minnesota yields the floor.

Mr. WELLSTONE. I thank my colleague.

Mr. President, I know the Senator from Iowa will be here in a moment. I will be pleased to yield the floor to my colleague from Iowa.

Mr. President, I would like to just quote from page 1 of a General Accounting Office report published a few years ago on striker replacement in the last 20 years. It is a summary to give some context for my remarks and my response to the Senator from Kansas.

The number of strikes in the United States during the 1980's was about one half what it was during the 1970's. More specifically, strikes declined about 53 percent in the 1980's compared with the 1970's. They estimate that in strikes reported to the Federal Mediation and Conciliation Service in 1985 and 1989, employers announced they would hire permanent replacements in about one-third of the

strikes in both years and hired them in about 17 percent of all strikes in each year. They generally found little difference in the use of permanent replacements by employers in large force strikes.

Mr. President, is this Executive order meeting a real need? Yes. Is there a precedent for it? Yes—ample precedent.

One more time I say to my colleagues that I believe there is a larger significance to this amendment than may originally be apparent. This amendment goes to the very question of workplace fairness. This amendment goes to the very heart of the Contract on America's assault on working families' ability to rely on jobs that pay decent wages with decent fringe benefits. This amendment is an attempt to undo an Executive order, I think, which is narrow in scope and which makes it clear that the Federal Government will not be on the side of companies which permanently replace striking workers. The Federal Government will not be on the side of union busting. The Federal Government will not, through taxpayers' money, support unfairness in the workplace. The Federal Government will side with regular working people. The Federal Government will side with working families.

And while I believe that this Executive order represents a lawful exercise of Presidential authority, I think it also represents something more. It represents a commitment by the President of the United States of America to many, many, many working families in our country.

Please remember, when I say working families, I mean union and nonunion, I mean the vast majority of people in this country who in fact are employed.

At this point, Mr. President, if the Senator from Kansas does not have a question for me, I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I want to respond to several things that have come up during the course of the debate this morning.

First, this amendment is not an effort to embarrass the President.

Second, I feel strongly that this Executive order sets a precedent that we need to carefully examine.

Third, we all care about justice in the workplace and for the workers. But it has been stated that this Executive order will actually restore the balance. That through this Executive order there will be balance that then will be maintained between management and labor. I argue that actually it will totally unbalance the labor/management relationship which has existed over 60 years under our Federal labor laws.

Sometimes it has been abused by management. Sometimes it has been abused by labor. It was stated that if management can hire permanent replacement workers, then it would be very unfair to the strikers. Why would, indeed, strikers not be able to have any voice at that point? Strikes have continued on, and at great loss to those who were striking, where permanent replacement workers have been hired. However, if you were to forbid any permanent replacement workers, then strikes could continue on forever and the workplace could be totally shut down. A business could be totally shut down. Leverage has to be equal on both sides.

I suggest that when discussing this Executive order it is very murky to talk about either Caterpillar or Bridgestone/Firestone because at some point large companies, in fact many companies large or small, have Federal contracts. This would say, if indeed a strike is ongoing—which Bridgestone/Firestone is—and there have been permanent workers hired, it does apply to them.

So I suggest the Executive order will not restore the balance between labor and management. It actually undermines it. This is not a debate about the minimum wage. This is not a debate about Davis-Bacon. This is not a debate about school lunches or child care or welfare reform—all the things that have come into play. It is indeed not about any of these.

I suggest to the Senator from Minnesota, because he cares passionately about this, that there could be a time when a Republican President could issue an Executive order banning all strikes. If you start down this slippery slope of totally disregarding labor law, the legislative authority to enact law, this could happen. Where authority to shape labor law should be is in the halls of Congress where it is determined through legislation.

There has been much talk here about President Reagan and President Bush by Executive order having done the same thing.

If I may, I will just go through this again. The Bush administration did issue an Executive order requiring Federal contractors to post a notice informing workers of their rights under Federal labor law. That is a given. That was not, in any way, changing labor law.

President Reagan, when air traffic controllers went on an illegal strike, did replace those striking workers with permanent replacement workers. There was legislation that followed in both the House and Senate wanting reinstatement of those fired air traffic controllers after a certain period of time, but this legislation did not pass. And that is why we get to the third one, Mr. President, which I suggest might be a little murkier—and I listened to Senator KENNEDY's arguments regarding the prehire agreements.

There are some, in fact, who believe that President Bush's Executive order was illegal although it was never challenged in court. It could have been challenged, just as I assume this Executive order will be challenged. Unlike the case of the prehire agreement Executive order, we are currently faced with a situation where Congress has declined to change the law for more than 60 years. I argue that this striker replacement Executive order has far broader implications. If we continue down what I have said is a slippery slope, I fear we may see future administrations that will then be trying to limit not only the rights of management but the rights of workers as well.

This is not the way we should determine major labor law—by an Executive order. I share many of the sympathies that have been expressed by either the Senator from Wisconsin or the Senator from Minnesota about the desire to see stability in the workplace, the desire for good wages, the desire for those who are working today to know they have a future in that workplace instead of uncertainty from month to month, if not year to year. But this is not the answer. And I suggest, Mr. President, that it creates an imbalance that will cause greater uncertainty in the workplace and greater instability in the workplace, not less.

As we look to the future of trade, productivity, and competition, we want to be able to be partners with both labor and management and try to realize a stable and productive workplace. But through this Executive order, we have undermined, I think, and further eroded a sense of trust and a responsibility that should exist between labor and management.

If we tie one hand behind management's back, or if someone finds a way to tie one hand behind labor's back, we have created imbalance. Who is to say what issue is fair or unfair? It cannot be done here. Many of us argue this about the baseball strike. We have said that Congress should not intervene in these strikes. There must be some credence given to the bargaining table, where management and labor have to come together, I hope, for the best interests of both sides.

That is what this argument is about. It is not about the Contract With America and all of these other extraneous issues. It is about an Executive order that takes away the rights of Congress to, by legislation, enact or reject legislation—in this case, affecting labor law, which has always been our prerogative.

We can have the debate once again on permanent replacement for striking workers at another time and in another forum. But this debate is simply about an Executive order. The reason I add it as an amendment to the defense supplemental is that many of those who have worked with defense contracts are the very workers and businesses that could well be affected by this Executive order.

That is why it seems to me to fit on the defense supplemental legislation before us today. I do not think there needs to be extended debate because I believe we all know what the issue at hand is and how we feel. I would be happy to enter into a time agreement.

I would be happy to have the vote in a limited amount of time, and stand willing to do so, Mr. President, if that will be agreed to by the other side of the aisle.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, first of all, I want to make it clear that when it comes to time agreements—and I think this is a sort of fundamental difference we have. This is a central, central, central question. One more time, I say, with all due respect to my colleague from Kansas, first, I think the significance of this amendment goes beyond the Executive order. I think it cannot be contextualized to what I consider to be really sort of assault on working families and middle-income families in America.

Second, I choose to define the issue differently. Each Senator has to make his or her own decision. But I believe this is a question of whether or not the Federal Government will be on the side of a practice which, unfortunately, has become all too common during the decade of the 1980's and early 1990's, which is essentially demanding concessions of a work force that you know they cannot make, forcing them out on strike, hiring permanent replacements, decertifying the union, and busting the union.

So the question is, is the Government of the United States of America going to use taxpayer dollars to encourage that practice, to be on the side of that kind of practice—the practice of union busting, of breaking unions, of driving many, many honest, hardworking people essentially out of work because they are replaced? I do not think so. I think it is a question of where the Government stands. This Executive order says we ought to have a Government that stands on the side of workplace fairness.

Actually, I heard my colleague from Illinois say earlier that this is but the beginning of what we should have done, which was S. 55, which joined all of the other advanced economies with legislation to prohibit this egregious practice. We would be so much better off—I will not repeat all of the arguments I made earlier—in terms of productivity and labor-management partnerships, and in terms of higher levels of morale.

I ask my colleague from Illinois whether it is his intention to speak on the floor.

Mr. SIMON. No.

Mr. WELLSTONE. Well, let me finish my remarks. I am expecting the Senator from Iowa to be here in a moment.

Let me just clear up this interpretation on Bridgestone-Firestone. Negotiations between Bridgestone-Firestone and the United Rubber Workers began in March of 1994, and the collective bargaining agreement expired on April 24, 1994. The United Rubber Workers called the strike against Bridgestone-Firestone on July 12, 1994. If the Executive order had been in effect, Secretary Reich would have intervened immediately by notifying the company that any effort to permanently replace its workers could cause Bridgestone-Firestone to suffer immediate termination of several million dollars worth of contracts it has with the Federal Government. This action might have been enough to persuade Bridgestone-Firestone not to permanently replace the strikers.

On January 4, 1995, Bridgestone-Firestone permanently replaced 2,300 striking workers, without any warning, by sending letters to the strikers at their home. If the Executive order had been in effect, Secretary Reich could have immediately investigated and made a finding that the company violated the policy in the Executive order, that the executive branch will not contract with employers who permanently replace striking workers, and notified all of the agencies that have contracts with Bridgestone-Firestone that they should terminate their contract. These agencies would have terminated the contracts, again putting pressure on Bridgestone-Firestone to attempt a reasonable settlement of the strike—the same kind of pressure that the strikers were under, I might add—at the time.

It also says, ''The Secretary of Labor may pursue a debarment action against Bridgestone/Firestone after the executive order takes effect. The debarment would block Bridgestone/Firestone from getting any new Federal contracts''—any new Federal contracts—''until its labor dispute is settled.''

The language is very clear. The interpretation is very clear.

Mr. President, I yield the floor to my colleague from Iowa.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. HARKIN. Mr. President, I very strongly oppose the amendment offered by the Senator from Kansas. Instead of passing this amendment, we should be saluting the leadership of President Clinton in providing a good degree of protection for workers that Congress failed to protect last year in the striker replacement bill.

American workers and companies doing business of over $100,000 with the Federal Government can finally be assured that they will not be permanently replaced if they go out on a strike. While that represents only 10 percent of all contracts, this order will affect 90 percent of Federal contract dollars.

Over the past decade, a worker's right to strike has too often been undermined by the destructive practice of hiring permanent replacement workers. Workers deserve better. Workers are not disposable assets that can be thrown away when labor disputes arise.

When we were considering the striker replacement bill last year, the Senate Committee on Labor and Human Resources heard poignant testimony about the emotional and financial hardships that are caused by the hiring of permanent replacement workers. We heard of workers losing their homes, going without health insurance due to the cost of COBRA coverage, as well as the feelings of uselessness that workers often feel when they are permanently replaced after years of loyal and efficient service.

The right to strike, as we all know, is an action taken as a last resort, for no worker takes the financial risks of a strike lightly. I have never, in all my years, met one worker who would rather be on strike than he would be in the plant working. The right to strike is, however, fundamental to preserving a worker's right to bargain for better wages and better working conditions.

I challenge those who say they support the Wagner Act, and the right of collective bargaining, and yet say that if workers go out on a legal strike, that company can permanently replace them. In essence, that position means that there really is no right to strike; there is only a right to go out and be replaced.

And if there is no right to strike, then there is no right to collective bargaining. Because there is only one thing and one thing alone that the worker brings to the bargaining table and that is his or her labor. They do not have money to bring to the table. They do not have contracts. If they cannot withhold that labor, then there is no real effective bargaining position for labor. Then they are going to have to take exactly what management wants. If they do not take what management wants, then they can go out and strike, but then management says, ''We will bring in permanent replacements: you are done and you are out the door.''

So what we have in America today is no right to collective bargaining. It is a sham, a phony right.

The kind of rights that workers enjoy in other capitalist societies, whether it is Great Britain or France, all over Europe or even in Japan—and I will have more to say about Bridgestone—workers there do indeed have the right to strike, and they cannot be permanently replaced.

So only in America, the bastion of free labor, the country that gave the world the kind of laws under which labor can exert its legitimate rights and bargaining rights, this country has now taken a step backward of saying,

''No, there is no more right to collective bargaining in this country.''

Recent studies have shown that the stagnation we have seen in middle-class standards of living is closely correlated with the decline of unions and the loss of meaningful bargaining power. A Harvard University study showed that blue-collar incomes have dropped in constant dollars from $12.76 an hour in 1979, down to only $11.51, a drop of almost 10 percent. If unions represented just 25 percent of the work force, that wage would be nearly $12 per hour.

At the same time, workers are losing the benefits that unions were able to negotiate. Since 1981, fewer workers have health insurance, pensions, paid vacations, paid rest time, paid holidays, and other benefits. Without the bargaining power of a union, companies provide these benefits only out of the goodness of their hearts. Without the right to strike, a right that is theoretically guaranteed by law but that is in fact totally undermined by permanent replacements, workers have virtually no bargaining power left.

The right to replace workers is insidious. If one employer in an industry chooses to cut costs by breaking the union and cutting the workers' salaries and benefits and dignity, then all the other companies in that industry are faced with having to compete against a cut-rate, cutthroat business, or they are going to have to follow suit.

A company has to respond to its shareholders. It cannot be beat by the company that treated its workers shabbily. So, since it has to respond to its board of directors and the shareholders, they follow suit. It is insidious. It is like dominoes. One company starts it, other companies have to follow suit or they are going to lose market share.

Workers faced with being replaced have to make the choice of staying with the union and fighting for their jobs or crossing picket lines to avoid losing the job they have had for 10 to 20 years. Is this a free choice, as some of our colleagues would suggest, or is this not really blackmail? It takes away the rights and dignity of workers in this country.

What does it mean to tell workers you have the right to strike when exercising that right means that you will be summarily fired and replaced by another worker?

This is not about whether a company has to close its doors in the face of a strike. This only concerns the permanent replacement strikers. Permanent replacements are given special priorities in their new jobs, placing new hires above people with seniority and experience. We are not suggesting that replacement workers cannot compete for jobs. They just should not get special rights over and above those of the workers who have devoted their lives to the company.

As a nation, we have a choice: Continue down the path of lower wages, lower productivity, and fewer organized workers, or take the option pursued by our major economic competitors of cooperation, high wages, high skills, and high productivity.

We want to pursue that high-skill path. We must do it with an organized work force. We cannot do it with the destructive management practices of the past decade such as the hiring of replacement workers.

Instead, we need new approaches to management that foster enhanced labor-management relations and cooperative approaches that stimulate employee productivity and enable management to get the most from its employees' skills, brain power, and effort.

Our Nation cannot afford to limit our competitiveness through practices that promote distrust between our workers and our managers. Instead, we must work for the mutual interest of all parties. I believe the President's Executive order is a positive step toward such goals.

Mr. President, this is an issue of particular interest to my State of Iowa. In January, Bridgestone/Firestone, a large employer in the Des Moines area and other Midwestern States, announced the permanent replacement of nearly 3,000 workers involved in the strike against the company for better working conditions and fairer treatment by their employers.

The bargaining sessions had broken down and the employees exercised their legal right to strike. This is Bridgestone/Firestone, and maybe not too many people have heard of Bridgestone, but certainly everyone has heard of Firestone Tire and Rubber Co. Firestone sold out to the Bridgestone Corp., which is a wholly Japanese-based corporation based in Japan, which bought the Firestone Co. and now it is called Bridgestone/Firestone.

Many of the workers at the Bridgestone/Firestone plant in Des Moines are folks I grew up with. I come from a small town of about 150 people. Most of the people in that town either worked at John Deere or they worked at Firestone.

So I know what these people are like. They are good people. They are hard-working people. They are churchgoing people. They support their schools. They have good, strong families.

What does this say to our working people of this country? Certainly we have to understand we cannot just take people like that and throw them out on the trash heap. There is something about dignity, something about the fact that these people put in all these years for this company. And it is not as if they are asking for the sky and the Moon and the Sun and the stars in bargaining.

As a matter of fact, a couple of years ago, Bridgestone/Firestone asked the employees to do certain things, and they did. They asked them to increase their productivity at Bridgestone/Firestone. Let me read a letter from one of those employees sent to me in January of this year. This is quite a long letter so I will not read the whole thing.

Sherrie Wallace is a Bridgestone tractor tiremaker:

> I was raised to respect my peers, act responsibly to my community, do the very best I could on whatever I did * * *.
>
> When Bridgestone came to each of us asking for help because we were not doing as well as the company needed to do, we all did our best. They asked me for one more tire every day and to stay out on the floor and forego my cleanup time. Not only did I respond, so did each and every member of the URW. Not only did I give them the one more tire per day, I gave them three times what they asked for. Our production levels soared. We threw ourselves into our company believing that we all must succeed together in order to create a better way of life for all. The membership joined committees and we became involved, we gave them our hearts. We began to believe this company was different. We gave them our input to create a better working environment. To increase productivity we began to meet our production levels. We were proud of our company and our union. Together, we did make a difference. It is these things that make me wonder why does Bridgestone now demand such unreasonable demands?
>
> This is not an issue of money. It is an issue of work ethics, fairness to your employees, good working conditions, reasonable working hours and benefits.

Now, Mr. President, let me talk about this a second. It is not about money. Let me give one of the things that Bridgestone was demanding of its workers in terms of negotiating agreement. Bridgestone, for as long as I can remember—Firestone since I was a kid growing up—they always had three shifts a day.

I know the present occupant of the chair is from the State of Ohio, and I know they have a lot of industry there. I know that the three shifts, the 8-hour shifts, three shifts a day, has been pretty commonplace in our history of this country. Three shifts a day, 8 hours a day. And as a person goes up the seniority level—obviously, when you start at a plant you get the graveyard shift. Stay there longer, you get the evening shift. And after a while you work up and you get the day shift.

That has been a well-accepted practice in our country for a long time. At least with that kind of working condition, you knew when you went to work, when you came home, you knew when you had time off to be with your family.

Here is what Bridgestone wanted their employees to do; not three 8-hour shifts a day but two 12-hour shifts a day and there would be three shifts. So here is what it would do: You would be on 3 days working 12 hours and then you would be off 2 days; then you would be on 2 days working 12 hours, and you would be off 2 days; then you would be on 3 days 12 hours, and off 2 days; then you would be 3 days on and 2 days off. See what they are getting at?

How would you ever know when you will be home with your family? How could you plan a Little League activity on Saturday or Sunday? You might be home one Saturday, and then you

might not be home for a couple Saturdays after that. You might be home in the middle of a week. When you work 12 hours a day, how do you spend time with your kids and family?

I have to say, Mr. President, who knows as well as I do, that a lot of these people, now both husband and wife are working. Take one of them working a 12-hour shift and the other might be working an 8-hour shift someplace else. They have precious little time together. This is what Bridgestone is demanding.

I said Bridgestone is a Japanese company. Do they do that in Japan? No. They have three 8-hour shifts a day, with the seniority system. Would they ask their workers in Japan to go to a rotating 12-hour shift? Not on your life, because they have agreements with those workers. If they tried to do something like that, they would have a strike and in Japan they cannot permanently replace those workers. But they can here.

Well, like Sherrie Wallace said, it is not even an issue about money. But if we want to talk about money, we will talk about it a little bit. A person might think, however, that Bridgestone probably has better productivity and lower wages in Japan. Not true. Productivity is higher here per worker in America.

Mr. President, the average annual wage of a Bridgestone/Firestone employee in Japan is $52,500 a year. The average wage for that same Bridgestone/Firestone employee in the United States is $37,045.

But this issue is not about the money. That is not the point. The point is, what kind of working conditions are they going to have? Are they going to be able to spend time with their families? I might add as a postscript, since the last time I gave this speech on the floor about this—Senator SIMON and I have worked very closely on this—Senator SIMON got hold of the Bridgestone people at their headquarters in Tennessee. They agreed to come back, sit down and talk. And I came out on the floor and congratulated them. I said, ''I am glad to see that. Maybe we will get some movement here.''

What has happened since that time is the Bridgestone/Firestone people basically came in and said, ''Here is our offer, take it or leave it.'' That is not talking, that is not negotiating.

Since I last took the floor to talk about this, it looks like Bridgestone/Firestone had no intentions to sit down and bargain in good faith or negotiate at all. We thought they were; we hoped they were. The workers even agreed—even agreed—to save their dignity and to save their jobs, they agreed to go to the 12-hour shift. I do not think they ever should have agreed to it, but they did. Guess what Bridgestone/Firestone said? That is not enough. They want further concessions.

I think it is absolutely clear that in the case of Bridgestone/Firestone they only want one thing: Bust the union, drive down the wages to the lowest possible unit they can get, squeeze them as much as possible.

Mrs. KASSEBAUM. I wonder if the Senator will yield for a question.

Mr. HARKIN. I will be delighted to.

Mrs. KASSEBAUM. I do not want to get into a debate about Bridgestone's policies in this country, but wouldn't the Senator from Iowa agree that labor law is very different in Japan? So I think that when you say that in Japan they could not do this, this is because they have different labor laws in Japan and seldom have strikes. I do not think it is an exact comparison about what they may be trying to do in the United States versus the fact they would not do it in Japan. There are many reasons they cannot do it in Japan, is that not correct?

Mr. HARKIN. Is the Senator saying—

Mrs. KASSEBAUM. They do not strike in Japan.

Mr. HARKIN. But they have the right to strike and they can strike and they cannot be permanently replaced. It is against labor law in Japan to have a striking worker permanently replaced.

Mrs. KASSEBAUM. We can debate the differing interpretations of Japanese labor law, but I do think it is different. I just wanted to say that I think it is unfair to compare the two. At some point, I will go into it, but I wanted to make that point. I thank the Senator.

Mr. HARKIN. I appreciate the Senator. I will be glad to engage in more dialog if my friend from Kansas would like to do that. I am not suggesting the labor law in Japan is the same as in United States. I am just saying in regard to this one company, what they are doing here in the United States of America they would not be allowed to do under Japanese labor law. That is all I am saying.

I know labor laws are different, but they would not be allowed to do in Japan what they are doing in this country. That is the point I am making.

I want to make a further point, too, that I do not want to be accused of Japanese bashing. The fact is, most Japanese companies that operate in America do not operate in this way. In fact, a lot of the Japanese companies that operate here have darn good working relationships with their workers, with organized labor. They have sat down at the bargaining table and have bargained in good faith. In fact, in many ways, they have been better than some U.S. companies, as a matter of fact.

I am not saying this is endemic of all Japanese companies. In fact, this is a rogue Japanese company, quite frankly. I think it is casting a bad light over a lot of other Japanese companies. We said that to the Ambassador from Japan—and others said it to the Prime Minister when he was here. If you get one bad apple in the barrel, like Bridgestone/Firestone, it can spoil the whole barrel.

I will be glad to engage in any further dialog with the Senator from Kansas on this issue later on, if she so desires.

Again, my point was that Bridgestone/Firestone I do not believe now is acting in good faith. I thought before maybe these were bargaining techniques, to hold out a little bit. We have been through this before. But after the last instance in which they indicated they were going to sit down and bargain and talk and then they just basically said, ''Here is our offer, take it or leave it,'' it indicates to me that if they ever were bargaining in good faith, they certainly are not operating in good faith right now.

I wanted to finish a little bit more of Sherrie Wallace's letter.

You can not know how betrayed we American workers feel. You can not know the hours of fear and heartache we have endured. You can not know how we fear for our safety when we are on the picket lines. We are just average family people pursuing a dream called the ''American dream.''

Many of us in the plants have injuries that we have substained because of our employment at Bridgestone. Back injuries, muscle tearing, joint replacement, arm injuries, carpal tunnel, cancer and asbestosis these are just a few. Many of our brothers and sisters have died because of conditions at these types of companies. Many of us just can't get another job. Who would hire half a man or woman. We can't stand to lose our jobs. There is no place else to go. Many of us are unfit to work anywhere else. Where do you go to work when your arms hurt you so badly you finally have to have surgery. Yet knowing full well you will never fully recover from the physical and mental abuse you have endured. You know that the pain will never fully go away. Your physical abilities will never be the same. It is unconceivable that this company would throw you aside like a piece of used up machinery. But they did and they still do.

* * * You see, we are one of those families that both husband and wife work at Bridgestone/Firestone * * *. We both have lost our jobs, our benefits and our livelihood. We have had days and nights of no sleep, wondering where our life is heading. Trying to keep the ''American dream'' alive with dignity, conviction to stand up for what you believe in and hope * * *.

Mr. President, I ask unanimous consent to print the letter in the RECORD.

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

JANUARY 8, 1995.

Senator HARKIN.

DEAR SENATOR HARKIN: You have been on my mind since the day I heard you speak in Des Moines, Iowa at our local 310 United Rubber Workers rally in December. I was so proud of you. I was proud that you represented me and my family. You gave me hope for my future when at a time like this there seems to be no bright future. You seem to know my frustrations, my pain and my intense anger towards a foreign owned company who truly treats their American Worker as a second class citizen. In Japan it is illegal to practice those same work ethics that they are attempting to establish in the American Bridgestone Memberships.

I was raised to respect my piers, act responsibly to my community and to do the

very best I could on whatever I did. So it is very hard for me to understand their lack of respect for their American laborer.

When Bridegstone came to each of us asking for help because we were not doing as well as the company needed to do. We all did our best. They asked me for one more tire everyday and to stay out on the floor and forego my clean-up time. Not only did I respond, so did each and every member of the URW. Not only did I give them the one more tire per day, I gave them three times what they asked for. Our production levels soared. We threw ourselves into our company believing that we all must succeed together in order to create a better way of life for all. The membership joined committees and we became involved, we gave them our hearts. We began to believe this company was different. We gave them our input to create a better working environment. To increase productivity we began to meet our production levels. We were proud of our company and our union. Together we did make a difference. It is these things that make me wonder why does Bridgestone now demand such unreasonable demands?

This is not an issue of money. It is an issue of work ethics, fairness to your employees, good working conditions, reasonable working hours and benefits.

You can not know how betrayed we American workers feel. You can not know the hours of fear and heartache we have indurred. You can not know how we fear for our safety when we are on the pickit lines. We are just average family people persuing a dream called the ''American Dream.''

Many of us in the plants have injuries that we have substained because of our employment at Bridgestone. Back injuries, muscle tearing, joint replacement, arm injuries, carpal tunnel, cancer and asbestosis these are just a few. Many of our brothers and sisters have died because of conditions at these types of companies. Many of us just can't get another job. Who would hire half a man or woman. We can't stand to lose our jobs. There is no place else to go! Many of us are unfit to work anywhere else. Where do you go to work when your arms hurt you so badly you finally have to have surgery. yet knowing full well you will never fully recover from the physical and mental abuse you have indurred. You know that the pain will never fully go away. Your physical abilities will never be the same. It is unconceivable that this company would throw you aside like a piece of used up machinery. But they did and still do!

Please do not let forty-six years of continued bargaining for better wages, vacations, working hours, working conditions, health benefits and retirement, everything a union stands for, be destroyed in one six month struggle with one foreign owned company end. Because in reality the Japanese owned Bridgestone tire manufacturer wants an economical advantage over the other American tire manufacturers that are doing fine with the same contracts we are striving for. In the process they will undermine those businesses causing a domino effect, which will undermine American economics. If this is let to happen the process will undermine those American businesses causing them to do the same thing this Japanese company is doing which in turn will undermine the American economy.

Where do you go to work when you have worked thirty-three years at Bridgestone? You are to young to retire and no one else wants you because you are too old for them. What do you do? There is no money coming in, no job, and no hope of a decent job. You lose your home, your car and sometimes through all the tears and frustration you lose your wife, and if your young enough, your children. What do you have left? You have even lost your self respect.

What about if both parents work at Bridgestone. The entire family becomes a disfunctional family. Even young children feel the pain. These are not scenearious, they are true life stories.

The Japanese tire companies in this country got together and became the unholy alliance. Their goal was to try and break the membership. They deliberately set out to undermine our contracts, our work ethics and to destroy our integrity. The other Japanese companies failed to accomplish their entire goals because they are small companies and could not economically continue to lose their cash flow. Bridgestone has several tire manufacturing plants in foreign countries. It is those plants that are supporting them now. The greatest concern I have is knowing that we are not the first union that will have this problem. There will be more union brothers and sister that will fall.

I am so perplexed—why hasn't our government seen the dangers and helped her people? Why doesn't our Congressman help? Why do not our leaders that we elected into office see that her American working middle class people need their help? What is it we have to do to get your help? Violence has already broken out. Have our congressmen forgotten why we elected them? There is a great need for a change in our laws. We need laws to protect our working citizens and to prohibit replacement workers. We need our Congress, governors and President to take off their blinders. Stop turning the other cheek. We need you now!

Please please help this kind of thing to never happen again. This is just a beginning of a big war with foreign owned businesses to continue to strip American workers of their dignity, their values and to undermine the American family.

Please restore my faith in our American Government! Let me see that our people still are important to you. Let me see that the little guy is still in your hearts and minds. Please help me keep the pride in my heart when I help my son study his American history. When we read about the famous ride of Paul Revere or of Ben Franklin the father of knowledge and George Washington the father of our country that the tears of pride and joy fall down my checks and when he sees them I can smile and tell him this great nation and her great leadership is still that strong, determined, fair and brave people they were two-hundred years ago. Do not let him see the tears of pain that I now cry and the dispair I feel show in my eyes. You see, we are one of those families that both husband and wife work at Bridgestone/Firestore in Des Moines, Iowa. We both have lost our jobs, our benefits and our livelihood. We have had days and nights of no sleep, wondering where our life is heading. Trying to keep the ''American Dream'' alive with dignity, conviction to stand up for what you believe in and HOPE * * *.

Please hear our plead for help * * * Over 25,000 employees, spouses and children will be effected by this one American-Japanese incident. If this is not stopped, more heartache will follow. Please don't let us down! May God be with you.

Sincerely in hope,

SHERRIE WALLACE,
Bridgestone Tractor Tire Builder.

Mr. HARKIN. Mr. President, that is a letter from the heart. This is not a canned letter. That letter comes from the heart. I do not believe I know Sherrie Wallace personally, but I sure know a lot of people like her, and I know some of my cousins are in the same situation. It tears your heart out when you see them and when you talk to them. These are people who have given their lives—like I said, it is not as if they were shirking, it is not as if they were cutting down on productivity. In fact, the productivity at that Bridgestone/Firestone, as Sherrie Wallace has said in her letter, has gone up in the last couple of years.

The company they went to the State of Iowa in the 1980's and said, ''We need some help, we need government help or we can't exist. We have all these workers here and, oh my gosh, we have to have government help.''

Here is what they asked for: They asked for grants of $1 million from the State; $300,000 from Polk County; $100,000 from the city; $100,000 from Iowa Power; $50,000 from Midwest Gas. They asked for that in May 1987, and in June 1987, they received all the grants.

In July 1987, they got their $1 million from the State of Iowa. That same year, they went to the workers and said you have to take cuts or we cannot exist. So the workers took another $4 an hour cut in wages and benefits in 1987. So they asked the workers to produce more. In October 1993, the Des Moines Bridgestone/Firestone plant profit was $5 million ahead of their budget schedule. In March—get this now—1994, the workers reached a new high of 80.5 pounds per man-hour and set an all-time record for pounds that they had in the warehouse.

The company boasted that they did it with 600 fewer workers. So like Sherrie said, they came and they said build me an extra tire a day. They went out and built three extra tires a day. They asked them to take wage cuts. They did. They took wage cuts, actually in the latter part of the 1980's, totaling over $7.43 an hour. So they increased their work productivity, took their wage cuts, and Bridgestone/Firestone gets almost $1.5 million in grants from State and local governments.

And in March—this is important—of 1994 they reached this record production level, an all-time record for pounds warehoused. And guess when it was that Bridgestone/Firestone said they would not negotiate further and forced the workers out on strike? You got it, the summer of 1994. After they had pushed their workers, got the production up, got all this stuff warehoused, then they said: OK, now we are not going to bargain with you to reach an agreement.

I have said it before, and I will keep saying, I think Bridgestone/Firestone is perhaps the prime example of corporate irresponsibility and bad faith more than any company I have ever seen in this country.

Again, these are very hard-working people. Times are a little better. The company is making a good profit. Workers just want fair treatment. That is all they want.

What did President Clinton say in his Executive order? He said something very important to the workers at Bridgestone/Firestone. He said we are

not going to continue to take your tax dollars and then use them in the Federal Government to buy from Bridgestone/Firestone those tires since they will not even negotiate in good faith with you.

I think that is the right decision. I am proud of President Clinton for making that decision. I think the workers who work at that plant ought to have the assurance of knowing that their dollars are not going to buy those tires for the Federal Government.

The President's action is entirely lawful, fully within his authority, and conforms with the practice of previous Republican Presidents in labor issues. President Bush issued Executive Order No. 12818 in October 1992 that prohibited prehire agreements in Federal contracting. These are collective bargaining agreements that set labor standards for construction work prior to the hiring of workers. Yet, I did not hear any of our colleagues on the other side of the aisle complaining then that President Bush had exceeded his authority. That's because he issued an Executive order that came down on the side of business, not on the side of workers.

President Bush also issued an Executive order to implement the Beck decision concerning the use of union funds for political purposes despite legislation that was then pending. At that time, Congressman DeLay, who is now the House Republican whip, said that Bush's action was, and I quote, ''* * * * an effort by the President to do something through Executive order that he cannot get Congress to do.''

What is sauce for the goose is sauce for the gander. When the Republicans controlled the White House and not the Congress, this kind of Presidential policy happened all the time. Back then, I did not hear a peep from our friends on the other side of the aisle concerned about a President stepping on the prerogatives of Congress. In fact, they applauded the action.

So, Mr. President, although I know it is allowed under the rules of the Senate this amendment is not in the best interests of the workers of our country. It is not in the best interests of our economy. It is not in the best interests of labor relations in this country. The President has the authority. He acted lawfully.

The fact is, we had the votes to pass the striker replacement bill last year. It passed the House. President Clinton said he would sign it. It came to the Senate. We debated it. We voted. We got 53 votes on a cloture motion, seven short of the number needed. But the majority of the Members of this body voted to pass the anti-striker-replacement bill. So it is not as if the President did something that Congress was totally opposed to. A majority of Congress supported that action.

This amendment is one I think we are going to have to talk about, and I do not think it is in the best interests of this country. I think we ought to reject it.

There are those, Mr. President, who might say that the workers at Bridgestone/Firestone have not been permanently replaced. I have a letter here from Gary Sullivan, and it is a copy of a letter that was sent to him by—I think the name is Lamar Edwards, labor relations manager for Bridgestone/Firestone. Here is what the letter says:

> On January [and then it is handwritten in] 19, 1995, you did not report to work because you were on strike and you were permanently replaced. Please address any questions you have to the Labor Relations Office.

Not even ''Sincerely,'' just ''Lamar Edwards, Labor Relations Manager.''

Gary Sullivan wrote me a note on this letter.

> This is all I'm worth after 24 years of devoted and loyal service. Please continue to hang in there. We need your help. Gary Sullivan, Sr.

Not even so much as a thank you for 24 years. No thanks for increasing productivity, no thanks for taking the wage cuts you did in the 1970's to help get the company back on its feet. No thanks for your tax dollars that came from the State of Iowa or the county of Polk to give us grants to help get us back. No, nothing like that. Just out the door.

There are those who are saying these people have not been permanently replaced. Well, here is the letter. I ask unanimous consent that a copy of this letter be printed in the RECORD.

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

> This is all I'm worth after 24 years of devoted and loyal service. Please continue to hang in there, we need your help.
>
> P.S. I'll help you all I can on election day.
>
> GARY R. SULLIVAN, Sr.

G.R. SULLIVAN,
Des Moines, IA:

> On January 19, 1995 you did not report to work because you were on strike and you were permanently replaced.
>
> Please address any questions you have to the Labor Relations Office.
>
> LAMAR EDWARDS,
> *Labor Relations Manager.*

Mr. KENNEDY. Will the Senator yield on that point?

Mr. HARKIN. I am delighted to yield to my colleague.

Mr. KENNEDY. Mr. President, I have been listening to the Senator from Iowa and I certainly hope my colleagues have paid attention to the last few moments of the Senator's presentation. I hope they listen to the whole presentation, but particularly the latter part of it highlights what this debate is really all about.

As I understand it—and I would appreciate the Senator correcting me—here was a person who had worked for a particular company over virtually a lifetime. The company was successful, and reaped large profits. This worker tried to enhance his own and his family's economic condition—trying to at least participate in the growing success of his company—by using the accepted, standard practice in this Nation since it has been a great industrial power, of joining with his colleagues to advance their economic interests and the interests of their children in a company that had been very successful. And he was virtually fired—although technically that is illegal under the National Labor Relations Act. But effectively, that person was thrown out of that job, terminated and permanently replaced, in terms of any chance for the future.

We are talking about hard-working families, people who are playing by the rules, people going to work, trying to educate their children, and effectively they are dismissed, put out on unemployment compensation and perhaps even onto the welfare rolls.

As I understand it, what this Executive order says is that we are not going to tolerate that. This President is not going to tolerate that kind of activity when it comes to Government contracting, where there is a Government contract which is effectively being paid for by the people's taxes. Under the Executive order we are not going to perpetuate that kind of injustice to workers who are being treated like that.

My understanding is, the order only applies if there is a legitimate strike—we are not talking about the termination of the contract. My understanding is further that it is only in these circumstances, as in the example the Senator from Iowa gave, where we have someone who has been a hard-working person, effectively replaced, thrown out of his job. And what this Executive order is saying is that we are not going to use American taxpayers' funds to encourage or support or perpetuate that kind of activity in the United States of America. When it comes to the taxpayers' funds, this President has a responsibility, and he is not going to continue to support or encourage that activity; he is saying: in those circumstances, we will not grant contracts to those kinds of companies.

Am I correct in understanding what the Senator's position on this is?

Mr. ABRAHAM assumed the chair.

Mr. HARKIN. The Senator from Massachusetts is absolutely right. He has distilled it down to its essential points.

It really says something. I do not know if the Senator was here when I was reading the history of Bridgestone/Firestone. They went to the State of Iowa and they got all this money, taxpayers' money, to build their plant up. Then they asked the workers to take all the cuts in wages. Now they are out on strike and replacing them.

It is all right for them to get taxpayers' money, I guess, in order to get their plant up and working. Then they go ahead and fire the very workers who paid those taxes. But it is not all right for us to say that taxpayer dollars are not going to be used to buy products made by a company that refused to

bargain reasonably, that treated their loyal workers like used-up equipment.

Talk about a double standard. We are saying: Listen, Bridgestone/Firestone, you already had your hand in the till. You already took money before from the State government—I say, not the Federal, the State, county, and local government. Then you cannot be complaining now when we are saying we are not going to use taxpayers' dollars to enhance your position.

Mrs. KASSEBAUM. Mr. President, I wonder if the Senator from Iowa will yield for a moment, again?

Mr. HARKIN. Yes.

Mrs. KASSEBAUM. Mr. President, in response to the Senator from Massachusetts saying a family had worked a lifetime at Firestone, is it not correct to say that Firestone was going broke when it was purchased by Bridgestone? So the future of the workers at the old Firestone Co. was in some jeopardy at that time. Not to go into, again, a lengthy debate on the practices of Bridgestone, but, at the time the whole issue was not wages so much as hours. The Senator from Iowa has already discussed that. But they said they needed to do the shift in hours to cover capital costs.

When you mentioned what Iowa chipped in and asked the taxpayers to spend in support of Bridgestone. Was that not something that was debated, at least, in the Iowa Legislature? Or was it a decision made by the Governor, I suppose, on how much taxpayers' support would be given to Bridgestone at that time? It was not something that was done without some approval somewhere along the line, isn't that correct?

Mr. HARKIN. Absolutely. I think the legislature, I think Polk County, all agreed to give them these dollars, these grants.

Mrs. KASSEBAUM. So these very workers who were in jeopardy of losing their jobs because the company was going bankrupt now have at least had an opportunity, if they so chose to do so, to work for a company that is productive and is going strong.

Whether or not they should have done it by replacing striking workers, I would argue, is not what we should be debating here. I suggest to the Senator from Iowa, we can have this debate at another time.

But what we should be debating here is something that follows on just the past weeks and months of debate that we have had on the separation of powers regarding the Constitution. That is why I feel we ought to take seriously this Executive order.

I do not mean to intrude on the time of the Senator from Iowa, but I think that if you get into the particular situation of Bridgestone/Firestone it was not a question of long-time workers somehow being forced out in the cold. There was a great tragedy that Firestone was teetering on the edge of bankruptcy and was going under. But I would like to go back to the fundamental issue here, which really is the separation of powers.

I yield and thank the Senator from Iowa.

Mr. HARKIN. I would just respond by saying I do not know where the truth lies in this. But I would say to the Senator from Kansas, there is some evidence that the Bridgestone Corp. overbought. They overpaid for Firestone. As a result of that, they tried to get in a more competitive mode by doing the things that I mentioned.

For example, they asked the union members to take $7.43 an hour cuts, from 1985 to 1990.

They got their taxes reduced in the county in which they reside. They got the grants to get going again. And, as Sherrie Wallace said in her letter: We were willing to do that to save our jobs. They asked me to produce one more tire a day, I produced three more tires a day. As I pointed out, in March of last year they reached an all-time high for productivity. So the plant is making a lot more money. They are much more profitable. Yet, they are not sharing some of these profits with the workers. The workers took their cuts, I respond to my friend from Kansas, in the 1970's; big cuts. The taxpayers coughed up a lot of money to get this plant going and to help Bridgestone make it. They have now made it. No one—not even Bridgestone—is claiming that they are not making good money now. They are making a lot of money. They are very profitable.

So instead of saying, OK, Mr. Sullivan. You have worked here for 24 years. You took a lot of cuts in the seventies. We got our plant going again. Instead of saying we are going to raise your wages a little bit, give you a little bit better deal, no. Take more cuts. Instead of working 8 hours a day, we will make you work 12 hours a day. That is what they are saying to them.

I again point out to my friend from Kansas that I have cousins working all over the place in the tire industry. I have a cousin who is one of the negotiators for Armstrong Tire, another tire company in Des Moines. They went out on strike. But they got back together and they sat down and negotiated. They reached an agreement. Goodyear did the same thing. They reached an agreement.

But then what this company has come in and done—that is why I talk about this kind of path the company is taking—is insidious because Bridgestone/Firestone is able to do this. They have put Goodyear and Armstrong and Dunlop at a competitive disadvantage. Goodyear acted in good faith. They went out and bargained. They reached agreements. They signed a contract. The Goodyear workers are happy. They are organized, union, and everybody seems to be happy with them. And Goodyear is making money. But now Bridgestone comes in and undercuts them with this kind of depressing of wages and getting rid of long-time workers. What is Goodyear going to do? What are they going to do? They say, well, they have to answer to their shareholders, too. That is what is so insidious about this.

Mrs. KASSEBAUM. Mr. President, I say to the Senator from Iowa that I cannot disagree with what he is saying. But then, would you turn right around and say that the President of the United States should enter into and completely change the dynamics by intervention? I think what we are debating about is what authority the President has to tilt the balance of what we really have felt was a balance. And I am sympathetic with what the Senator from Iowa is pointing out; that Goodyear worked it out and they did not at Bridgestone. But I argue that through this Executive order we now find the President completely intruding in a labor-management relationship. If we find legislation to decide to do so and have that debate and vote, that is a different matter. But I think the Senator from Iowa certainly recognizes that we have some question about what is in the Constitution and the separation of powers between the executive and the legislative branches.

As much as I am sympathetic with the argument that the Senator from Iowa is pointing out, the argument I would want to make on this amendment is the way we are trying to intrude on law that does exist. That is my point. I think the case made is one that obviously resonates, but this is the wrong way to handle it.

Mr. HARKIN. Mr. President, again the Senator was here in 1992 when President Bush issued Executive Order No. 12818, October 1992, that prohibits prehire agreements in Federal contracts. These are collective bargaining agreements that set labor standards for construction work prior to the hiring of workers. Again, this is labor-management. Yet, we interfered. Maybe the Senator did speak out against that at that time. I do not remember.

Mrs. KASSEBAUM. Mr. President, did the Senator from Iowa speak out against it?

Mr. HARKIN. No. Because there are times when a President can, in fact, issue Executive orders. I am not speaking out against this one either.

Mrs. KASSEBAUM. Mr. President, let me suggest to the Senator from Iowa, that there were those who questioned the legality of the prehire Executive order, but never challenged it in the courts. While it was a bit questionable in my mind, I did not challenge it.

But I think in this case we have a situation where Congress has addressed striker replacements the past two Congresses, and labor law matters generally for over 60 years. We can argue whether President Bush's prehire contract Executive order should have been challenged. That is debatable. As the Senator says, he did not challenge it because he agreed with it. I would suggest President Bush's prehire contract

Executive order has worked successfully. In all honesty, Mr. President, I probably did not think about it much at the time. But I suggest that this Executive order goes even further. That is my concern.

Mr. HARKIN. Again, I appreciate the frankness of the Senator from Kansas. To be honest, I did not know about it myself. I am saying that these things take place by a President. Quite frankly, they have a right to do so in these kinds of situations.

It just seems to me that President Bush issued this Executive order, the one on the Beck decision, and the whip on the House side said that a President will do something by Executive order that he cannot get Congress to do. This is the same thing here, although in another way Congress wants to do something about striker replacement. The House passed it last year. The Senate voted 57 votes. It is only because of the filibuster rule that we were unable to pass it and get it down to the President for his signature.

So again, I say to the Senator from Kansas that I think we have every right for the President to do this. It is perfectly lawful. But this is not really the place for this amendment. We are on the supplemental appropriations bill. This is not the place for this kind of an amendment.

Again, Mr. President, I close my remarks by saying that we just cannot continue to use taxpayer dollars to subsidize—that is exactly what it is any way you cut it—companies that say to those same taxpayers I do not care how long you have worked here, and I do not care if you are exercising your legal rights, we do not care. We are going to permanently replace you. Well, I think it is time for us to say that we are not going to subsidize them anymore. That is exactly what we have been doing. That is what President Clinton's Executive order does. I wholeheartedly support it. I think it is a step in the right direction and a courageous decision by the President.

I am going to do everything in my power as a U.S. Senator, regardless of how long I have to stand here, how many days it takes, to make sure that Executive order can go forward and this amendment is defeated.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank our friend and colleague for his excellent presentation on this issue and for the focus that he has brought to this issue. The fact of the matter is that the President is entitled to make these judgments. In terms of his contracting authority, the President is charged with oversight of billions and billions of dollars. The President has the responsibility to be sure that we are going to get a dollar's worth for the dollar expended.

What basically is at risk here is quality. The fact is, that when you have replacement workers, and you have individuals who do not have the appropriate training, who do not have the necessary skills, who do not have the ability, you are putting at serious risk the results and the quality of the purchases. We have seen that time in and time out. One of the great authorities on this is a fellow named John Dunlop, who is not a Democrat, he is a Republican. But when the issue comes down to being sure that we are going to have decent wages for skilled workers, he comes down against the permanent replacement of strikers because he knows that it is not just the dollars and cents of a particular wage, but about the competency of the individual, the skills they have, and the oversight of their performances. The President has the responsibility and he is exercising it. He is making a judgment that these replacement workers may be individuals who do not have the skills or the background to do the job, and as a result the Federal Government's investment is threatened.

So I believe that the President has taken wise, sound action. I must say, as I was listening to the Senator from Iowa make his presentation, I was thinking back on the testimony of Cynthia Zavala, who testified in March 1993 before our committee. It is a similar story to the story recounted by the Senator from Iowa. Here is what she said:

I live in Stockton, CA. I am 52 years old and I have four children, 11 grandchildren, and 1 great grandchild. I have been employed at Diamond Walnut Processing Plant in Stockton for 24 years, starting in 1961, with several breaks when I had my children. During my years with the company, I worked my way up to cannery supervisor. My husband also worked for Diamond for 33 years.

So they have 57 years between them.

I have always worked hard for the company. They called me ''Roadrunner'' because I always moved so fast. Everybody in the plant always worked hard. We felt a lot of pride in our work. We took a personal interest in the products. That is why, in 1985, when the managers came to us and said the company was in trouble, we agreed to cut our own pay to help save our company. It was hard for us. People who had been with the company for 20, 30 years would have to go back to what they earned maybe 10 years ago. Most of us only got between $5 and $10 an hour. We had responsibilities and families to think about.

Well, we felt that Diamond Walnut was our family, too. The managers said if we stuck by them, they would stick by us. Some people ended up taking pay cuts as high as 40 percent. After those cuts, we worked even harder; production levels were up. This allowed us to double our productivity and cut the work force in half, from 1,200 to 600, at the same time.

In 1990, I was picked to be employee of the year, along with another supervisor. I felt like the award was really for the whole department. We broke the production record on the line that year. Our hard work paid off for Diamond Walnut. The next year, the net sales reached an all-time high, $171 million. The growers' return on their investment was 30 percent.

Our contract was up for renegotiation, and we felt sure the company would be ready to repay us for our sacrifices and hard work. Instead, the company wanted to cut our pay even more. They offered a small hourly increase of 10 cents, but they were going to turn right around and take twice that away by making us pay $30 a month for our health coverage. The managers started coming to the production line and brought young men from the outside with them. They wanted to know how we did our work, how they could watch, but they weren't allowed to touch the machines.

We knew they were getting ready to replace us. We would go home sometimes at the end of the day and cry because they were forcing us to train the people who were going to take away our jobs. We tried to get the company to be fair. We knew our lower-paid people were just getting by. We were down to $5, $6 for full time. Seasonal workers were getting $4.25 an hour with no health benefits. We knew we could not take another pay cut, but the company said, ''Take it or leave it.''

We had never gone on strike before and we had been in the union almost 40 years. We felt the company gave us no other choice, so we went out. The next year, the company put the scabs to work on the line. The long-time, loyal workers—75 percent of us women and minorities—ended up on the picket line fighting for our jobs. That was September 4, 1991, 18½ months ago. We are still trying to get our jobs back. They told us we were not wanted. Their loyalty is to the replacement workers.

We still can't believe this happened to us. We thought we had the right to strike to defend ourselves from being exploited by the company. As the months go by, many strikers are losing their homes, their cars, and are getting behind in their bills. Some of us could not afford to pay for insurance, so we have had to skip going to the doctor and hope we wouldn't get sick. Two weeks ago, one of our workers died, without health insurance. We try to cheer each other up. We work toward the day we get our jobs back. We hold prayer meetings on the picket line every Tuesday.

While we are struggling to get the jobs back, the U.S. Agriculture Department has given Diamond millions of dollars in subsidies to help the company sell more of its product in Europe. Diamond now sells 40 percent of its walnuts in Europe. The people I talked to were shocked about what Diamond Walnut has done. When I told them the U.S. Government has allowed the company to hire permanent replacements, they didn't believe me and made me repeat the whole story.

The union has been working very hard to help us but we need our Government to help us, too. If the law says we have the right to strike without being punished, then how can Diamond Walnut get away with replacing us? I have dedicated 24 years of my life to Diamond Walnut. I will work hard for the company when I get my job back. I believe in our country, in justice and, most of all, I believe in God. I believe that Congress and President Clinton will do the right thing this year.

By God, he has done the right thing this year. He has done the right thing. He is saying that we are not going to provide those additional funds for Diamond to go ahead and expand their product overseas, while at the same time holding these hardworking Americans by their necks and denying them the opportunity to even be able to go into negotiations and collective bargaining. That is what we are talking about here.

That is why I am amazed that this is the first issue to come before the Senate in this Congress that concerns working families. Instead of trying to help them, we are talking about further disadvantaging people making $5 or $10 an hour. We are talking about the ''Cynthia Zavalas.''

Why are we having this debate now? Why are we delaying the important appropriations necessary for our national security in order to shortchange Cynthia Zavala? That is what I am wondering. That is what I am wondering. It is wrong. We are just talking about the condition of working families.

I will be participating in a forum tomorrow morning on the proposed increase in the minimum wage. We are not out here this afternoon offering an amendment to increase the minimum wage. But tomorrow, we are going to provide an opportunity for some individuals to speak to us about the needs of people like Cynthia Zavala, whom I just talked about here.

We are going to hear from Barbara and Bill Malinowski, owners of the Yum-Yum Donut Shop in Waynesburg, PA. A former mineworker who lost his job when U.S. Steel closed down the mine, Bill and his wife Barbara bought a doughnut shop which now employs 14 people. As small-business employers, they support an increase in the minimum wage.

We are going to hear from a small businessman and woman who lost their jobs. They lost their jobs. We are talking about people trying to make it in America, who are playing by the rules, and they want to work. This issue is about working. We are talking about protection of workers' rights—not about people who don't want to work. When we talk today about workers' rights, I am reminded that we are not even talking about giving working families in America a livable wage. That is not the issue before the Senate. That is not the issue in the Contract With America. That is not here. We are talking about taking away protections for workers like Cynthia Zavala.

The Executive order does not promise Cynthia Zavala her job back, but it says that we are not going to see the Department of Agriculture use millions of dollars of taxpayers' funds that come from my State that represent the toil of workers in my State to go out and help this company shortchange Cynthia, slam the door on Cynthia. Fifty-seven years your family has given to that company and they have slammed the door on you. All we are saying is they are not going to get another bonus. But now we have an amendment on the floor of the U.S. Senate to stop that simple act of justice.

At tomorrow's forum, Americans will also have a chance to hear from Barbara and Bill Malinowski. Bill is a former mineworker who lost his job, but now he employs 14 others and, as a small employer, supports increasing in the minimum wage.

We'll hear from Nancy Carter, from Monaco, PA, in Beaver County, near Pittsburgh. Mrs. Carter's husband has had little success finding work after losing his job of 27 years in 1979, when the St. Joseph's Mineral Co. shut down. The family has been on and off unemployment and welfare as they struggle to find work. Their adult children help support the family at jobs at $4.50, $5, and $5.50 an hour.

These are the kind of working Americans we are talking about. With all the other kinds of problems and challenges that we face in this country, our friends across the aisle want to pass legislation to diminish the rights of workers.

David Dow, a pizza shop worker and parent, from Southfork, PA, near Johnstown. David and his wife work at low-wage jobs, staggering shifts to accommodate child care needs of their two children. They are trying to make it, working at low-wage jobs, staggering their shifts to accommodate child care. And now in furtherance of the Contract With America, the House has voted to diminish child care support.

We will have a chance to hear David Dow tell us how he is going to have to look harder for child care if this budget goes through. And if you strike to increase your wages, you are going to get replaced and you may lose your job.

We will hear from Tonya Outlaw, a child care center worker at Kiddie World Day Care, Windsor, NC. Ms. Outlaw is a single mother of two who quit an above-minimum-wage job because she could not afford child care. She is allowed to bring her children with her to her current minimum wage job as a child care center worker.

This is what is really happening in America.

We will hear from Alice Ballance, the owner of Kiddie World Child Development Center, Windsor, NC. Ms. Ballance owns licensed day care centers in rural North Carolina, primarily serving low-income working families. She pays minimum wage but supports an increase.

We will hear from Keith Mahone, a contracted custodial worker from Baltimore, MD. Mr. Mahone, a single father with joint custody of his daughter, is employed at minimum wage cleaning school buildings for a Baltimore city contractor. He is a founding member of an organization which lobbied for the Baltimore living wage law. Effective July 1995, employers under contract with the city must pay their employees a livable wage.

And we will hear from Robert Curry, a small business owner, from Braintree, MA. Mr. Curry employs 60 workers at several hardware stores in the South Shore area of Massachusetts. He supports an increase.

These are examples, Mr. President, of what is happening out there in the work force. We are in the Senate talking about the technicalities of an Executive order, whether the President has the power to issue an Executive order. Well, I believe he absolutely does. That can be contested and it will be contested. I am sure there are many political leaders who would like to contest it and embarrass a President who is trying to provide some degree of protection to working Americans.

And, my God, they need that protection. They need that protection, as they have seen the minimum wage effectively disappear in value over the last several years. These are real families, real workers, people trying to play by the rules, people who want to work to provide for their families, who want to make sure their kids can get a hot lunch at the school; or maybe that their teenage child can get a summer job because it is so difficult to find employment; or maybe their older child, who has been able to make it as a gifted, talented, motivated young person, can attend a good State college.

Is that difficult? Increasingly so. In my own State of Massachusetts, it is more and more difficult for students to attend college.

Mr. President, the larger issue we face, an issue clearly illustrated by this debate, is the issue of whether we in Congress are on the side of the working families across the country, or on the side of the wealthy and powerful.

The amendment before us would put the Senate squarely on the side of the wealthy and powerful corporations and against working men and women exercising their legal right to strike. This is a clear example of the brazen Republican attempts to tilt the balance of labor-management relations in favor of business and against the workers of America.

But this amendment is far from the only example of that kind of bias against working families. In fact, as the Republican Contract With America comes into sharper focus, it is becoming increasingly clear that the first 100 days of this Congress are turning into a 100-day Republican reign of terror against working men and women, against the elderly, and against children in need.

I would like to take just a few moments to cite some of the examples of the harsh approach that our Republican colleagues seem bent on taking.

The House Republicans are not only intent on slashing funds for low-income Americans, they also want to rob them of any opportunity to improve their lives. The rescission package eliminates the funding for the summer jobs program for 1995 and for 1996, too; 1.2 million young Americans from the Nation's neediest areas will be without jobs this summer because of those Republican cuts. In Massachusetts, 30,000 young men and women who were to participate in the summer jobs program over the next two summers will have to look elsewhere for employment.

The summer jobs program is more than just a paycheck. It offers an opportunity to learn the work ethic, acquire real job skills and training, and

gain a sense of accomplishment. Why would anyone deny young people that opportunity?

Republicans are not only attacking the poor, they are also assaulting the Nation's cities. The Democratic and Republican mayors of America's largest cities have come out strongly against the elimination of the summer jobs program. They know firsthand how important it is to their local economy because it provides a practical way for private-sector firms to create jobs for low-income men and women.

In my own city of Boston, private sector companies meld their programs with the public service and the summer jobs program. They take young people the first year they work in a summer jobs program, and they bring them under programs developed by the mayor in conjunction with the private sector. Then they search out promising young people in the second or third year of the program and put them in line for a good job with one of several corporations in the Greater Boston area.

This is one of the extraordinary examples of the public and private sectors working together in an effective and efficient summer jobs program. And there are other cities in my Commonwealth that have similar efforts.

Victor Ashe, the Republican mayor of Knoxville and president of the U.S. Conference of Mayors, recently contacted Speaker NEWT GINGRICH and urged him to restore funding for the summer jobs program. Republican Mayor Tom Murphy of Pittsburgh has emphasized that this program would employ 8,000 young men and women this summer in his city to tutor youngsters, assist in food pantries and soup kitchens, rehabilitate housing, and learn the value of community service programs.

Mayor Richard Daley of Chicago said, ''The summer jobs program truly makes a difference in our lives, and without these jobs, more young people will fall prey to drugs, costing society even more down the road.''

Ask any prosecutor in any major urban area about the value of a summer jobs program as crime prevention. Ask any police officer working on the problems of gangs and violence in local communities and they will talk about the value of the summer jobs program.

This program was developed in the wake of the riots in California. Now perhaps we must relearn the lessons of our time with the cancellation of these programs.

Boston Mayor Tom Menino declared the Republicans' misplaced budget priorities will be billions for prisons, zero for summer jobs, and opportunities. If the Republicans are serious about work, they should begin by restoring funding for the summer jobs program. Perhaps they intend to put these young Americans to work in the orphanages or the prisons they are planning to build.

The House Republican plan also includes drastic cuts in the School Lunch Program, and in nutrition programs for women, infants, and children. As many of my colleagues have stated, the famous cry of ''women and children first,'' is gaining a new, more sinister meaning. Women and children are the first to go hungry, the first to suffer, and the programs that serve them are the first to be cut.

Among the programs under attack are the School Lunch Program, which feeds 25 million children every day with a hot meal; the School Breakfast Program which feeds 6 million children a day; the WIC Program, which provides food to 5 million women, infants, and children every year, more than 3 million of them children under the age of 5, including about 2 million infants; and the Child Care Feeding Program which provides food to millions of children in child care every day.

These are programs being cut. These are the sons and daughters of the working parents who need the protection that this Executive order provides. Even worse, the Republican plan also lumps into the same block grant program the programs that feed senior citizens, to provide summer meals for schoolchildren, and special supplement nutrition programs for women and infants.

One of the principal criticisms of the feeding programs, the school-based programs, is that they stop in the summer. We have seen efforts to provide continuing services through the summer, so that we can try to make sure that we can adequately support these children. But now we move backward.

This is all against the background of a Carnegie Commission report just a few months ago that talked about the permanent effects in terms of brain development and behavioral patterns of children, over 1 year and under 3 years of age who do not have adequate nutrition.

We talk about the challenges that exist for children in schools today. If we do not provide adequate nutrition for children between 1 and 3, we are permanently damaging the ability of those children to develop their cognitive skills and social skills to survive in a complex, difficult, challenging place called school.

With the Carnegie report, we have just had that evidence presented again by thoughtful men and women, Republicans and Democrats, people who have spent the last 2 years studying this problem. Nonetheless, we see not an expansion of programs targeted toward those children; we see a cutback.

We will hear the answer, ''We are consolidating these programs.'' Everyone is for consolidation. Many are for consolidation. We were hearing testimony just the other day about what consolidation is going to mean.

According to the General Accounting Office, we are talking about at most 5 percent. Maybe 5 percent. We are expecting the States to pick up that 5 percent. Come to Massachusetts. Come to Massachusetts, and I will show you where it is not being picked up.

My colleagues say on the floor of the Senate that those Governors will pick up the slack. But they are not doing it. They are not doing it. And the cutbacks in work-study programs, for example, affect 70,000 sons and daughters of working families in my State of Massachusetts. The State is not helping these sons and daughters of working families. Instead, working families are paying higher fees and tuition to go to school in my State. That is the rule, not the exception.

The health needs of the elderly and the poor will be severely cut back as well. I noticed the other day that as we talk about these working families and their children, we have not even begun to talk about cutbacks in chapter 1, which is the program directed toward the neediest children.

We also ought to talk a little bit about what will happen to the parents of these working families. Child care is being cut back, food programs are being cut back, job opportunities are being cut back.

If these families live in a colder climate, they face cutbacks in energy assistance. This program helps needy, primarily elderly, seniors who would like to retain the dignity of living in their own homes rather than being dependent upon other members of the family, or selling their homes and going to a nursing home, but need some help and assistance with the fuel oil. That program is being cut.

Then we have the chairman of the Finance Committee who has talked about $400 billion in cuts in Medicare and Medicaid over the next 7 years. Cuts of that magnitude will threaten the various academic health centers, the hospitals serving the poor, the other health facilities that are dependent on Medicare and Medicaid. We had the opportunity just a few years ago on the Nunn-Domenici amendment to cap Medicare-Medicaid. It only failed by five or six votes at that time. We almost passed that. It sounded like a pretty good way to cut Government spending. But we know what would happen. We would shift it right back to the States, they would shift it right to the private sector, and they would shift it back to working families who cannot afford it. And we move further away from any sensible health care policy.

So we are talking about our seniors. Our Republican friends propose to block grant health funds in a way that would eliminate the Federal commitment to early detection and screening of breast and cervical cancer. That is an issue that our committee has been working on.

So, Mr. President, I would just advise seniors and others who have incurred higher and higher out-of-pocket medical expenses to keep a very close eye on what happens here in terms of Medicare.

They should also keep an eye on how any Medicare savings are spent. Are they going to finance a cut in the capital gains tax.

We have already heard discussed in our budget committees the path that will lead to significant cuts for the Medicare. I supported the President's program last year that would have included some tightening in terms of Medicare, targeted not just on recipients but also on providers. But those cuts financed important benefits: prescription drug benefits for our seniors, community-based care, home care for our senior citizens. That plan was an effort to take scarce resources in our health care system to make sure they are going to be utilized more efficiently, more effectively, more humanely, and more sensibly.

I listened to my good friend, HARRY REID, today talk about health care. I want to assure him that just because we have not been debating it on the floor of the Senate yet does not mean we are not going to have an opportunity to do so later in this session.

It is not my purpose this afternoon to get back into the reasons for the failure of the health care bill. But hopefully that process can lead to a new bipartisan effort. On the first day of this Congress, Senator DASCHLE introduced S. 7 as a vehicle to explore common ground. It begins to identify the areas where there has been broad bipartisan support for health care reform.

Health care is not even a part of the Contract With America, not even mentioned in the Contract With America, not even referenced in there. But the problem has not disappeared. More and more people are not covered, more and more people are being squeezed, more and more children are failing to get the care they need. The problem is not diminishing, the problem is growing. We need to focus on that issue. We cannot afford to put that matter to the side.

Mr. President, I will come back later to some of the other examples of callous policies being pursued by the new Republican majority. I see my colleague and friend from Illinois here. I just want to say in summation that I am just amazed as we gather here in the early part of March that this is the issue before us. After spending a number of weeks on the issue of the unfunded mandates, which is an enormously important issue, and after several weeks on the enormously important question of amending our Constitution, now we have an emergency measure before the Congress which the Secretary of Defense says we need in a timely way, and yet the matter we are now debating is an amendment to diminish the protections for working families in this country.

It is important as we are having this debate to ask: What has the Congress been doing with regard to working families during the period of the past weeks? What have they been doing? It is important for American families to understand what Congress has been doing. Sure, it is reported this way or that way that we are trying to cut this kind of program to squeeze out administrative costs. Most families are too busy trying to make a nickel to really follow in great detail the path that is being followed in the House of Representatives and in the Senate of the United States.

I have tried in a brief manner, and will continue to do so, to give them some idea of what is happening. Is the measure before us this afternoon going to enhance working families, the families that are hard pressed, the families that are being held back, held down, whose incomes are static, who do not participate in the expanding profits of major companies? Is that the matter we are talking about in this new Congress, how we are going to do something for those families and give them more help, give them more hope, give them a greater future, give their children a greater future? Is that what we are talking about here on the floor of the U.S. Senate this afternoon? Of course not. Tragically we are not. I should not say ''of course not,'' but we are not. We are not. The echo of the proposal that is before the U.S. Senate is not one that is going to resonate in families tonight and lead parents to say, ''All right, it might not help me, but at least it is going to help my children.''

''It might not help me, but it is going to help one of my children get a job this summer.''

''It is not going to help me, but maybe it is going to help my daughter get a better education.''

That is not the message. It is not a message that says, ''It is not going to do much for me and my family, but for my parents, who worked hard over their lifetime, it is going to mean a little greater hope for them.'' That is not the message.

What is it saying to all those I mentioned earlier, what it is saying to Cynthia Zavalas, a person just about making minimum wage as part of a family that has worked 57 years in a company? It is saying: You have been permanently replaced, effectively fired, and we are not going to help.

The Executive order will not get her job back, but it says that we are not going to give an additional financial reward to the company that has treated her poorly. That is what we are saying. And it is just because of that simple concept that this measure involving our national security is being delayed.

I am always amazed around here about how we spend our time and what we spend our time fighting for or fighting against. This is one of the examples that really takes the cake.

Mr. President, I see my colleague and friend, and others, on the floor. I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Washington.

Mr. GORTON. Mr. President, I have come over here to the floor this afternoon believing that the subject was the President's almost certainly unlawful Executive order with respect to striking replacements. I have not understood the debate was going to be on the entire panoply of social programs piled up over the course of the last 20 or 30 or 40 years on the backs of the people of the United States. But I think comments on those programs do deserve at least a certain degree of response.

Last week, many of the most eloquent proponents of a wide range of social and cultural programs voted to reject the constitutional amendment requiring a balanced budget. Many of them, at least, on the grounds that it should be the Congress itself which provides the necessary discipline to protect future generations from the consequences of our propensity to run up huge unpaid debts. And yet when it comes to any criticism, any reduction in even the growth rate of dozens, perhaps hundreds, of those programs, the proponents of fiscal responsibility are denounced as uncaring and indifferent to the needs of the American people.

Perhaps that argument would carry some weight if the growth of those programs had been accompanied by greater opportunities, a higher degree of family stability, more unity—in other words, had been accompanied by some demonstrable success as a result of all of those spending programs.

Of course, the contrary is true. During exactly the period of time during which there have been growing social and economic challenges to this country, deterioration of the society of this country has accompanied the growth of those programs hand in hand.

That does not prove in and of itself a cause and effect relationship, Mr. President, but it certainly makes dubious the proposition so eloquently presented here by the Senator from Massachusetts. The real burden which we have imposed on the people of the United States is the burden of debt, a burden which day after day, week after week, month after month, constricts our ability to provide jobs and opportunities for the people of this country.

We need a change in direction, and the debate here today, as it was last week and the week before, is paradoxically between those who over the years have been known as conservatives but who now believe that radical changes are necessary for this country, and those who have led the drive for all of these social programs, these spending programs, one piled on top of another, who are now so intensely conservative that we hear from them no desire for any change whatsoever, save perhaps to spend more money on programs which have not worked in the past.

The true proponents of the status quo are those who constantly fight against any change in our spending priorities whatsoever, who ask for more of the

very programs which have been associated with a decline not just in our society and our economy but even our civility.

I am firmly convinced, Mr. President, that we need a new way, a new direction. The failure to take that new direction, that new road last week has been accompanied in the last week by a substantial loss in the value of our currency, the dollar, a substantial loss in confidence in nations and among people overseas in our seriousness in the retention of our leadership. If we cannot pass a constitutional amendment for a balanced budget, at least we have to be willing to do something about out-of-control spending programs even though we are almost certain to be criticized, no matter how small the changes in our priorities, as being somehow or another unfeeling. We are not unfeeling, Mr. President. It is our set of policies that will provide true opportunity for the people of the country in the future.

And now to the amendment proposed by my distinguished colleague and seatmate, the Senator from Kansas [Mrs. KASSEBAUM].

I believe that, as important as the issue of striker replacement is, the issue of who can make such rules under our constitutional system is even more important. This debate is not so much over the merits or lack of merits of striker replacement as it is over the wrong, and I believe almost certainly unlawful, action of the President of the United States to attempt to impose by fiat, by dictate, a policy which has been rejected explicitly in a long series of debates by the Congress of the United States.

This action, Mr. President, is without precedent. This action is clearly in defiance of laws relating to labor/management relationships dating back some 60 years, expressly interpreted and approved by the Supreme Court of the United States, and debated in each of the last several Congresses without change. And yet, in spite of this statutory history, in spite of this judicial history, in spite of this political history, the President of the United States purports to change those rules. When his action is challenged, Mr. President, I am convinced that it will be overturned by the courts as entirely unlawful and beyond his authority.

However, we should not wait passively, without reaction, to have the constitutional separation of powers be upheld by the courts of the United States. We should take that action ourselves. We should take that action ourselves, whatever our views on the merits of striker replacement, but simply to protect the rights and the duties of the elected representatives of the people of the United States to make fundamental determinations about statutory policies with respect to labor-management relations.

That is the issue, Mr. President, with respect to the Kassebaum amendment. And it is for that reason that all Members of this body who care about the Constitution and the laws and about the separation of powers should vote for this amendment, whatever their views on the merits of the underlying policy itself.

I am convinced that the Senator from Kansas should be commended. She has a special responsibility as the chairman of the Senate Committee on Labor. She is carrying out her duties under difficult circumstances, knowing that the issue itself is a contentious one, but she by this action has reminded us of our duties which we should now undertake to perform.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to congratulate and compliment my colleague, Senator KASSEBAUM, from Kansas, for her amendment. I think it is regrettable that her amendment is necessary.

I heard one of my colleagues say is this not terrible that here the Republicans are and they have this amendment—this is an antiworker amendment. I totally disagree. This amendment is necessary because of an Executive order by the President of the United States to circumvent Congress and circumvent the U.S. Supreme Court. Congress has clearly stated its will or its desire to keep the law to where employers have the right to hire replacement workers. This President—and the Vice President, I might mention, because I caught part of his speech that he made to the leadership of the AFL–CIO in a speech in Florida—wants to overturn that by Executive order. They want to change law by Executive order.

The President of the United States is President, but he is not king, and he cannot pass law by Executive order. I totally agree with my friend, Senator GORTON, from Washington, who said this Executive order will be determined unconstitutional. It clearly will. It is not a valid Executive order. It will not stand the test of time. It will not stand up in a test in court. Clearly it is the President exceeding his Presidential authority and power, and it is a flagrant abuse of power.

I am reading this Executive order. If my colleagues have not seen it, I would encourage them to read it. Just looking at the Executive order—this is dated March 8—it talks about, in the first paragraph:

> The * * * Government must assist the entities with which it has contractual relations to develop stable relationships with their employees.

Why is that a Federal Government responsibility? It says the Federal Government ''must.'' According to the President's Executive order, they will be forced to.

It goes on to say:

> All discretion under this Executive order shall be exercised consistent with this policy.

''All discretion.''

> The Secretary of Labor may investigate an organizational unit of a Federal contractor to determine whether the unit has permanently replaced lawfully striking workers. Such investigation shall be conducted in accordance with procedures established by the Secretary.

We are going to give the Secretary of Labor great latitude to investigate something that he might determine is illegal and, if he so determines, then he can bar them from any Federal contracts.

Let us just take as an example, let us say, a defense contractor. Maybe they are working on building a nuclear aircraft carrier or fighter aircraft planes, the F–16 or F–14 or something along that line. Maybe there is a division within their unit that is having a strike, and that employer has a contract with the U.S. Government to produce those planes on time or to make this part on time so they can stay on time and on schedule and not be overpriced.

You could have the Secretary of Labor determine: Wait a minute, this is a violation. Therefore, you are going to lose this contract.

What if they are 70 percent through with the contract? We are going to get a new contractor to come in and finish the aircraft carrier? We are going to have a new contractor come in and try to pick up with the delivery on the F–16? I do not think so.

Talk about discretion for the Secretary. I was wondering how this section 11 of this Executive order—it says:

> The meaning of the term ''organizational unit of a Federal contractor'' as used in this order shall be defined in regulations that shall be issued by the Secretary of Labor, in consultation with the affected agencies. This order shall apply only to contracts—

And on and on. So they are going to give the Secretary of Labor total discretion to determine whatever organizational unit might apply. If they have a strike and they hire permanent replacement workers, then they are totally banned or barred from Federal work.

How much would that cost the Federal Government, if you disrupt a contract right in the middle of procuring a particular product or completing a contract? It could cost a lot of money.

Talk about caving in to a special interest group—and I do not say caving in to organized labor, I say caving in to leadership of organized labor. This is not a benefit to benefit labor. This is a benefit to say the Federal Government, under this administration, thinks they should be involved in labor-management disputes.

I heard my colleague say this is not about the underlying issue. One should vote for the Kassebaum amendment regardless of how they feel about striker replacement. I agree with that statement, because clearly the President has exceeded his authority, both against the will of Congress and against previous court rulings.

On the underlying issue the President is wrong as well. Individuals certainly should have the right to organize. They have the right to strike. If they do not want to work, they should not have to work. But, likewise, an employer has to have the right to hire permanent replacement workers to keep the doors open, to keep the plant running, to make the contracts, to meet the schedules, to be on budget or under budget.

Then this President's Executive order says: No, if you hire permanent replacement workers, you are going to lose any Federal contracts, you are going to be debarred, you will not be able to do Federal contracting.

This is an outrageous power grab, and it will not stand the test of time. It should not stand. I hope my friends and colleagues will support Senator KASSEBAUM in her amendment. She happens to be right. I wish it was not necessary.

I might mention, after the President made mention of his Executive order, we wrote the President a letter and said by what authority do you do this? The President does not have the authority to do this. The President does not have the authority to do by Executive order a statutory change, to change the law. Yet that is exactly what he is trying to do. His efforts will not succeed. They should not succeed.

I encourage my colleagues to support the Senator from Kansas in this amendment, and I hope it will prevail.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I wonder if I might ask for unanimous consent to speak for 5 minutes as though in morning business so as not to interrupt this debate.

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

THE DUCK HUNTING SEASON IN MINNESOTA

Mr. WELLSTONE. Mr. President, this is an announcement I want to make on the floor of the Senate that is certainly important to my State of Minnesota. Today, the Governmental Affairs Committee, consistent with a request that I made 2 weeks ago, corrected an error in the regulatory moratorium bill, that is S. 219, in order to protect the 1995 migratory bird hunting season. I am delighted that my colleagues, Democrats and Republicans alike, responded to the concerns of thousands and thousands of people who participate in the bird hunting season in Minnesota.

When I learned that a provision in the regulatory moratorium bill threatened the 1995 bird hunting season, I asked my colleagues on the Senate Governmental Affairs Committee to correct the bill. I also introduced a piece of legislation to protect the 1995 hunting season from the moratorium provision. I am delighted to report to the people of Minnesota that the committee took the time to remedy the problem so that Minnesotans can enjoy this cherished annual event. I owe a special debt of gratitude to Senator GLENN and Senator PRYOR for their work on the committee.

Mr. President, in our rush to reform the regulatory process we almost canceled a tradition for this year. Some of my colleagues criticized my efforts to correct the language in the bill. They claimed I was using scare tactics, that this was some kind of political magic show. But now, by correcting this legislation, the committee has made clear that there was an error in the original bill, an error that was overlooked and then vehemently denied for the sake of trying to rush through the Contract With America. Sometimes haste makes waste.

Last week one of my colleagues, a cosponsor of the bill, said that the language in S. 219 exempted the annual bird hunting rulemaking from the moratorium. Perhaps we should note that my colleague was from a Southern State—which from my point of view is fine because I love the South and grew up, part of my early years, in North Carolina. But the normal duck hunting season opens later in the South—I know my colleague from Oklahoma knows this —than it does in Minnesota.

And if the Fish and Wildlife Services' estimated best case scenario proved correct, the original S. 219 would have served to delay the necessary rulemaking, and thus opening the season in Minnesota would have been postponed by no less than 30 days.

Since Minnesotans do the majority of their hunting at the local shoot in early October—our season begins in early October, before the local ducks fly south—such a delay would have effectively canceled a major part of our season. But in my colleague's State, duck hunting season was mid to late November, and therefore might not have been as seriously affected by the delay.

It has always been clear to me that the bill as originally introduced did not protect the 1995 bird hunting season. Despite strong statements that it was never the intent of the bill's sponsors to put the season at risk—and, by the way, I agree that it never was the intent—the language of the bill is what matters most. And now, because of the action of the Governmental Affairs Committee, we have the protection that we need, the rulemaking goes on, and I am very proud of the fact that the men and women in the State of Minnesota and their children can rest assured that we will have no delay or cancellation and that we will have our season.

So this is a sort of thank you to my colleagues and a delivery of a very positive message to Minnesotans.

Mr. NICKLES. Will the Senator yield?

Mr. WELLSTONE. I will be pleased to.

Mr. NICKLES. Just for the Senator's clarification, as original sponsor of S. 219, I would like to inform my colleague that we did have in the original bill an exception for administrative actions. When Senator ROTH introduced the bill for markup, we had an exception for routine administrative actions. Also we have always had exceptions for licensing.

So the arguments that were made by many people—including President Clinton—who said that duck hunting licenses and burials at Arlington cemetery were jeopardized by the moratorium, were totally incorrect. The bill did state—just so my colleague will know— the bill stated and exempted from routine administrative actions—and it exempted agencies in their licensing process—which happens to include hunting and fishing licenses. So they were never in jeopardy. But I know that an amendment was clarified just to make absolutely sure that people in Minnesota would be able to hunt ducks and people would be able to go fishing without any prohibition whatsoever by this moratorium on rulemaking.

Mr. WELLSTONE. Mr. President, I appreciate the comments of my colleague. I want to say to him that I have, of course, heard this before. The key distinction was that the hunting season is not covered by the administrative exemption nor are we talking about licensing. We were talking about the rulemaking the Fish and Wildlife Service undergoes every year to open the migratory bird hunting season. The problem was that the moratorium on rulemaking would affect this hunting rule. That is what I said. The legislators have to be careful with the language. The fact is that the change was made today in Governmental Affairs to make sure that Fish and Wildlife could go forward with that rulemaking and we will have our season. The proof is in the pudding. I am delighted the change took place.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

The Senate continued with the consideration of the bill.

Mr. WELLSTONE. Mr. President, I would like to respond for a moment, and then defer to my colleagues from Massachusetts and Illinois because I had an ample amount of time to speak this mornings. I will not take more than 5 minutes.

I want to make two points. I made them this morning. I would like to be as concise as possible.

The first point is I think the issue is very clear. Senators can vote different ways on this question. The President's Executive order says that when the U.S. Government has a contract with a company, a contractor which in turn permanently replaces its workers during a strike, then our Government will

not be using taxpayer dollars to support future contracts with such a company. It is a simple proposition. Which side is the Government on?

What we are saying is that our Government is on the side of workers, of middle-class people, of working families. It is very simple. One more time it is a shame that our country has not joined many other advanced economies with legislation that would prohibit this permanent replacement of workers. I think we would have passed that bill if not for a filibuster in the last session. That is in fact what happened.

The second point. I think it is extremely important that—as much as I respect the Senator from Kansas, I think she is one of the finest Senators—I believe that her amendment is profoundly mistaken because I think this Executive order is extremely important.

The second point is that I do not think that you can separate this amendment that we are speaking against from the overall Contract With America which has just represented an attack on men and women who are trying to work for decent wages, on children, on the whole question of higher education being affordable for families, on the question of whether or not people are going to be able to afford health care. These issues become very interrelated.

In that sense, this debate and this vote is about more than this amendment. To be able to be work at a job that pays a decent wage so that you can support your family is very closely tied to whether or not you have collective bargaining rights, very closely tied to whether or not you have some assurance that if a company forces you out on strike, if nobody wants to go out on strike, what will then happen is that you will essentially not be permanently replaced and crushed. That is what this is all about, protection for many workers, many employees, and many of their families. That is what this is all about.

For the life of me, Mr. President—I conclude on this because I spoke this morning—I simply do not understand why some of my colleagues make such serious objection to this proposition.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I spoke earlier today in opposition to the amendment by the Senator from Kansas.

I would like to point out a couple of things. I mentioned this morning that permanent striker replacement is against the law in a number of countries, and someone apparently has since questioned whether that is true in Japan because I list Japan as one of the countries where it is illegal.

Let me quote article 7, section 1 of the labor union law of Japan.

> The employer shall not engage in the following practices: (1) discharge or show discriminatory treatment towards a worker by reason of his being a member of a labor union or having tried to join or organize a labor union or having performed an appropriate act of a labor union * * *

Now I would like to quote from the Congressional Research Service.

> The words ''an appropriate act of a labor union'' are construed to include acts arising from collective bargaining with the employer, such as strikes, picketing, and so on. Therefore, under Japanese law it is unlawful for an employer to discharge a striking employee.

In other words, what President Clinton has done is to give through Executive order workers in the United States the same protection that workers in Japan, Italy, the Western European nations have, with the exception of Great Britain. The only Western industrialized nations that do not offer this protection are Great Britain, Hong Kong, Singapore, and the United States of America. This morning someone pointed out to me that I failed to mention Greece as one of the nations that has this particular stipulation.

When my friend from Oklahoma, Senator NICKLES, mentioned that the action is unprecedented and invalid, the courts would find it invalid. Let the courts decide—not the Senate of the United States on an emergency supplemental appropriations for the Department of Defense.

Mr. KENNEDY. Will the Senator yield?

Mr. SIMON. I am pleased to yield to my colleague from Massachusetts.

Mr. KENNEDY. Mr. President, I notice that the Senator from Oklahoma had been talking about the amendment of the Senator from Kansas and raising questions about what would happen to the Defense Department should they have a contract, for example, on the F–16 or F–18. I take pride that most of the engines for the military are manufactured at a General Electric plant in Lynn, MA. There are some Pratt & Whitney engines by our good neighbors in Connecticut—but for the most part the engine parts are manufactured in my State. The company does absolutely spectacular work on the new advanced fighters and beyond that.

The question was raised by the Senator from Oklahoma, what would happen to these engines should this major contractor go out and have these striker replacements. Well I was watching the sports program last night where we saw those replacement players trying out for the major leagues. And I think it is every young boy's goal to play in the majors.

But I sure would not want our pilots, our servicemen and women, if they had to be called back to the Persian Gulf or elsewhere to have to be flying planes manufactured by replacement workers, or those engines being made by replacement workers, or those weapons systems, which could be the difference between life and death. Does the Senator agree with me that one of the principal reasons for this kind of Executive order is to make sure that we are going to have thorough, professional, competent, highly skilled, highly trained, and highly disciplined workers doing a job for America? I am just wondering whether the Senator reaches a similar conclusion.

Mrs. KASSEBAUM. I wonder if the Senator will yield for a question?

Mr. SIMON. I have the floor, and I would like to respond to his question, and then I will be happy to yield to the Senator for a question. I think the point made by the Senator from Massachusetts is absolutely valid. You can be a good, sincere person, but just not be a good replacement baseball player or person working in an airplane factory. I am going to be leaving the U.S. Senate after 1996. The Chicago White Sox are not interested in me. I cannot understand it, but that is the reality. Michael Jordan was a great basketball player, but he did not do very well on the baseball field.

I think the point made by my colleague from Massachusetts, Senator KENNEDY, is extremely important. We find, even where you do not have permanent replacements, sometimes factories try to keep going and the results have not been quality products. When we are talking about the defense industry, we want quality production. I point out also to Senator KENNEDY that France makes military equipment. They sell planes, and they prohibit permanent striker replacement. Germany makes weapons; they prohibit permanent striker replacement. Italy manufactures military equipment; they prohibit permanent striker replacements. I have not heard from anyone that has said that, in any way, inhibited them from moving ahead. My colleague from Kansas wishes to ask a question.

Mrs. KASSEBAUM. I thought I heard the Senator from Massachusetts suggest that permanent replacement workers would not be able to offer the same type and quality of work. Would you feel any safer with temporary replacement workers, because this Executive order permits temporary replacements? So I think, if the question was what type and quality of work will be done by the permanent replacements, I suggest it could be far more risky with temporary workers.

Mr. SIMON. I say to my friend from Kansas that if she wants to go further and prohibit temporary striker replacement, I will support that endeavor. As a matter of fact, Quebec does that right now. Canada, as a whole, prohibits permanent striker replacements. In Quebec, you cannot even have temporary striker replacement. But whether they are temporary or permanent, there is no question that striker replacement results in a diminution of quality of the end product. The point made by Senator KENNEDY is an absolutely valid point.

Let me make a couple of other points while I have the floor, Mr. President. When the Senator from Oklahoma says Congress has clearly stated its opinion

on striker replacement, that is true, only it is not quite the way it was implied by my friend, Senator NICKLES. The reality is that the House of Representatives passed a bill to prohibit striker replacement, and in the U.S. Senate, 53 Members went on record for this, a majority in the U.S. Senate—53–47. But because of our filibuster rule, we did not pass a law.

When the Senator from Oklahoma says Congress has clearly stated its opinion, he is correct. But contrary to the situation when in 1991, a number of people, including the present Speaker and present majority leader of the House, introduced legislation that would have required employees to be notified in writing that they could not be required to join a union, that did not pass either body. But George Bush issued an Executive order requiring that notices be put up in all workplaces telling employees that they are not required to join a union.

To my knowledge, no one tried to reverse that. We recognize the authority of the President to issue that kind of a statement.

Finally, Mr. President, I see my friend from Texas anxiously waiting a chance to get the floor. Because we have had a discussion of social issues, and the Senator from Washington, Senator GORTON, said that there has been no demonstrable success in our social programs, the reality is, as we have pared down the appropriations for our social programs, more and more of our children are living in poverty. We, today, have 23 percent of the children of the United States living in poverty—far more than any other Western industrialized nation. That is not, as I have said on the floor of this Senate before, an act of God; that is a result of flawed policies. We have to show greater sympathy and concern and we need to have programs to help people.

We are on one of these basic philosophical arguments here: Should Government tilt against working men and women, or should it not? I think Government should not tilt against working men and women. I think that is the fundamental issue here.

Mr. President, I yield the floor. I see the Senator from Texas, and I am sure he will agree with every word I have said here.

Mr. GRAMM. Mr. President, I know it does not have anything to do with the debate we are having, but I want to answer two questions that were posed by our colleagues.

Let me go back to the Executive order issued by President Bush, because the Executive order issued by President Bush was to enforce a Supreme Court decision called the Beck decision. I am not terribly proud of the fact that Executive order was delayed for 2 years before it was finally issued. The Beck decision came about when a man named Beck, who was working in a State that permitted mandatory unionism, said that part of his dues were being used for political purposes and that he did not support the political aim of organized labor. So Mr. Beck, through long court battles that ultimately reached the Supreme Court, argued that his constitutional rights were being violated, because he was being forced to provide money for political purposes that he did not support.

The Supreme Court ruled that Mr. Beck was right and ordered that he and every other worker be told how much of their union dues went for purposes other than to fund collective bargaining. President Bush and the Bush administration, after delaying the implementation of that ruling, finally issued an Executive order to implement it.

So the Beck decision was based on a Supreme Court ruling having to do with the constitutional rights of a worker.

It is hardly worth arguing the point raised by our dear colleague from Massachusetts when he asked if our men in combat want spare parts produced by replacement workers? Well, if the alternative is no spare parts, the answer is clearly, yes.

None of this, however, has anything to do with this issue. People want to cloak this issue in the union-management cloak. And since there are more people who work than people who hire workers, it is a good cloak in which to try to hide that which is a legitimate issue of freedom. But the issue involved here could not be clearer, no matter how you define it, when looking at the rights of a free people.

If I do not want to work for you, I have the right to quit, and no one can deny me that right as a free person. But if I do not want to work for you, I do not have a right to keep you from hiring somebody else.

What is being proposed here is that the Government step in and say, oh, it is all right, if I decide not to work for you, for me to quit; but if I decide to quit through a strike—even though it may put you out of business, even though it may decimate the city in which your company is located—you cannot hire people to take my place. Now, you can hire temporary workers, who have to be fired the minute I want to come back, which means in reality that the company has almost an impossible time finding people to work for it. So what you are doing, in essence, is giving one party to a labor contract the right to put the other party out of business.

We have debated this issue. It has been debated many times in Congress. It was debated in the last Congress when the Democratic Party had a majority in both Houses of Congress. And under the rules that we operate under, as a free society and as the greatest deliberative body in history, it was rejected. Those who supported taking away the rights of an employer to hire another worker when a worker refused to work for that employer were defeated in the U.S. Senate.

Now President Clinton has come in and said that what he could not do through the legislative process, he is going to do through Executive order; that by Executive order, he is going to say to any company that has a contract with the Federal Government of over $100,000, that the Secretary of Labor will be empowered to say to those companies that if you have a strike and the strikers will not come back to work, you cannot hire permanent replacement workers who want to work to keep your company in business. And if you do hire permanent replacement workers, we have the right to take away and break any Government contract you have and bar you from getting any contracts with the Federal Government.

There are a lot of gray areas here, but as I read this, if General Dynamics—of course now Lockheed of Fort Worth—had a sand and gravel operation, in addition building F–16's, and they had a strike in their sand and gravel operation that shut them down as the major employer in a small town in North Carolina, and that small town had lots of unemployment and many people who were willing to come to work in sand and gravel extraction, those people could not come on as permanent employees because General Dynamics would have its contracts in Fort Worth with the Federal Government abrogated.

Mr. President, why, in a free society, should we want to do this? Why, in a free society, should we say to someone who, after all, has put up their capital, saved all their lives to start a business, created jobs—which people voluntarily took and voluntarily decide leave—that they are prohibited from hiring somebody else who wants to do the work? Why should we do that?

Well, there is no argument for doing that other than greedy special interests.

A President who says that he is some new kind of Democrat, whatever that means, a President who says that he was coming to Washington to end the cozy special-interest way of doing business, comes to Washington, and by Executive order, gives one of the largest and most powerful special-interest groups in America the right to intimidate and the right to destroy people's businesses. It is not right.

This ought to be stopped, not because of labor and management rights; it ought to be stopped for the very simple reason that it is fundamentally and profoundly wrong to do this.

What the President is doing is using the contract power of the Federal Government to deny people their rights. What he is doing is denying the rights of the people who have put up their life savings, who have started businesses, and who want to provide jobs when there is a strike. The people who had the jobs do not want to do the work.

Under our existing laws, under our legal system, if other people are willing to come in—and often subject

themselves to all kinds of intimidation, both physical and verbal—and take a job and work because they want the job, they have that right. The Congress voted on this issue and the President was unable to prevail. He certainly could not prevail in this Congress, because Americans, based on the areas where he did prevail, said no to exactly this kind of special-interest deal.

Now the President is trying to do this by Executive order. What we are trying to do is to stop the President. This is within the prerogative of Congress to make the law of the land. And I do not think anybody here who looks at this will see this as anything more than a payoff to special interest.

I do not know what is going to happen on this amendment. I understand there is going to be a motion to table. There may be a point of order. I, for one, am going to vote to overrule the Chair on this issue.

And I want to promise my colleagues this issue is not going to go away. I do not know how many times we are going to debate it, but I am determined that the President is not going to win on this issue, because it is not right. I can assure you that, in good time, when the American people finish the job they started in 1994, if this Executive order is still standing, it will not be standing much longer after 1996.

But this is a very important issue. This is a freedom issue. This does not have anything to do with unions. This does not have anything to do with employers. It has to do with the right of a free people to withhold their labor and the right of the employer to hire somebody else who is willing to work.

To get into all of this jargon about collective bargaining confuses the issue and is an attempt to cloak the fact that we are really talking about the rights of a free people.

I am going to do everything I can, as one Member of the Senate, to stop the President from limiting the freedom of employers, people who put up their capital, to hire replacement workers when the people who are currently working refuse to work. And I am going to do it not because of labor versus management, or management versus labor, but because you either believe in freedom or you do not, and I do. I think this is a fundamental issue.

I congratulate our colleague for bringing this issue up. I want to urge her to stand by this issue. I would rather lose on a technicality and continue to fight this issue than to pull this down and allow the President to do this. He may be successful. But I think people ought to know where our party stands and where our Members stand. We are opposed to this kind of special-interest power grab and political payoff, because it is fundamentally wrong and it is fundamentally rotten, and it ought to be stopped.

So I urge my colleagues to support this amendment, whether we vote on a motion to table or whether we vote on the germaneness rule—we have overruled germaneness on many occasions, and it takes simply a majority. I think that we ought to do it in this case. If we cannot do it this time, we will have a lot more bills that this President is going to want to pass. He will face this issue on each and every one of them until finally we prevent this outrage from occurring.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I have listened to the distinguished Senator from Texas with great interest. Let me say to begin with that I am not a strong apostle of Executive orders. I suppose they number into the thousands. There have been Executive orders going back over many, many decades.

Some things that the distinguished senior Senator from Texas said have caught me with a strong sense of fascination. He talked about this Executive order's being a ''political payoff'' by the President. It seems to me that we allow ourselves sometimes to make some very extreme statements. I do not know that that statement by the Senator from Texas can be documented. I do not know that it can be proved. I think it is a rather reckless charge. I would assume that those Members, like myself, who oppose this amendment might likewise be charged with political payoffs, if that theory is carried to its ultimate conclusion.

Let me say to the distinguished Senator that he has no monopoly on standing up for freedom—freedom of conscience, freedom of the individual to work. When God drove Adam and Eve from the garden, he issued an edict that has followed man through the course of the dusty centuries and will accompany man to the end of his days: ''In the sweat of thy face shalt thou eat bread, till thou return unto the ground; for out of it wast thou taken: for dust thou art, and unto dust shalt thou return.''

The distinguished Senator from Texas speaks of ''intimidation.'' I can remember the days when the Baldwin-Felts Detective Agency was brought into West Virginia.

The Baldwin-Felts Detective Agency was headquartered in Roanoke, Virginia and Bluefield, West Virginia.

The Roanoke office operated primarily as railroad detectives.

The Bluefield office, headed by Tom Felts, operated primarily as mine guards. They were originally employed by the coal companies to police the unincorporated coal company towns. As the union movement began to grow, they began to serve more and more as union busters. The miners would call them ''thugs.''

It became their primary job to keep union organizers out of the company towns. If the miners went on strike, they evicted the miners from the company houses, and used whatever means necessary to break the strike, from bullying the miners, to beating, and even murdering.

The Baldwin-Felts operated throughout southern West Virginia with the exception of Logan County. In that county, Sheriff Don Chafin maintained a 200-man deputy sheriff force, allegedly in the pay of the coal companies in Logan County, and it was their job to keep the union organizers out of the county.

I mentioned that Tom Felts headed the Bluefield office. His brothers, Lee and Albert, both Baldwin-Felts mine guards, were two of the eight guards who were killed in the Matewan Massacre.

The coal miners of West Virginia have seen intimidation. I grew up in a coal miner's home. I can remember when there was no union. The man who raised me, who was kind enough to take me as an orphan—I was 1 year old—and brought me up in his home, was a coal miner. I can remember the days when he worked from daylight until after dark to ''clean up his place.''

That meant that a coal miner, if he did not clean up his working place, if he did not remove all the slate, the coal, and the rock, that had been shot down with dynamite, if he did not clean it up before he left that night, was told that there was always someone else who would be glad to take his place. There was no union to protect his job.

The coal miners took what they were given. They had no weapon with which to fight back. Many times as a boy I recall going down to the company store at Stotesbury, in Raleigh County where I lived, and reading on the bulletin board a notice that, come the beginning of the next month, the miners would suffer a cut in their wages. The price per ton of slate, the price per ton of coal, would be reduced from 50 cents to 45 cents, or to 30 cents or to 25 cents.

In those days coal miners wore their carbide lamps on cloth caps. They had no way of demanding that safety be enforced in the workplace. They bought their own dynamite, they bought their augur, their pick, their ax, their shovel. I have been in the mines, and I have seen where my dad worked. I could hear the timbers cracking to the right, the timbers cracking to the left.

I saw the water holes through which those men had to make their way on their knees. The roof was not high enough for them to walk upright. They had to walk on their knees. They had to shovel that coal, shovel the rock and heap those cars with the loads of slack or lump coal or slate or rock or whatever it was, while on their knees.

They had no way of demanding that their pay be increased. They just had to take whatever the company decided at a given time to pay them. There was no union. I was there when the coal miners union came to West Virginia, the coal miners union. I can remember the coal miners having to meet, in

barns, in empty buildings, clandestinely, in order to organize a union.

Many times I have seen my dad overdrafted on payday. He had worked the full 2 weeks, and on payday was in debt to the coal company. Then when the union came, I saw the faces of those coal miners. The faces would light up. At last, the coal miners had a weapon with which they could bargain collectively concerning their wages and their working conditions. They could strike, if need be, to force the company to improve health and safety conditions, and to enforce safety in the workplace.

Many times I walked into the miners' bathhouse at Stotesbury—not many times, but several times I walked into the bathhouse at Stotesbury—as a boy and as a young man and I saw stretched out on the bathhouse floor a dead coal miner who had been electrocuted or run over by a mine motor. One of my friends, Walter Lovell, had both legs—both legs—cut off one night by a runaway motor. In this day and time, his life might have been saved. But he died of loss of blood and gangrene. My own dad mashed his fingernail. He lost his finger. If it had been 2 or 3 days later before going to the hospital, he would have lost a hand. Another week, he may have lost his life.

I can remember seeing a man in the coal mining company's doctor's office at Stotesbury, waiting in great pain because he had mashed his finger and gangrene had set in. Within a few days, he was dead.

The distinguished Senator from Texas used the phrase ''they don't want to work,'' ''don't want to work.'' Perhaps they do not want to work because they want certain safety conditions improved. It is not laziness always. Now, I have not always agreed with the unions, and on some occasions, I have not sympathized with strikes. There have been some strikes that I thought were not called for. But because miners or other workers seek to improve their safety conditions, their working conditions, their wages is not a matter of their not wanting to work.

When I ran for the U.S. Senate, I was initially opposed by John L. Lewis, the coal miner's chieftain. He eventually came around to support me, but the thing that made my decision to run for the U.S. Senate, may I say to the Senator from Texas, the thing that made the decision for me to run for the U.S. Senate was the very fact that Mr. John L. Lewis, the president of the United Mine Workers, sent word to me in West Virginia not to run for the Senate, but instead to run again for the House of Representatives.

I had been elected to the House three times, and I decided I would like to get around the State during a break between the sessions and determine what kind of support I would have for a Senate race. While I was in Wheeling, West Virginia, one night, I got word from a man by the name of Bob Howe, representing the United Mine Workers of America—John L. Lewis' liaison man working on the House side.

While I was in West Virginia, Mr. Howe called me on the telephone and said, ''I'd like to talk with you. When will you be back in Washington?''

I said, ''I don't know when I'll be back. What do you want to talk about?''

He said, ''Well, 'the boss'''—the boss—''wants me to get a message to you.''

I said, ''Well, the closest I will be to Washington for several weeks will be when I go to Romney next Thursday night to speak to a Lion's Club,'' or whatever it was, a civic organization.

He said, ''Fine, I will come over there and meet you.''

So he drove over to Romney, West Virginia. We met. The message was from Mr. John L. Lewis, who sent word that he did not want me to run for the Senate; Mr. Lewis wanted me to run for reelection to the House.

He said, ''You have a good labor record. We will be glad to support you for the House, but if you run for the Senate, Mr. Lewis will come into West Virginia and campaign against you. He will campaign for William Marland,'' who was a former Governor of West Virginia. So I said to Mr. Howe, ''I'll be in touch with you.''

That very night, I drove south into Beckley, WV. Those were the days when we had nothing better than a two-lane road in West Virginia. We did not have four-lane roads in West Virginia. I can remember the days when we did not have two-lane roads in West Virginia and when we even had to blow the horn on the car when we went around a curve.

In any event, I drove to southern West Virginia that night, and on the way, I stopped at a telephone booth in Petersburg, Grant County, which, by the way, is a strong Republican county, about 4-to-1 Republican, and goes for ROBERT C. BYRD.

Snow was up around my ankles when I went into that telephone booth. I called my wife and I said, ''Erma, I've reached my decision.''

She asked, ''Concerning what?''

I said, ''Running for the Senate.'' I said, ''I've made up my mind.''

''What made your mind up?''

I said, ''John L. Lewis. When he threatened to come into West Virginia and campaign against me, that made my decision.''

She was back here in Arlington in our little five-room house at that time, taking care of our young daughters and the dog. We had a dog named Billy. That was Billy Byrd I. We now have Billy Byrd II.

I drove south and got into Beckley in the early morning, called a few people in southern West Virginia, called in the press, and I said, ''I'm going to be a candidate for the Senate. William C. Marland is going to be my opponent, and John L. Lewis is going to come into the State and support Mr. Marland.''

Not long thereafter, Senator Matthew M. Neely, a Senator from the State of West Virginia, died. Instead of Mr. Marland's running against me, he filed for the unexpired seat of Mr. Neely. It was then that Mr. Lewis asked me to come downtown and see him at his office. The coal miners in West Virginia had been upset at the prospect that Mr. Lewis had planned to support Mr. Marland against ROBERT BYRD.

So I went downtown to meet with Mr. Lewis at his office. Mr. Lewis looked at me with those twinkling blue eyes that seemed to pierce right through me, and said, ''Young man, I resented your announcing that I would come into West Virginia and support Bill Marland against you. I'm in the habit of making my own press announcements.''

And I said, ''Well, Mr. Lewis, you are a great labor leader. My dad was a coal miner. I can remember when there weren't any unions and today there are 125,000 coal miners in West Virginia, and they are in your union. You have been a good labor leader. And the union has been good for the coal miners. But when you sent Mr. Howe into West Virginia to tell me to run for the House again, not run for the Senate, and that you would come into West Virginia and campaign for Marland against me, I resented that. And that made up my mind. That made my decision to run for the Senate. Mr. Lewis became a strong supporter, and we were friends until his death.

I say this just to say to my friend from Texas that some of us who oppose this amendment today do not feel that we are paying off any debt to any special-interest group.

I was opposed by Mr. George Titler, the president of the United Mine Workers, district 29, when I ran for the West Virginia State Senate in 1950. Why? He called me into his office after I was elected to the House of Delegates in 1946, before the first meeting of the House of Delegates in the session of 1947, and told me he wanted me to vote for a certain individual for Speaker of the House of Delegates. I said, I can't do it. I'm going to vote for his opponent.

I told him why. I said, ''In the first place, I have assured this man I would vote for him. In the second place, I have been told by those who serve in the legislature that he is the better man. I am going to vote for him as I promised.'' Whereupon Mr. Titler said, ''When you run for reelection, we will remember you.'' Consequently, in 1948, when Harry Truman ran for reelection, the leadership of the United Mine Workers in that district was opposed to my reelection.

Here I was, a little old Member of the House of Delegates, running for reelection to the House of Delegates in a big election. There were many other offices at stake. Yet, the headquarters of the UMWA District office concentrated on that poor little old coal miner's son's run for reelection to the House of

Delegates. I won the election. Do you know how I did it? I went right down into the local union meetings with my campaign.

George Titler even visited the Stotesbury local union—of which my dad was a member—and urged those miners to vote against me. I sat in on the meeting, and when Mr. Titler completed his speech, I spoke to the coal miners; I spoke their language. And they gave me their overwhelming support.

The distinguished Senator from Texas speaks of those who invest capital. We have to have investors of capital. They have helped to make this country a great country. But what is the working man's capital? The working man's capital, my old coal miner dad's capital, his only capital was his hands and the sweat of his face. God had laid that penalty upon man: ''In the sweat of Thy face shalt thou eat bread.''

There is nothing more noble than honest toil. And so it is, that I stand today against this amendment. Intimidation works two ways. No longer is the coal miner intimidated. No longer is he driven as with a lash. ''Clean up your place; if you don't, there is somebody else waiting for your job.'' No longer does the coal miner have to buy at the company store.

Something can be said, of course, pro and con, about almost everything. I have never been ruled by any union. They know that. I have never worn any man's collar but my own—none. The Governor of West Virginia once asked me to get off the Democratic ticket. I said no.

I could tell the Senator from Texas many stories, I think, which would perhaps delight him because I stood up against the top leadership in the union, but the rank and file coal miner stood with ROBERT C. BYRD. They knew I was their friend. I was their friend then. I will always be their friend.

The Senator may very well remember an occasion when I offered an amendment here to help the coal miners and fought hard for it. I went to the offices of Republicans and Democrats in the interest of my coal miners amendment. The then majority leader, Mr. Mitchell, was against me. The then minority leader, Mr. DOLE, was against me. The President, Mr. Bush, was against me. I had the battle won until right there in the well of the Senate, the joint leadership peeled off three votes that had looked me in the eye and said they would vote for my amendment.

Well, that was pretty tough to lose, but I got up off the carpet, dusted myself off and, magnanimous in defeat, said, ''I lost. Let's go on to the next one.''

I say to my friend from Texas that I have faced intimidation personally, and I have seen the coal miners and other workers of this country face intimidation when the only weapon that they had was the union—the only weapon they had with which to protect their rights. And so I stand against the amendment.

I do not speak evil of those who support the amendment. We have different viewpoints around here. But these are not ''greedy special interests,'' not the people I represent. They are not greedy special interests, the workers in West Virginia.

The Senator may wish to comment while I have the floor. I will be glad to hear what he has to say.

Mr. GRAMM. If the Senator will yield, I am always educated when I listen to the great former chairman of the Appropriations Committee, and I think he has given us a great lecture this afternoon.

I appreciate him yielding because I have to go back for an appointment, but I wanted to make a point. Everything that the Senator has said today I agree with. There was a time in this country where power was vested too greatly in the hands of business, and it created a distortion in the marketplace. That needed to change, and we changed it. Now, some people did escape it. I am looking at one of those people, a great testament to the fact that America works. ROBERT C. BYRD is a great testament to the fact that America is a great country and a land of opportunity.

My point, Mr. President, is that you can go beyond the point of having a fair balance. It is one thing to guarantee the rights of people to strike, to be a member of a union and give them the ability to go to the employer and say these are things we demand or we will withhold our labor. But once you reach the point where you can say to the employer, not only will we withhold our labor but we will have Congress, or in this case the President using Executive power, prevent you from hiring anybody else, that puts us in a similar position today that we were in during the era of which the Senator speaks—only this time it is those who provide the jobs having their rights denied.

I am concerned that we are going too far in strengthening the rights of labor as compared to the rights of people who invest their money.

I am concerned that we are going to have a rash of strikes, and we are going to initiate labor unrest. Since the short period after World War II, where we had labor unrest for good reason—we had held wages back; prices had risen in the war—we have had relative stability.

I am concerned that if we take away the rights of the employer to hire a replacement worker or replacement workers when the union will not come back to work, that we will go to the opposite extreme from that the Senator spoke of. And I simply say that you can go too far in the direction of management, as the law did in the 1930's, but I think you can go too far in the direction of labor, as I believe this Executive order does.

So, with profound respect for everything that the Senator is saying, I think the President's Executive order was wrong.

Obviously this is a free society. This is the greatest deliberative body in the world. And one of the reasons it is, is because the distinguished Senator from West Virginia is a Member. But this is an issue where I think the President is wrong and I believe that this is a case of promoting the interests of one special interest—and it is a special interest. Just as business is a special interest, so is labor. I think the President is going too far. I think it hurts the country. That is why I am in support of the amendment.

It is not to say that I would ever go back; and I hope, had I served when the Senator served, that on many of those issues we might have been on the same side. But today I do not think anybody can argue that labor lacks rights. It is a question of what are the legitimate rights of the people who invest their own money, who create jobs.

It is the balance of the two that I seek, and I believe this goes beyond that delicate balance.

I appreciate the Senator yielding. I am not opposing the question, and it is very generous of him, as he always is.

Mr. BYRD. Mr. President, I respect the Senator's viewpoint. I respect every Senator's viewpoint, here.

I, too, seek a balancing of the interests. And I think that is what we are doing in opposing this amendment. As I understand the amendment, it speaks of lawful—lawful strikes. I think the strikes we are talking about are those that are lawful strikes. I think we are just going in the opposite direction if we support this amendment.

This amendment prevents any funds appropriated in fiscal year 1995 from being used to ''implement, administer, or enforce any Executive order, or other rule, regulation, or order, that limits, restricts, or otherwise affects the ability of any existing or potential Federal contractor, subcontractor, or vendor to hire permanent replacements for lawfully striking workers.'' Obviously, if it is unlawful that puts a different color on it, a different face on it. Mr. President, the ultimate tool and the legal right of an American worker under collective bargaining, the right to strike, should not become the right to be fired. It should not become the right to be fired.

President Clinton signed an Executive order that allows the Secretary of Labor to terminate for convenience any Federal contract with a firm that permanently replaces lawfully striking workers. So I emphasize again the word ''lawfully.'' President Clinton's order also allows the Secretary of Labor to debar contractors that have permanently replaced lawfully striking workers, thereby making the contractor ineligible to receive Government contracts until the labor dispute that sparked the strike is resolved. This order will affect some 28,000 companies that receive 90 percent of Federal contract dollars. In signing this order, the

President has thrown his support, and the protection of the Federal Government, behind the principle that American workers can employ every facet of collective bargaining, including the right to strike, in their efforts to resolve labor disputes. The amendment we are considering today in my judgment would destroy that protection.

In recent years, the right to lawfully strike has more and more become the reason to be fired, or to be displaced by permanent replacement workers. Being replaced by temporary replacement workers is one thing. But being replaced by permanent replacement workers is quite another. The ability of companies to easily hire permanent replacement workers for employees lawfully engaged in a strike over proposed changes in the terms of their employment undermines the incentive of companies to negotiate the speedy resolution of labor-management conflicts. I note that, in recent years, changes in the terms of employment are just as likely to be decreases in compensation levels or health benefits to workers, rather than increases. American workers are being asked to do more and more for less and less, or with fewer and fewer workers, than ever before. In a hearing conducted by the Senate Committee on Labor and Human Resources in the last Congress, Mr. Jerry Jasinowski, president of the National Association of Manufacturers, testified that as a result of increased global competition, additional costs must often be passed back to workers in the form of ''lower compensation or lower employment.'' Strikes may often be the last resort for employee groups that have been squeezed hard by this process.

Proponents of this amendment have suggested in the past that legislation that would protect the return to work of American workers engaged in a lawful strike would drive jobs out of America and dampen economic growth. This is a scare tactic, plain and simple. American jobs have already been moving out of the United States. They are leaving our shores for a variety of reasons—lower production costs due to cheaper labor, greater international use of child labor, lax environmental and worker safety standards, Government subsidies, and easy or even preferential access to the U.S. market from abroad. In some overseas locations, workers have no collective bargaining rights—none. Just like the situations that were prevalent back in the coal fields when I was a boy, when miners could be intimidated or cowed into accepting wages and working conditions which would be unthinkable today. And those conditions are prevalent overseas in may countries. These would be unthinkable today in these United States. Just as those conditions back in the hollows and hills of West Virginia today would be unthinkable. They were unthinkable then, but who was there to champion the rights of the hard-working people who had to go down into the bowels of the Earth and labor with their hands and in the sweat of their face earn a crust of bread for their children?

All of these factors reduce costs for companies moving off of U.S. shores, and increase their profits. But what is good for profits is not always good for the human beings who do the work. Millions of men and women in this country have only the capital of their bare hands, a strong back, a strong neck. They will not go back to the days when that strong back felt the lash of intimidation and the threat: ''Clean up your place before you leave. There is someone else waiting for your job.''

I do not believe that the United States should lower its safety and environmental standards, or promulgate Third-World working conditions, in order to compete on this kind of a playing field. Historically, unions and collective bargaining have served to contain the abuses of owners and management. Unions and collective bargaining have also worked historically to improve conditions for large numbers of working people previously employed in the sweatshops, in the shipyards.

Try riveting. Try welding. Try the job of being a shipfitter in the shipyards in Baltimore when the cold winds whip across the bay and freeze the vapor of your breath when it hits your eyelashes. I can hear those rivets in my dreams. I know what it is to be a worker, to have to work with my hands. There is nothing dishonorable about it. The Bible says, ''The laborer is worthy of his hire.''

Throughout the years, unions have helped to ensure fair and equitable treatment for employees, and these standards have carried through to nonunion workers as well. They have benefited likewise. Now, unions must strive to protect the jobs, the health benefits, the retirement packages, and compensation levels of employees from excessive devaluation in the name of competitiveness, downsizing, or restructuring.

While I agree that the United States must work to compete more effectively in global markets, and that restructuring the economic relations among the United States and her trading partners may be essential to improving and expanding trade, I do not believe that we should enter into any agreement, or support any action, that does not benefit both the American industries and American workers.

I voted against the North American Free-Trade Agreement. I voted against the Uruguay Round of the General Agreement on Tariffs and Trade in part because these agreements will likely lead, in this Senator's judgment, to the displacement of many American workers—workers unlikely to have the skills required to easily secure other employment. Such displaced workers only add to burdens we already face in terms of meeting the challenges of an increasingly competitive international economy, and also mean a continued decline in the basic standard of living for millions of Americans and their children.

Undermining whatever support exists for striking workers to return to their jobs upon the successful conclusion of negotiations further encourages companies to hire permanent replacement workers at the lowest wage that the market will bear. Strikes, it is important to note, are the absolute last resort of working men and women in some situations. A strike is not a desirable consequence for labor or management. Striking workers are faced with a considerable loss of income for an undetermined period of time.

I know. I once was a small businessman; a small, small businessman; very small; very small. I had a little grocery store in Sophia, WV. There was a big coal mining strike in West Virginia in the beginning of the 1950's. The strike lasted several months. Some of the coal miners could not get food for their children. They could not get credit at the company store. So they came to ROBERT BYRD's little jot'em down store.

They came to the little jot'em down store, the Robert C. Byrd grocery store in Sophia. I let them have food on credit. They were on strike. It was a long strike. But I let them have whatever I had in the shelves. I did not have a lot. But it saw some of them through—the coal miners in Raleigh County.

In 1952, I ran for the U.S. House of Representatives. I attended a Democratic rally one night. And the president of the United Mine Workers District, headquartered in Charleston, the State capital, was speaking at the rally.

There were three candidates for Governor. And, of course, that meant three factions. And I did not want to align myself with any faction. I wanted to be liked by everybody. I wanted everybody to be for me. I wanted the votes of all.

UMWA District President Bill Blizzard, one of those fire-eating, union leaders in the old days, was speaking when I arrived at the rally a bit late. He pointed his finger at me and said, ''Whether they are a candidate for constable or for Congress''—he pointed his finger right at me. I was a candidate for Congress—''if they do not vote for our candidate for Governor, don't you coal miners vote for them.''

I was not welcome at the rally. The master of ceremonies happened to be a young attorney who, after Mr. Blizzard had finished speaking, said, ''Now we will have the benediction, and after the benediction go over into the other room of the schoolhouse and get yourself some ice cream and cakes and refreshments.''

About that time, an old, grizzled coal miner stood up in the back of the room, and said, ''We want to hear BYRD.'' And this enterprising young lawyer said, ''You can hear BYRD some other time. We are going to have the

benediction.'' Well, nobody is going to argue with that. Let the preacher give the benediction.

But then I said to a couple of my friends who were there with me that night, ''Go out to the car and get my fiddle.'' I started playing a few tunes and the whole crowd came back in with their ice cream and cake and sat down. They filled the room.

I said, ''When you were on strike, you coal miners, when you coal miners were on strike, who fed your children? Did Bill Blizzard, the United Mine Worker President, feed your children? How many groceries did he provide when you were in need? I fed your children. Are you going to vote against the man who helped the coal miners when they were on strike?'' They answered with a loud ''No!'' The miners gave me a big vote in that election, and Bill Blizzard became my supporter and friend.

So I have been a worker in the field myself. I know what it is to have my brother-in-law's father killed in a slate fall in the coal mines. I know what it is to have the brother-in-law die from pneumoconiosis—black lung.

Workers do sometimes strike for better working conditions, for safer working conditions.

They do not strike ''because they don't want to work.''

A strike often pits brother against brother, neighbor against neighbor, and can tear entire communities apart. However, gutting this action of last resort by allowing companies to hire permanent replacement workers, as this amendment does, removes the incentive for companies to seriously negotiate with their work force.

Research has shown that strikes involving permanent replacement workers last an average of seven times longer than strikes that do not involve permanent replacement workers. Strikes involving permanent replacements also tend to be more contentious, and can disrupt whole communities for long periods. In my own State of West Virginia, a labor dispute at Ravenswood Aluminum Corporation was unresolved from November 1990, until June 1992. This dispute resulted in the hiring of 1,000 new workers as permanent employees by the company. The striking workers were told that if and when the dispute was resolved, they would not get their jobs back. Eventually, contract negotiations resumed and an agreement was finally reached that returned union workers to their jobs. If it had not been possible to promise these replacement workers permanent jobs, efforts to find the replacements might have been hindered, giving the company greater incentive to negotiate with the union and likely resolving this labor conflict much sooner.

Proponents have argued that the status quo should remain the status quo—that no effort should be made to shore up the eroding ability of workers to strike for fair and equitable compensation, health benefits, and retirement packages. This argument simply does not recognize the changing economic and employment conditions brought about by changes in the world economy and by the adoption of recent trade agreements that have eroded the income power and options of American workers.

We must not take actions that would denigrate the inherent dignity of work or the noble role of the American worker in the life of this Nation. All of us enjoy the fruits of their labor. The sweat of their collective brows, the caloused hands, the bent backs, the wrinkled faces, and their broken health deserve our gratitude and our utmost respect. Where would any of us be without their toil?

Out on the roads they have gathered, a hundred-thousand men,
To ask for a hold on life as sure as the wolf's hold in his den.
Their need lies close to the quick of life as rain to the furrow sown:
It is as meat to the slender rib, as marrow to the bone.
They ask but the leave to labor, for a taste of life's delight,
For a little salt to savor their bread, for houses water-tight.
They ask but the right to labor, and to live by the strength of their hands—
They who have bodies like knotted oaks, and patience like sea-sands.
And the right of a man to labor and his right to labor in joy—
Not all your laws can strangle that right, nor the gates of Hell destroy.
For it came with the making of man and was kneaded into his bones,
And it will stand at the last of things on the dust of crumbled thrones.

Mr. President, I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I might yield 5 minutes to the Senator from Idaho and then have the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I thank my colleague from New York for yielding. I will not use the 5 minutes, but I did want to make a few comments in relation to the Kassebaum amendment and what I believe to be its importance in this issue that we are debating here on the floor.

Mr. President, I will also add to my statement a letter from NFIB [National Federation of Independent Business], for in that letter are several quotes that I think are extremely valuable to this debate. One of those quotes which is important, and I will mention it at this moment, as it relates to what our President has just done and the meaning of that act as it relates to a balance that we have held in labor law now for a good long while. It says:

This balance of labor's right to strike with management's right to stay in business using temporary or permanent replacement workers during economic strikes has not been challenged by any President since 1935.

Are the working conditions and are the labor conditions of America today so different, have they changed so dramatically since we placed quality labor laws on the books of our country since 1935 that our President would act as he has acted? I simply do not believe that is true.

What our President has said by this act is, ''Give in or go out of business.'' No President has said it that way, nor should they. It is unilateral disarmament of employers at the bargaining table. And that has never been public policy and it should never be public policy.

What was then was then; what is now is now. The world has changed significantly. And it is important that the laws that still work be allowed to work.

Certainly, the action that was taken by this President is to disallow fundamental labor law in this country and the unique balance that has been created and held for so many years.

The amendment to prohibit funds from being used to implement any Executive order that bars hiring Federal contractors who hire permanent worker replacements is an amendment that should be passed by this Congress, and I support it strongly.

If there had been a pressing need for such an order, why did this President not issue it more than 2 years ago? What has changed over the course of this President's administration that would cause for this destabilizing act to occur when no President has taken this stand for 35 years? Nothing has happened. That is the answer. So why would he do it?

If the President actually had a clear legal authority to issue such an Executive order, why did he not do it earlier?

Well, he does not have, in our opinion, that legal authority.

Why, instead, did he put all of his eggs in one basket of striker replacement legislation during the last Congress?

One has to wonder if the answer does not lie more in politics than in policy.

I concur with the Senator from Washington [Mr. GORTON] that the President has exceeded his constitutional and legal authority.

The Executive order flies in the face of 57 years of settled employment law as written by Congress, as consistently applied by the courts, and as consistently enforced by 10 Presidents and their administrations.

No President has ever launched such a full frontal attack on settled Federal laws governing employer-employee relations; on fair and flexible bargaining in the work place; on the rights of employers and employees to determine their own negotiating behavior on a level playing field; and on the Federal Government's role as impartial referee, rather than coach and cheerleader for one side.

This Executive order will be costly to taxpayers, as strikes are encouraged and prolonged against contractors

working on Federal jobs; and to the general public and the economy, as the ripple effect of these strikes cause bottlenecks elsewhere in the economy, affecting suppliers, subcontractors, carriers, and others.

Like so many other clever schemes that erupt within the Capital Beltway, this one will not help workers, it will hurt them; will not create jobs, it will destroy them; was designed to court a few elite lobbyists, not rank and file workers and their families; will shut the door to Federal contracting on many small businesses who will find this condition economically impossible to meet.

I ask unanimous consent that the letter from the NFIB be printed in the RECORD.

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

NATIONAL FEDERATION OF INDEPENDENT BUSINESS
Washington, DC, March 9, 1995.

Senator NANCY LANDON KASSEBAUM,
U.S. Senate,
Washington, DC.

DEAR SENATOR KASSEBAUM: On behalf of the more than 600,000 members of National Federation of Independent Business (NFIB) I urge your colleagues to support your amendment to H.R. 889, the Defense Supplemental Appropriations bill. The amendment would effectively void the President's Executive Order barring federal contractors from the use of permanent replacement workers.

Such an Executive Order could increase the taxpayers' cost of federal contracts and would destroy the equality of economic bargaining power between labor and management which has been preserved for 55 years. This balance of labor's right to strike with management's right to stay in business using temporary or permanent replacement workers during economic strikes has not been challenged by any President since 1935.

In a recent poll, 81% of NFIB members oppose striker replacement legislation. Small business owners view any change in the delicate balance between labor and business as a threat to the livelihood of their business. They believe upsetting this balance will result in the following:

Increased work disruptions affecting both union and non-union businesses;

A confrontational workplace setting, which will lead to more strikes, diminished competitiveness, and lost productivity;

Increased strike activity in large companies, which adversely affects small businesses that are located near or contract with the struck company;

The creation of an unfair union organizing tool; and

An unbalancing of over 55 years of labor law.

Small business owners urge your colleagues to support your amendment to H.R. 889. Your vote on passage of the Kassebaum amendment will be considered a Key Small Business Vote for the 104th Congress.

Sincerely,

JOHN J. MOTLEY III,
Vice President,
Federal Governmental Relations.

Mr. HATFIELD. Mr. President, the announcement of an Executive order banning the use of replacement workers by Federal contractors disturbs me because it appears to circumvent congressional authority to amend this Nation's labor laws. Because of this concern, I support the effort to prevent the implementation and enforcement of this order. Nevertheless, I remain a supporter of legislative attempts that would amend the National Labor Relations Act and overturn Supreme Court decisions which have weakened what I believe to be the original intent of the law—to explicitly protect a worker's economic self-help activities through the right to strike.

Mr. BIDEN. Mr. President, all of us here, on both sides of this issue, agree that the right to strike is essential to preserving the balance of power between labor and management in this country. But that right is hollow if, by exercising it, a worker faces the loss of his or her job.

President Clinton has taken the important step of clarifying that in this country, as in the rest of the industrial democracies with less than a handful of exceptions, workers cannot be fired for exercising their legal rights.

Unfortunately, our attempts to clarify that right through legislation, led for years by Senator Metzenbaum, were blocked by filibusters, despite clear majorities that favored a ban on striker replacements.

President Clinton's Executive order is needed because Congress has been frustrated in its attempts to clear up the current untenable situation.

His action follows established precedent, such as actions by President Bush, who, in 1992, issued an Executive order to require unionized contractors to post notices in their workplaces informing all employees that they could not be required to join a union.

President Bush also used executive authority to ban unions from using for political purposes fees collected that had been collected from union members who disagreed with union policy positions.

As a Republican Congressman said at the time, this was an ''effort by the President to do something through Executive order that he cannot get Congress to do.''

So let's not be distracted by procedural arguments. President Clinton was well within his authority and established precedent when he issued his Executive order. Let's stick to the substance of this issue, an issue that goes to the fundamental rights of workers, and to the very foundations of labor-management relations in this country.

Mr. President, before the New Deal, striking workers had no legal protection against being fired. To provide legal protection for the right to strike, Congress passed and President Roosevelt signed the National Labor Relations Act in 1935. Without it, hostile, confrontational, and often violent labor-management relations would have persisted.

But in 1938, a Supreme Court ruling that confirmed the right to strike offered an unsolicited comment that established a legal basis for hiring permanent replacements for striking workers.

This language has remained a logical and legal anomaly ever since. In law schools across the country, law professors have struggled in vain to distinguish between firing and permanently replacing striking workers.

For many years, this problem was, in fact, academic; it had little application in the real world.

But for the last decade and more, the issue has become all too real for thousands of workers who have lost their jobs by exercising what the vast majority of Americans believe should be their right under the law.

The permanent replacement of striking workers has become an all too common tactic in labor-management disputes. In a survey last year, 25 percent of employers said that they would hire or consider hiring permanent replacements, in response to a strike. A recent GAO report found that employers hire or threaten to hire permanent replacements in one of every three strikes.

Today, the threat of permanent replacement calls into question the fundamental right to strike, upsets the balance of power between workers and management, and introduces an unnecessary source of friction and hostility into labor relations.

We have evidence that strikes in which permanent replacement workers are hired are longer, and more heated, than those in which that tactic is not used.

Mr. President, I know that there is much emotion on both sides of this issue, and I would like my colleagues who disagree with me to understand that I do not take their concerns lightly. Let me address a few of those concerns now.

We have heard in recent debate that President Clinton's Executive order will upset the balance of power between labor and management and make strikes more likely as a result. This argument is not only inaccurate, Mr. President, it shows a fundamental misunderstanding of the costs of a strike to workers and their families.

First, it is the increasing use of striker replacements that has upset the traditional balance of power between workers and employers. The President has acted to remove this source of much of the hostility and divisiveness that now attends labor-management relations.

Second, Mr. President, under no circumstance is a strike an easy option for workers who will suffer the loss of wages, health benefits, savings, and even major assets such as cars and homes to undertake a strike with no knowledge of what the outcome will be.

We have also heard, Mr. President, that without the threat of hiring permanent replacements, employers will be powerless in the face of union demands. The fact of the matter is that employers did quite well for over four decades, by stockpiling inventories,

hiring temporary replacements, transferring work, and by other tactics, without recourse to permanent replacement workers.

As we seek new ways to encourage labor-management cooperation, to recognize the shared goals of American workers and employers in a changing global economy, a first step ought to be to eliminate the unnecessary, inflammatory practice of permanently replacing strikers.

Mr. President, simple fairness demands it. And simple fairness demands that we defeat this attempt to cut out the funding for President Clinton's Executive order. I urge my colleagues to vote with me to put this relic of another era of labor-management relations behind us.

Mr. PELL. Mr. President, I strongly oppose this amendment by the Senator from Kansas. Her amendment, if adopted, would prevent the expenditure of funds by the Labor Department to carry out the Executive order President Clinton signed yesterday.

The Executive order is entitled ''Ensuring the Economical and Efficient Administration and Completion of Federal Government Contracts.'' Simply put, this order would prevent Federal agencies from contracting with companies that permanently replace striking workers.

Current law protects workers who strike for unfair labor practices, but allows those who strike for economic reasons to be permanently replaced—a curious synonym for being fired.

Congress has attempted to legislatively rectify this inequity. Time after time, however, a minority of our colleagues has frustrated the will of the majority, often even preventing the Senate from debating the matter. In the last 3 years, the Senate has been forced to vote to invoke cloture on the bill four different times. Each time, despite garnering a majority necessary to pass the bill, a minority has ruled the day and frustrated the will of that majority: June 11, 1992, cloture failed 41 to 55; June 16, 1992, cloture failed 42 to 57; July 12, 1994, cloture failed 47 to 53; and July 13, 1994, cloture failed 46 to 53. Now, Mr. President, the opponents complain that the President is thwarting the will of Congress.

Whenever striker replacement legislation has come before us in the past, I have heard from Rhode Islanders with views on both sides of the issue. Many business people have told me of their fear of a tilt in the balance of power in labor-management relations. They have discussed their concern with being faced with one of two choices: agree to union economic demands or be forced out of business. One gentleman even remarked that he considered employee demands for increased wages to be blackmail.

I view striker replacement legislation and this Executive order differently. The legislation would restore a proper balance of power between employees and employers. Employees would have the right to strike for increased wages and management would have the right to hire replacement workers on a temporary basis. This Executive order tells businesses that if they want to do business with the Federal Government, they must respect the legal rights of working men and women or look elsewhere for business.

I look forward to a full debate on this matter and urge my colleagues to reject this amendment.

Ms. MIKULSKI. Mr. President, I rise today in strong opposition to Senator KASSEBAUM's amendment that effectively vetoes President Clinton's Executive order that prevents striker replacement from being used by Federal contractors.

I am a blue collar Senator. I support the right to strike. I can't support Solidarity's right to strike in the shipyards of Gdansk and not support the rights of American unions to strike here at home.

The President's Executive order protects the right of Americans to strike by prohibiting Government contractors who make their profit off the Federal funds from permanently replacing striking employees. The Executive order will also force these managers to deal with the issues raised in the strike, not just replace workers who protest as a last resort. It will restore basic fairness to the bargaining process.

Strikers can mean economic ruin for both the workers and the company they rely on for work. There must also be equal pressure on both the workers and the company to compromise if a strike does occur.

I believe that allowing management the threat of replacing workers gives them an unfair advantage at the bargaining table. If strikers can be permanently replaced, there is considerable less pressure on businesses to address the underlying problem and settle with their workers. However, if businesses can hire only temporary replacements and workers have to face the social economic disruption of a strike, the pressure remains on both sides to work out their differences.

It's a matter of basic fairness to American workers. It ensures fairness in resolving labor disputes. My roots are in blue collar neighborhoods—this goes to my basic values.

That is why I strongly oppose Senator KASSEBAUM's amendment. This amendment vetoes my values. I urge my colleagues to join me opposing this amendment.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I know this is a very contentious issue, and I do not question anybody's motivations on either side.

I have a deep-rooted feeling and philosophy—and I have voted on this many times—that people have a fundamental right to withhold their labor—that is, to strike—if they feel it is the only way they can make their point. I do not know what other alternatives labor has in certain cases when the process breaks down.

I support the right to strike. It is fundamental. I believe that all of my colleagues feel that way. Therefore, if one says that it is an inherent, innate right for the citizens of our country, then I have to ask the question: is it a myth, that, on the one hand we say you have the right to strike, but, on the other hand we say if you exercise that right, you will lose your job permanently? That appears to me to be an inconsistency.

I can understand if we were to set up conditions. I can understand if we said that there would be a period of time in certain industries, and if there was a certain strike in an industry that in terms of the health and welfare of the people that this simply could not be tolerated. I understand there are laws in various States—in my State—that say if you are a municipal employee and strike, you can lose your job, benefits and procedures. But that is not what we are talking about. What we are talking about is taking people and just saying, ''If you strike, we will replace you permanently.'' I believe that flies in the face of what we are about as a nation.

Therefore, Mr. President, I am going to, with great reluctance, make a motion to table the amendment that is before the Senate and ask for the yeas and nays.

The PRESIDING OFFICER (Mr. GORTON). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CRAIG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. D'AMATO. Mr. President, had I asked for the yeas and nays?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the motion to lay on the table amendment No. 331.

The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Wyoming [Mr. SIMPSON] is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote ''nay.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 102 Leg.]

YEAS—42

Akaka	Biden	Boxer
Baucus	Bingaman	Bradley

Breaux	Graham	Lieberman
Bryan	Harkin	Mikulski
Byrd	Heflin	Moseley-Braun
Conrad	Inouye	Moynihan
D'Amato	Johnston	Murray
Daschle	Kennedy	Pell
Dodd	Kerrey	Reid
Dorgan	Kerry	Robb
Feingold	Kohl	Rockefeller
Feinstein	Lautenberg	Sarbanes
Ford	Leahy	Simon
Glenn	Levin	Wellstone

NAYS—57

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Nunn
Bumpers	Gregg	Packwood
Burns	Hatch	Pressler
Campbell	Hatfield	Pryor
Chafee	Helms	Roth
Coats	Hollings	Santorum
Cochran	Hutchison	Shelby
Cohen	Inhofe	Smith
Coverdell	Jeffords	Snowe
Craig	Kassebaum	Specter
DeWine	Kempthorne	Stevens
Dole	Kyl	Thomas
Domenici	Lott	Thompson
Exon	Lugar	Thurmond
Faircloth	Mack	Warner

NOT VOTING—1

Simpson

So the motion to lay on the table the amendment (No. 331) was rejected.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, the question is on what?

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as I have stated earlier, many of us want to get about the business of the appropriations bill. But it has been the decision of the Senator from Kansas to offer an amendment that affects the quality of life of hundreds of thousands of workers in this country.

As I stated earlier in the day, it is amazing to me that this institution has debated mainly two issues. One has been unfunded mandates, and the second is the balanced budget amendment. And now the first issue that comes before us affecting working people is to limit their rights and liberties in the workplace. If this amendment were to be passed tonight, millions of workers would be affected by it. Their working conditions would not be enhanced. Their wages would not be increased.

The well being of the children of those workers will not be enhanced. Their parents will not have a greater assurance of where we are going and where the Contract With America is going.

So it is an extraordinary fact that the first measure before us affecting working families is to diminish their rights and interests.

I am quite prepared to go forward, as we did earlier, with debate about the Executive order and its importance to working families. We have no interest in prolonging consideration of the underlying bill. But we do believe that this is a matter of considerable importance, and there are Senators who want to be heard.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, I ask unanimous consent that I be allowed to speak on a matter separate and apart from the existing bill for a period of about 7 or 8 minutes.

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

RURAL TELECOMMUNICATIONS TECHNOLOGY DEMONSTRATION

Mr. STEVENS. Mr. President, I want to bring to the attention of the Senate a demonstration that is currently taking place in the rotunda of the Russell Senate Office Building. I urge all Members of the Senate and their staffs to stop by and see this exhibit.

It is a demonstration of a new satellite telecommunications technology and the potential for advancing telecommunications to rural areas.

The satellite technology demonstrated in the rotunda is just one of the new applications that is coming on line in the near future. Telemedicine is one of the applications that I hope it will help bring to the farthest reaches of my State.

As I think the Senate knows, Alaska is one-fifth the size of the Continental United States. We have been using satellite technology to communicate with remote Alaskan communities since the 1970's, and in many of those communities, we have only one village health aide. Using the advanced digital technology that is now becoming available—and it is used in this demonstration—it will be possible for that nurse to send medical images to hospitals in Anchorage, or even to what we call the lower 48 States, for review by a doctor, something that cannot be done today. In these remote clinics, staffed by people who just have high school education, we are going to be able to take medicine, good telemedicine, directly to the villages.

Eventually, I hope to see even more advanced telemedicine applications like the remote surgery that is being developed by the joint civilian and military medical teams today. At the rotunda demonstration, there is also a telemedicine display, and I hope other Senators will stop by and take time to look at this display.

There are a lot of other possibilities to this type of technology. Tele-education and telecommunicating are two that come to mind.

Recently, I heard of a person who is moving his family to an island in southeastern Alaska where he is going to install advanced telecommunications facilities to allow him to continue to run his business in another State. When that same technology comes down in price, as I am sure it will, I am very hopeful that others will gladly do the same thing and come enjoy our State year round.

Finally, I want to point out that this demonstration of modern technology will allow anyone who comes by to be instantly updated on the status of the last great race on Earth. That is the Iditarod. The Iditarod is going on now. The race is 1,049 miles, from Anchorage to Nome, in the middle of winter by dogsled. Each day at 2 p.m., I receive a call over this new technology that is in the Russell Building from Susan Butcher, a four-time winner of the Iditarod. She is going point to point along the trail. She is not a contestant this year. She is reporting on the race from remote checkpoints where mushers are required to rest each day. The reason she is not in the race is because she is expecting her first child and decided not to be involved in the Iditarod this year.

The demonstration will be in the Russell rotunda until next Tuesday, March 14. It is open from 9 a.m. to 5 p.m. each weekday, and we will have a reception there on Monday evening. It is my hope that other Members of the Senate and staff will come by and see the potential of telecommunications to rural areas, such as we have in Alaska. It is a very informational, very educational demonstration, and I personally invite everyone to stop by.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from New Mexico.

CBO ESTIMATE OF PRESIDENT'S BUDGET

Mr. DOMENICI. Mr. President, I apologize to the Senate for my voice, but I have a cold. Nonetheless, I have something to share with you that I think is important.

Today, the Congressional Budget Office has given their estimate of the President's budget or, might I say, reestimate. The Congressional Budget Office released its analysis of the President's budgetary proposals for 1996. The analysis debunks the President's claim that his budget holds the deficit in line at about $200 billion by revealing a total lack of restraint in the President's budget.

Using CBO's economic and technical assumptions, the deficit would climb from $177 billion in 1995 to $276 billion in 2000. That is a 55-percent increase in that period of time over what the President estimates and has told the American people.

Even under the administration's favored measure, the deficit, as a percentage of the gross domestic product, will rise from 2.5 percent in 1995 to 3.3 percent in the year 2000, a rather significant increase.

The Congressional Budget Office estimates that the President's budget policies will result in higher deficits than the administration projected of nearly $200 billion over 1995 to the year 2000. It will be $200 billion higher; on average, $35 billion a year.

Although the difference in the economic forecasts of the Congressional Budget Office and the administration are not great, the Congressional Budget Office's slower economic growth—the assumptions that they have—reduce the revenue take by about $65 billion.

On the spending side, the Congressional Budget Office agrees that growth in Medicare and Medicaid has slowed. It is not as optimistic as the OMB because the CBO estimates that $79 billion higher will be the cost of Medicare and Medicaid over these years.

They also estimate that the President is $27 billion low in the estimate of housing assistance and $10 billion low on unemployment compensation. That merely points out the President's budget not only did nothing, which all of you said, took no difficult steps, bit no difficult bullets, but underestimates the deficit by about $35 billion for each of the years from now until the year 2000, a 55-percent increase in the deficit. That cries out for real action.

I only regret that we will not have the balanced budget amendment to help us when we undertake this ordeal. But I am reminded over the past 4 or 5 days, some on the other side have told us that we do not need the balanced budget amendment to balance the budget. I hope when we present a way of doing it, they will support that without the balanced budget amendment as a hammer from the people of this country.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

The Senate continued with the consideration of the bill.

CLOTURE MOTION

Mr. DOLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on amendment No. 331 to the committee amendment to H.R. 889, the supplemental appropriations bill.

Hank BROWN, NANCY LANDON KASSEBAUM, JOHN ASHCROFT, JON KYL, LAUCH FAIRCLOTH, DON NICKLES, STROM THURMOND, DAN COATS, JUDD GREGG, SLADE GORTON, BOB DOLE, CHUCK GRASSLEY, CRAIG THOMAS, CONRAD BURNS, TRENT LOTT, MIKE DEWINE, PETE DOMENICI.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I understand that the exact time for the vote on the cloture motion will be determined by the majority and minority leaders, but I would expect that the vote will be sometime next Monday. Am I roughly correct?

Mr. DOLE. The Senator is correct. It will not be on Saturday.

Mr. KENNEDY. And I imagine the exact time will be established by the leaders.

Mr. President, I look forward to the opportunity to vote on the amendment at that time. I will urge my colleagues to vote in opposition to the amendment. It seems to me that this is legislation on an appropriations bill. It is an amendment that is unrelated to the underlying measure. It is an important public policy issue and question.

I have tried over the course of the debate to raise the particular fact that the first measure that we are considering in this Chamber affecting working people is basically to diminish their rights, their hopes, their opportunities. A number of us have been struggling to try to find ways to enhance the lives, the opportunities, and the resources of working families because I think that is a core issue for the future of our country and for the millions of Americans, over 100 million Americans, who go to work every day.

Many of these workers face diminished incomes, increasing concern about the quality of life for themselves and their families. They are looking to the future with increasing concern about the schools their children attend, the services of which are being cut back on the Contract With America. There will be cutbacks in the school lunch program, cutbacks in summer jobs, and cutbacks that are being recommended in the Budget Committees for the student loan programs and the work study programs. These are programs that benefit working families.

So the working families of this country watching this debate tonight are not going to have a great deal of satisfaction about the Kassebaum amendment and I hope they understand why we are resisting it.

One of the important measures which we will have an opportunity to consider, hopefully earlier in the session rather than later, will be the proposed increase in the minimum wage. That is something that can make an important difference in the lives of working families in this country, to recognize that work is important, that work ought to be rewarded, that men and women who are prepared to play by the rules and work the 40 hours a week, 52 weeks a year, ought to be able to have a living wage. The proposal that the President has suggested would not restore the minimum wage to the purchasing power that it had at other times, but nonetheless would make a very important and significant difference to those families.

A number of those families will be here tomorrow at 10 a.m., in the Russell caucus room, on March 10, 1995, at 10 a.m.

The Secretary of Labor, Secretary Reich, and the mayor of Baltimore, Kurt Schmoke, will both be there, as will a number of business owners, economists and others at a forum on the minimum wage. We will learn about what is happening to working families in Main Street America.

In the plants and factories, in the small shops, what are the real conditions that are out there? Earlier in the day we discussed the profile of many of the workers who had been permanently replaced by strikebreakers.

But let me just take a few more moments of the Senate's time to talk about some of those who have been replaced, some of the workers who have been replaced. These are the kind of ''special interests'' that I am standing up for tonight and will stand up for, because their lives, and similar workers' lives, can be affected by whether we continue the President's Executive order or whether that is undermined by legislative action.

I am thinking of Francis Atilano, 58 who was hired by Diamond Walnut in September 1978.

I worked for them until the strike began, I was replaced by a new employee.

The strike has caused many changes in our lives. I have been very depressed about losing my job and not knowing what will happen in the future. I have been under a doctor's care for depression.

I had hoped that maybe I could retire from Diamond Walnut in the future with a pension. Now I don't know what we will do since my husband's low paying job has no pension plan.

We at the present time are having a very hard time trying to make ends meet. We have our youngest son whom we are trying to get through college, so he will not have to struggle with life as we have.

The depression even sets in more whenever I think of our 6 children and 19 grandchildren. While I was employed I was able to buy them a little gift once in awhile, and

also take the grandchildren to a park or somewhere.

Francis Atilano, age 58, has been replaced by a permanent strike replacement.

Or Willa Miller, 54, started working at Diamond Walnut in 1961, as a young mother with 3 children.

I am now a grandmother with 7 grandchildren. I went out as a QC Supervisor, worked there 30 years. I was a sorter, checker and QC Sample Girl.

I had to sell my second car and I had to get a part-time job to make ends meet. The Union has really helped me during this strike and I have made many friends and I am closer to them. I joined a prayer group which has really helped me also, other prayer sisters in this strike. We have been there for each other.

Five-year-old Vanessa Contreras was 3 years old when Diamond Walnut permanently replaced her striking mother, causing Vanessa and her mother to lose their family home.

Vanessa is in kindergarten at the Stockton Commodore Skills Center. Her favorite subjects are writing and drawing, and she likes to play with dolls. Her birthday is March 26. Vanessa's mother reports that she has just been learning about the President in school.

Griselda Contreras had been working at Diamond Walnut since 1979. She started as an entry sorter, and over the years worked her way through a number of positions. By the time of the strike in 1991, she was a supervisor in the canning department.

Ms. Contreras volunteers once a week in her daughter's class. She came to the United States from Guadalajara when she was 15 years old. Before going to Diamond, she worked as a bilingual aide for the school district.

I think of Olga Riuz, 62, who is a single parent who has worked for Diamond Walnut for 10 years.

She has two sons, aged 38 and 36 in addition to a 9-year-old grandson and a 5-year-old granddaughter. Olga says they are ''good kids,'' and that she ''talks frequently with them about the strike.''

When she goes to Stockton, Olga's granddaughter loves to go see the strikers carrying their signs at Diamond Walnut. She asks lots of questions about the strikers.

In her spare time she loves to crochet and raise vegetables in her garden. Her spare time has been cut into by the strike. Olga is no longer able to read the Bible in church because of her added responsibilities * * *.

The list goes on and on. These are the real people who have been replaced. These are the real people who saw their wages reduced. These are the real people who saw the profits go up at the Diamond Walnut some 30 percent. These are the real people who were striking to get the $8, $9, $10, $11 an hour, were receiving that, then took the pay cut, and then were trying to recover that when they saw the company's profits rise by millions and millions of dollars. They tried to at least reclaim the wages that they had forsaken earlier. And these are the individuals, these are the special interests, individuals who have all been dismissed at a time when Diamond Walnut was participating with Government assistance in expanding their markets overseas.

Those are the real Americans whose interests we are attempting to protect with this Executive order. Those are interests that are worthy of protection. I know that there are those who say, ''Well, it is the right of employers who control capital to treat workers the way that they want to in a free country.'' There are those who believe survival of the fittest is not just the law of the jungle, it is the law of the economy as well. I do not think that represents the views of the American people.

There were those in my own State at the turn of the century who believed that, and used to employ child labor in the textile mills up in Lowell and Lawrence—8-, 9-, 10-, and 11-year-old children who worked in those mills. There were people who said the employer had the capital. He was prepared to put up the money and, therefore, we ought to have permitted him to exploit those children; if those children were not prepared to be exploited, there are other children prepared to go through with that. But we rejected that. Just as we have rejected unsafe working conditions.

We as a society did not believe that workers should work in conditions that were a danger to their health and well-being, that they should endure toxic gases and acids and other kinds of dangerous work conditions. The senior Senator from West Virginia described in great detail the conditions in the mines in the earlier part of this century.

We as a country have not said: Devil beware; we will permit anyone to exploit any of the workers in any kind of manner that they want to. There is always someone else to pick up the pieces. That has not been a part of the great social compact of this country and this society. We have rejected that, although there are those voices that today perhaps would like to return to that period. But I do not believe that is the view of our fellow citizens.

Mr. President, I hope that attention will be paid to the forum tomorrow in the Russell caucus room. We should listen to those individuals who will be coming down here to speak about what is really happening out there on the front line for workers.

It will be useful, I think, for Members to perhaps drop by and listen to what is really happening out there in the work force, how people are trying to make it, the problems they are facing, the conditions which have been exploiting them.

Workers in this country, at this time, are facing extraordinary challenges and burdens which were virtually unforeseen for years and years. They have been battling hard. We need to listen to them and to be reminded once again what this Executive order is really all about; that is, to provide some protection for them so that they can look to the future with a sense of hope for themselves and for their families.

Mr. President, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I would like to congratulate my colleague from Massachusetts for his efforts in the course of this day to try to help Americans to focus on the increasing plight of those who labor in this country.

It is very interesting. The labor law is long established after years of extraordinary confrontation and some very difficult times. Senator BYRD was on the floor earlier this afternoon talking about some of the background of the labor movement, some of the price that was paid by people in an effort to win certain rights in the workplace.

As we think back on the history of this country, there really is not one of us as a school kid, I think, who was not moved by the images as well as the stories of some of the working conditions that grandparents, forebears, and many Members of the U.S. Senate went through.

We all remember that there was a time when child labor was exploited. We remember when there was a time when people worked in sweatshops without rights, without breaks, without the ability to even relieve themselves; we remember a time when people would be injured and there would be no compensation, no recourse. They might even lose the job as a consequence of the injury. There would be no payment.

There is such a long category or list of the ways in which human labor has been pressed to the limit, in ways that we came to believe were considered un-American. We felt that those things were not the way people ought to live in the United States of America. Indeed, most Members of the Senate have spent time arguing about Mexican workers, arguing about workers in other countries, China, and places where workers are exploited today. Thank God, that is not the situation in the United States.

But one of the principal reasons all workers in America have made advances, particularly those today who do not have to join a union, is because a sense of responsibility has entered into the broad marketplace, where most employers now even try to preclude the creation of a union by offering a certain set of benefits—health care, compensation, time off, family leave; a whole set of things that people have come to understand are fair for people to have as they labor.

The last and only real tool available to people who are organized in the marketplace to protect their rights is the right to strike. We have a long-established set of laws in the United States

by which people can strike legally, and by which they are restrained from striking illegally. We all remember what happened with PATCO when the air controllers struck in what was deemed to be an illegal strike. They were fired. They were, in the judgment of many in the United States Senate, properly replaced.

Mr. President, there is no rationale that I think can be argued legitimately except a rationale—and it is not legitimate—called union busting, which could justify saying that you would take away from people in a legal strike the right to be able to do it, to strike.

There is enormous power in the hands of employers today; enormous power. For those who are organized, in an effort to try to guarantee that they are adequately paid, that they are given the safety protections and other benefits that we have come to believe people ought to have in America, the only leverage they have in the marketplace is their right to band together and say to that employer, ''We don't think we are being treated fairly.''

What is the employer's recourse if that happens? The employer is not without recourse. These people cannot shut down his or her plant, or their plant. They have to leave and leave without pay. They have to leave and interrupt their lives, and start to live on the accumulated savings of a union, or those who contribute to their effort to fight for what they think is right. And the employer is permitted, under the law, to replace those people with temporary workers.

So the employer can continue to make profits. The employer can continue to sell goods. There is no disruption, other than the good workers who regularly work and the folks who know each other and the spirit of the plant and all of the good things that come with a good relationship between management and labor; there is none of that. Business is not interrupted, but there can be disruptions, though they do not stop the employer from getting a salary. They do not stop the shareholders from earning money. They do not stop the company from growing or putting out goods.

Meanwhile, people who have labored hard, more often than not under tough conditions, are out in the streets marching up and down, extraordinarily disrupted, having a hard time paying for their needs, for their kids, for their mortgage, for a car, for vacation, for clothing—in an effort to do what? To hurt the United States? To do injury? No; to try to make it, to try to get their little piece of the rock.

I wish I had with me the statistics. I do not have them. But the statistics on corporate pay increases in America relative to the increase of the average working American are shocking.

You know, from the end of World War II, right up until 1979, America grew together, all of us grew.

This chart is a stark reminder of that. This is 1950 to 1978. If you divide America up into quintiles, the lowest quintile, the bottom 20 percent, saw their personal income increase 138 percent. The next quintile went up 98 percent. The third quintile, 106 percent. The fourth quintile, 11 percent. And the top 20 percent of Americans went up 99 percent. So three quintiles grew faster than the top 20 percent in the United States.

From 1979 until 1993, look at this dramatic inversion. This is the story of the working person in America. The bottom quintile went down 17 percent. The next quintile went down 8 percent. The third quintile went down 3 percent. The fourth quintile went up 5 percent. And, Mr. President, the top 20 percent of Americans gained by 18 percent. That is the growing gap in America from 1979 to 1993.

The American worker, the average worker, the person taking home anywhere from $20,000 up to $50,000, has been going down and the person earning over $100,000 is going up.

But it is even more dramatic, Mr. President, when you look at what happened to middle-class incomes in that period, for middle-class incomes in America have gone down. The bottom 20 percent went down a 10-percent drop. The middle 20 percent went down 4 percent. Mr. President, the top 1 percent in America went up 105 percent.

There is nobody who looks at the demographics of this country who will not tell you that the gap between the working American and those who are making it and who have it is growing, and growing substantially. And here we are talking about whether or not that worker, who is increasingly hard pressed to make ends meet, is going to have the ability, in the labor-management relationship that is already significantly weighted toward management, is going to have the ability to simply hold on to the right of collective bargaining.

If you are not allowed to hold on to the right to strike—which, clearly, if you can have permanent replacement workers—you have lost, then you have wiped out the entire gain of the whole concept of collective bargaining.

Mr. President, I do not know of anything more fundamental than that. I really do not. Every single company in this country has the right to go out and hire a replacement person temporarily. So this issue is really a very fundamental one, and I think the President has appropriately offered leadership at the national level, following in the tradition of other Presidents who have issued Executive orders in order to implement a particular policy.

The record is very clear. Franklin Roosevelt, in 1941, issued an Executive order requiring defense contractors to refrain from racial discrimination.

In 1951, after the enactment of the Procurement Act, President Truman issued an Executive order extending that requirement to all Federal contractors.

In 1964, President Johnson issued an Executive order prohibiting Federal contractors from discriminating on the basis of age and, at the time, Federal law permitted such discrimination. The Civil Rights Act of 1964 merely directed the President to study the issue. But the President, rightfully, issued the Executive order.

In 1969, the Nixon administration expanded the antidiscrimination Executive order to encompass a requirement that all Federal contractors adopt affirmative action programs, something a lot of Americans do not remember, but it was President Nixon who put that program in place.

In 1978, President Carter issued an Executive order requiring all Federal contractors to comply with certain guidelines limiting the amount of wage increases. And that order had the effect of limiting what Federal contractors could agree to in collective bargaining, notwithstanding the longstanding Federal policy of encouraging free collective bargaining.

In 1992, President Bush issued an Executive order requiring unionized Federal contractors to notify their unionized employees of their right to refuse to pay union dues. The National Labor Relations Act did not require any of that. In the 101st Congress, legislation had been proposed to impose that right, but the legislation had not been passed. But the President's Executive order, President Bush's Executive order, was not subject to judicial challenge.

So I believe President Clinton's Executive order is an appropriate one under the law, under the historical precedent, and it is obviously a necessary one, Mr. President.

We have learned through the history of strikes that, in fact, a strike that involves permanent replacements actually lasts seven times longer than strikes that do not involve permanent replacements. And they tend to be much more contentious, often changing a limited dispute into a much broader and more contentious kind of struggle. So if one is really interested in good management-labor relations, and in letting the free market work, I might add, Mr. President, it is appropriate to stand by the law as it now stands, which protects the right of workers to collectively bargain.

In 1937, John L. Lewis said that, ''The voice of labor insisting upon its rights should not be annoying to the ears of justice nor offensive to the conscience of the American people.'' And that is really what this is about—the ears of justice and the conscience of the American people, Mr. President.

I think when you look at the trendlines of what is happening, it is very clear that, if we continue down this road, probably more Americans will come together and question whether or not it is time to begin—somehow—to bargain for themselves. And I believe that the struggle for every working American family's right to a decent

and safe workplace and the most fundamental right, which is to seek a redress of those grievances within the workplace, is a very hard-fought victory that deserves to be preserved in order to preserve the fabric of this country.

I do not think it is too much to ask, Mr. President, at a time when the changing economic landscape is throwing American jobs into greater and greater competition in the marketplace, that American management simply grant their fellow Americans—the people who live in their towns and make up their communities—the right to bargain for working conditions without the fear of losing their job. For anyone for whom that is the choice, it is no choice. That is very clear.

And all of us who are here for a brief period of time, and we earn so much more, significantly more, than the average American does, we should stop and think about what is it like to make that decision to walk out of a workplace in order to get those better conditions.

That is not, for anyone here who has ever talked to somebody on a picket line, an easy choice. It is not a choice without extraordinary hardship in and of itself. To be faced with the prospect of potentially never walking back into a plant, as a consequence of simply standing up to be able to bargain for the better conditions, is not to live up to the American dream. It is certainly not to respect the history of what we have all been through as a country.

I think we have a code of conduct between labor and management and a set of rules that create a fair playing field. But that fairness would be stripped away by an effort to suggest that any employer who can simply replace people who try to bargain collectively and exercise their right to strike.

I hope, Mr. President, we will remember what this is really all about. It is not as if the corporate entity of this country in the last years has not gained enormously from the measures of the U.S. Congress. I would hope that as we go forward in these next days we will remember those who are increasingly being separated from their potential to touch the American dream, let alone to provide basics for their kids.

I yield the floor.

Mr. HARKIN. Mr. President, would the Senator yield for a dialog here?

Mr. KERRY. Mr. President, I would be delighted.

Mr. HARKIN. I listened carefully earlier when the Senator was going through his charts about the decline in middle income, and the disparity in who is getting the money in our country.

I was intrigued by the charts and how up until the 1960's, I believe, or the 1970's, the Senator was showing how most people increased and advanced together. But it has only been in the last few years where the discrepancies—and where the income was going—has really shown up.

Would the Senator show that last chart, where the disparities came in? Now, this was the chart that shows from 1950 to 1978 we were all kind of growing together, if I am not mistaken.

Mr. KERRY. That is correct.

Mr. HARKIN. And it shows that we basically all increased at the same rate, no matter what income level.

Mr. KERRY. In fact, the lowest 20 percent increased the most.

Mr. HARKIN. The most.

Now, what has happened now since 1978?

Mr. KERRY. Since 1978, right up until the present, there has been a dramatic turnaround where the lower three-fifths of America are going downhill; the fourth quintile has risen marginally, about 5 percent; and the top 20 percent are the people who are really taking home the gravy.

Mr. HARKIN. So that has happened just recently.

Mr. KERRY. Since 1979; since the dramatic increase—I might add, it is a very interesting coincidence.

The year 1979 marks the period where we had a $1 trillion debt in this country. From 1980 to 1993, which represents the greatest period of diminution of earnings, we also have the greatest single period of increase of debt in America.

As I know the Senator from Iowa knows, if we separate it out—the interest payments on that debt period from the current budget—not only are we in balance, but we run a surplus.

So it is the Reagan-Bush years and Congress, too. I will not dump that one. I am tired of hearing that it is exclusively one or the other. Both were complicitous in a process of unwillingness to be fiscally responsible.

But that irresponsibility has become one of the things that is stripping away the capacity of these folks at the bottom to gain the skills necessary in the new marketplace, where information is power, and skills, or the capacity to earn income that has significantly stripped away those folks' access to those skills or to that opportunity.

Mr. HARKIN. Mr. President, I thank the Senator for going over that again, because as the Senator was going through these charts it reminded me of an article I read, from May 23, 1994, ''Why America Needs Unions.''

> The slide in unions has been linked to a lower level of blue-collar wages, a wider disparity in incomes, and a loss of benefits for workers.

Let me read part of this article. It is titled ''Scary gap''—the gap in income.

> New research from respected economists of such schools as Harvard and Princeton shows that blue-collar wages trailed inflation in the 1980's, partly because unions represented fewer workers. The resulting drag on pay for millions of people accounts for at least 20 percent of the widening gap between rich and poor which has reached Depression-era dimensions.

A person might think this came out of some labor-management periodical. This is Business Week, May 23, 1994. I think that even responsible capitalists and responsible free enterprise publications like Business Week are beginning to understand that when we start doing away with unions and start doing away with the bargaining power of unions, we will be in for real trouble.

In fact, the article went on to say that:

> Free market economies need healthy unions. They offer a system of checks and balances, as former Labor Secretary George Shultz [a Republican] has put it, by making managers focus on employees as well as on profits and shareholders.

I think this Business Week article really buttresses what the Senator was saying in terms of the disparity in income and where it is going. I also believe that it shows that it is because of the lack of union bargaining power, because of the threat that is always held over their heads that, ''Well, you got to take what management wants, or leave it; and if you leave it and go on strike, which is legal, you will be permanently replaced, and therefore you have no bargaining power anymore.''

The Senator from Massachusetts has hit it right on the head. We just cannot permit this widening gap to continue.

Mr. KERRY. Mr. President, if I may point out to my colleague even further, this is another chart which shows that more working families—working families in America, we are not talking about the poor that are so quickly bashed here in Washington today who are on welfare; the poor who are not even on welfare and do not qualify and are not working; these are working Americans—Americans who are out there paying their taxes, struggling to make it. And what is happening?

In 1975, only about 8.2 or 8.3 percent of Americans who were working families qualified as poor in America. Dramatically, beginning in 1979, that went up to about 11.4 percent. We can see the incredible increase when we went through that very dramatic period of raising the defense spending, cutting the taxes, and increasing the deficit. It started down marginally for 3 years, between 1982 to 1985. Now it is going back up, and it is higher than it was in 1980. It is now at the highest level it has been in years, that is—the number of working Americans who are poor.

What is also interesting is back in 1960, 1970, 1980, the minimum wage could lift those folks out of poverty. The minimum wage, 100 percent value of the minimum wage between 1960 and 1980, if a person were earning just the minimum wage they could be lifted out of poverty. But that is no longer the case. The trend line has been straight down since 1980, so that now, in 1995, the minimum wage will only bring a person up to a 70 percent level of the poverty line.

What we are witnessing is an increase in the difficulty of those who are working. And the folks who are working in those conditions, by and large, are not the people who do not

have the need to join a union, who are working in a high-technology company or would have a benefits package that is basically geared to be fair and keep the union from growing. They are the folks who most need the union, and now they are also the folks who are finding that there is an effort to deprive them of the capacity to raise those wages to a level where they can make ends meet.

I have been, I will say to my friend from Iowa, I am not someone who has come to the floor and always pleased labor. I voted for GATT, I voted for NAFTA, and I have taken a lot of heat from friends in labor for doing it. I certainly have come to understand that there are in some practices in the marketplace, things that I object to on both sides of the fence.

But I cannot understand what it is that is so compelling in America, other than the effort to try to break the movement altogether, that suggests that it is appropriate to deprive people of the right to say that they can bargain collectively for a better effort, for a better wage, particularly given the fact that unlike the past, today's law does not shut the company down. They can bring in workers. They can keep on selling. They can keep on growing. They keep their salaries. They are not giving up anything.

So why should not that worker who has bargained—and we saw an example of this in a hospital the other day in New York where nurses went out, trying to get a contract, and some of the nurses refused to go out, and they stayed in the hospital and kept working. The patients were served. They brought in extra people. They made it work. And then they finally settled with those who had gone out and, indeed, the whole spirit of the place changes. People who are part of the fabric of that plant or endeavor come back together, they work together.

The best companies I have seen in America are companies where management brings labor into the process, where they are working closely together, where they never have a need for strikes because they are not adversarial.

Clearly, it seems to me, this effort to reduce the capacity of people to bargain simply runs counter to all of the experience of the marketplace since the robber baron days and on through the early 1900's up until the present. I do not think we can say labor law today is so stacked against management or, in fact, so balanced toward labor that there is some huge rationale that suggests that it is an appropriate moment for the U.S. Senate to join in gutting the entire history of the movement altogether.

I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, first of all, I want to thank my friend and colleague from Massachusetts for his very eloquent and, I think, on-the-mark statement regarding what is happening in this country today, as we stand here and watch unions be taken apart piece by piece around the United States.

Mr. President, I want to recap what this is all about, why we are here, and what this amendment is for those Senators who are in their offices or for viewers who may be watching on C–SPAN.

Yesterday, President Clinton issued an Executive order giving the authority to the Secretary of Labor to make a decision, to make a finding whether or not a company was permanently replacing workers who had exercised their legal right to strike. If such a finding was made, then the President would issue orders to relevant agencies of the Federal Government, to say they could no longer contract with that company in the future for any goods as long as that company persisted in hiring permanent replacements.

The amendment we have on the floor by Senator KASSEBAUM from Kansas would make that null and void by stating that through the power of the purse string in the Congress, that moneys could not be spent to enforce that Executive order. Now a cloture motion has been filed to cut off debate and bring it to a vote by Monday.

What precipitated all this? What precipitated the President of the United States in issuing such an Executive order?

It is a culmination of things, but I do not think there can be a clearer example of what brought this about than the example from my own State of Iowa, in the actions by Bridgestone/Firestone. So I am going to take the time of the Senate to walk through one of the—I was going to say saddest—one of the sickest episodes in the history of U.S. labor/management relations. I am sorry that it had to take place in my State of Iowa. I am sorry because our workers in Iowa have been good workers, loyal, productive, hardworking, and now they have been told by Bridgestone/Firestone that they can just go out on the trash heap.

We all have heard of Firestone Tire & Rubber, a well-known name in American industry. I am sure we all, at one time or another, had a Firestone tire on our car. Firestone in the 1980's was up for sale. There were a couple bidders for Firestone. One was Pirelli, an Italian-based company, which bought Armstrong Tire. The other was Bridgestone, which is a Japanese-based company.

They began bidding up the price. It is not that Firestone was bankrupt. We heard those comments earlier today. It was not bankrupt. In fact, Firestone was doing pretty well prior to that. In 1981, Firestone recorded a $121 million profit for the first 9 months. Bridgestone paid some $2.6 billion for Firestone.

In the early 1980's, Firestone began a series of actions, ratcheting down on the workers. First, they started laying off workers. Then in February 1985, they asked the workers to take a wage cut. The workers accepted a cut of $3.43 an hour. Later in 1985, Firestone asked that their property taxes be reduced from $1 million to $800,000, which was approved. So the property owners in Polk County, the county in which Firestone is located, had to make up the $200,000 through other increased property taxes.

Then in 1987, they asked union members to take another wage cut, and they did—$4 an hour. So now in the space of a little over 2 years, the workers at Firestone have taken wage and benefit cuts of $7.43 an hour.

Then in May 1987, Firestone requested some assistance from the government: $1 million from the State; $300,000 from Polk County; $100,000 from the City of Des Moines; $100,000 from Iowa Power; $50,000 from Midwest Gas. And the next month, Firestone gets all the grants from the taxpayers of the State of Iowa.

Bridgestone purchased the company for $2.6 billion, as I mentioned before, in 1988.

By 1993, the Des Moines Bridgestone/Firestone plant was profitable. They are $5 million ahead of budget.

By March of last year, the Bridgestone/Firestone plant in Des Moines set a new high record of productivity, 80.5 pounds per man-hour, and set an all-time record for pounds warehoused.

And then what happened? Last summer, when the contract came up for renewal, Bridgestone/Firestone, the employers, the management, refused to bargain with the employees.

So, left with no other recourse, the employees went out on strike. They have now been out for 8 months.

So this is not about workers who refuse to work. These workers worked hard.

Let me read a letter that I referred to earlier today from Sherrie Wallace. She wrote me this letter on January 8. She said:

> When Bridgestone came to each of us asking for help because we were not doing as well as the company needed to do, we all did our best. They asked me for one more tire every day and to stay out on the floor and to forgo my clean-up time. Not only did I respond, so did each and every member of the URW.
>
> Not only did I give them the one more tire per day, I gave them three times what they asked for. Our production levels soared. We threw ourselves into our company believing that we all must succeed together in order to create a better way of life for all. The membership joined committees and we became involved, we gave them our hearts. We began to believe this company was different. We gave them our input to create a better working environment. To increase productivity, we began to meet our production levels. We were proud of our company and our union. Together we did make a difference.

And then what did they get for it? When their contract came up for renewal, Bridgestone said, ''Sorry, suckers. Too bad. Too bad you gave your all. Too bad you worked hard. Too bad

you increased your productivity three times. Too bad you took $7 an hour in wage and benefit cuts in the 1970's. Too bad that your tax money gave us money so that we could become more profitable. You are a bunch of suckers. Out the door.''

That is in effect what Bridgestone did. They never sat down and negotiated. Not once, not once in 8 months have the employers sat down to negotiate.

There is a report in the Des Moines Register of today: ''Bridgestone/Firestone officials have not met with local union negotiators since the beginning of the record 8-month dispute.''

So it is not the workers. They are willing to sit down and negotiate under the law. We are a nation of laws, are we not? We have an existing legal structure under which these workers operate. They just want to abide by the law and negotiate.

The company said, ''Here are our demands. Take them or leave them.''

That is not negotiation. That is not good-faith bargaining. In fact, there is a case now pending before the National Labor Relations Board that the employer, Bridgestone/Firestone, is in violation of section 8, refusal to bargain in good faith. I do not see how anybody could find otherwise because section 8 does say that both sides are required to meet at reasonable times and under reasonable circumstances to negotiate on issues of wages, hours, and conditions of employment.

So I am hopeful that very soon the NLRB, which has had this case since last October, will render a decision. I can only hope that that decision will be that Bridgestone/Firestone is in violation of the law.

Earlier today, I talked about some of the demands that they were making on the workers of Bridgestone/Firestone, about the fact that they want lower wages and longer hours for our workers here than for their workers in Japan. Bridgestone/Firestone is trying to make up for the exorbitant prices they paid for Firestone by taking it out of the workers.

It is not that Bridgestone/Firestone is not profitable. No one has stated that. They are very, very profitable as a matter of fact. In fact, this is from the Wall Street Journal talking about the strike. They said:

The eight-month strike, the longest running in the tire industry, fails to hurt the company, Bridgestone/Firestone, which reports an 11 percent jump in sales and tripled profits for 1994.

''Tripled profits for 1994.'' And yet they will not even sit down and negotiate with workers.

The company operates tire plants with 3,000 permanent replacements and 1,300 workers who cross picket lines and says it doesn't need any more help.

No, it does not need any more help now. It got all the help in the beginning. They got all the help in workers taking wage cuts, concession cuts. They got help from the State of Iowa and the City of Des Moines giving them money, giving them grants.

There was another strike at Pirelli/Armstrong, and they have agreed to go back to work. Pirelli has to hire workers back or face fines under a National Labor Relations Board ruling.

Well, I think that same ruling is going to come down on Bridgestone/Firestone, that they have failed to negotiate in good faith. Again, I hope that that decision will be coming soon.

Mr. President, I ask unanimous consent that the article dated March 7, 1995 appear in full in the RECORD.

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

[From the Wall Street Journal, Mar. 7, 1995]

Rubber Workers strike out in their walkout at Bridgestone/Firestone.

The eight-month strike, the longest-running in the tire industry, fails to hurt the company, which reports an 11% jump in sales and tripled profits for 1994. The company operates tire plants with 3,000 permanent replacements and 1,300 workers who cross picket lines, and says it doesn't need any more help. David Meyer, a labor expert at the University of Akron, predicts replacement workers will eventually vote to decertify the United Rubber Workers. The standoff drains the strike fund, forcing the union to stop $100-a-week checks to strikers.

The URW tries to save 1,000 jobs at Pirelli Armstrong by offering an unconditional end to the strike there. Pirelli has to hire the workers back or face fines under a National Labor Relations Board ruling. ''This way,'' Mr. Meyer says, the union ''can at least stay in the plant and fight another day.''

Mr. HARKIN. The Wall Street Journal in December of this year, December 27, 1994, had a story about Bridgestone/Firestone. I am going to read some excerpts from it, and I ask unanimous consent that the entire article from the Wall Street Journal appear in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

(See exhibit 1)

Mr. HARKIN. Here is part of the article from the Wall Street Journal. It says:

When he took the wheel at Bridgestone Corp's U.S. operations 3 years ago, Japanese executive Yoichiro Kaizaki warned managers that he's a born gambler, and that he always wins. Mr. Kaizaki—who spent more time at the mahjong table than his college economics classes, a classmate says—was given bad odds for turning around the ailing U.S. operation . . .

Now, Mr. Kaizaki has cast the dice in perhaps his toughest wager yet; that he can crush a six-month-old strike at three of the company's eight U.S. tire plants, allowing Bridgestone to stand alone against a costly master contract adopted by its industry peers. Analysts think it would be tougher for the United Rubber Workers to maintain its clout in the industry if Bridgestone prevails in the strike.

That is why this is so insidious. Goodyear settled. Pirelli/Armstrong is going back to work. Dunlop, they have all signed on. They all have contracts. But now here is Bridgestone. They are saying, no, we are not going to reach an agreement. We will crush the union. We will depress our wages. And that will put Goodyear, Dunlop, and Armstrong at a competitive disadvantage. And what are they going to do? Their shareholders are going to say, ''Wait a minute; we have to do the same thing they are doing.'' And thus you get the ratcheting down of conditions in this country. So this does not have just to do with Bridgestone. It has to do with the whole tire industry in the United States and what is going to happen to the workers there.

The 61-year-old Mr. Kaizaki isn't looking for a compromise.

Here's more from the article from the Wall Street Journal, quoting Mr. Kaizaki: ''Ending the strike is not necessary for the company if we are forced to set working conditions that kill the company.''

Mr. Kaizaki says Bridgestone is racking up losses of about $10 million a month at the three striking plants.

And you would think that would bring them in, but even with that their profits tripled in 1994. So they are making big money. The real point is they do not want their workers to share in a legitimate, fair way with the increased profits they are making. That is what this is all about.

Earlier this afternoon, the senior Senator from Texas, Mr. GRAMM, said ''This has to do with the right of a free people to withhold their labor and the right of the employer to hire somebody else willing to work.''

That is what the Senator from Texas, who has now thrown his hat in the ring as an announced candidate for the President of the United States, said. Let me read that again. ''It has to do with the right of a free people to withhold their labor and the right of the employer to hire somebody else willing to work.''

Mr. President, I have a lot of cousins who work at Bridgestone/Firestone. There is not a one of them not willing to work. Many of them have worked there 20, 30 years. They want to work. And as Sherrie Wallace said in her letter to me not only do they want to work, they will work very hard. The company asked them to produce one more tire a day. She said, ''I gave them three more tires a day.''

Now, I am sorry. Mr. GRAMM has it wrong. They are willing to work. They are just not willing to be slaves. And we ought not to stand here and allow a company like Bridgestone/Firestone to make them slaves.

I chose my words carefully. I mean exactly what I said—these workers are like slaves, with no voice in what they are going to get as a share of the profits of that company. ''Take it or leave it,'' from the employer. ''No matter how long you have worked there, we do not care. You worked there 20 years, you give your best years to the company, we do not care. Take it or leave it, or out the door.''

That is slavery, pure and simple. These people are willing to work. They

want to work. They want to work under the rubric of the laws of the United States of America. These are law-abiding citizens. They are not breaking any law. If there is a law breaker it is Bridgestone, violating section 8 of the National Labor Relations Act.

And Bridgestone/Firestone cannot say that they are not hiring permanent replacements. They are hiring permanent replacements. That is exactly what they are doing. Here is a letter that was sent to Gary Sullivan, Sr., by Lamar Edwards, labor relations manager for Bridgestone.

On January 19, 1995, you did not report to work because you were on strike and you were permanently replaced.

That is what the letter says.

Please address any questions you have to the labor relations office. Lamar Edwards, Labor Relations Manager.

Not even ''Sincerely.'' Not even ''Cordially Yours.''

Gary Sullivan penned a note on the letter he sent to me. He said: ''This is all I am worth after 24 years of devoted and loyal service. Please continue to hang in there. We need your help.''

Mr. President, 24 years Gary Sullivan gave to this plant. He worked hard; he produced a lot of tires. They did not even say thank you.

I only have one question for Bridgestone. Where is their heart? Where is their conscience? Do they not have just a little bit of compassion? Do they not have just a little bit of feeling for working people, people like Gary Sullivan or Sherrie Wallace, or all my cousins who have been working at Bridgestone/Firestone?

We are not asking the company to go broke. Profits tripled last year. They are in a great position. But what is happening is they are taking all the money for Mr. Kaizaki and his shareholders, and they are going to see how little they can pay their workers to get the production levels that they want. And they will keep squeezing them down.

That is what this is all about. That is what this is all about, pure and simple. It has to do with whether or not in the specific instance we are about here—whether or not the Federal Government will take tax dollars from Sherrie Wallace and Gary Sullivan and Richard Harkin and Martin Harkin and Edward Harkin—I can go through all my cousins who worked there; it will take me about half an hour—whether they will take their tax dollars; will our Federal Government take their tax dollars and use those tax dollars to turn around and buy tires from Bridgestone/Firestone for the U.S. Government?

The fact is we have contracts with them; there are several contracts with Bridgestone/Firestone from the Federal Government. We know of some 47 Federal contracts held by Bridgestone/Firestone nationwide, not including contracts held by the corporation's subsidiaries. With this Executive order, Bridgestone would not be able to renew over $8 million in Government contracts, $1.5 million from the Des Moines plant alone.

So will we let the Federal Government take the tax dollars of these workers and turn around and use them to buy tires from a plant that has told them, no, we will not bargain with you; we are going to permanently replace you even though you have exercised your legal right to strike? That is why I am proud of what President Clinton did. He said: No, we are not. We are not going to renew our contracts with Bridgestone/Firestone. We are not going to buy tires from that company for the Federal Government if they will not even sit down and bargain and abide by the National Labor Relations Act and bargain in good faith.

Again, I do not know where Bridgestone/Firestone gets off on this. I do not know Mr. Kaizaki. I never met the man. But I do know something. They were talking about violence. We had a couple of violent instances at the Des Moines plant, strikers who were fearful of what is going to happen to their families and their children. I want to read one letter here: There are many ways to do violence. Twelve workers at Bridgestone/Firestone were fired by the company three days before Christmas as a response to what the company referred to as ''acts of violence, threats and aggressive behavior.''

I do not condone physical violence and physical threats. Most of us abhor such things as they occur in labor confrontations. However, that is what company officials are counting on in this situation as they commit their own brand of violence by refusing to bargain in good faith for an end to the strike. The company is using its financial might as a club over the workers.

The management of Bridgestone/Firestone wants nothing less than complete capitulation by the members of the United Rubber Workers union. The union is trying to hang on to benefits gained over the years in legitimate negotiating processes.

It behooves the rest of us in the community to understand that what is happening out on Second Avenue in Des Moines and at the other Bridgestone/Firestone locations around the country is an attempt to further erode the rights of workers to maintain some control over their own lives, minds and bodies rather than become the de facto property of the company.

Do not be fooled by the actions of the management of Bridgestone/Firestone. It is every bit as violent (and more so) as any act of physical violence on the picket line in its destructive effects on human life—The Rev. Carlos C. Jayne.

So what Bridgestone/Firestone is doing are acts of violence, violence to decent, hard-working people, many of whom served in our military, fought in our wars; many who gave the best years of their lives; many who have sustained injuries of one form or another; many who are now in their fifties and will not be able to find work anywhere else.

And what Bridgestone is saying is it is just tough luck. We are going to throw you out on the trash heap of life.

It did not just start here. It started a long time ago. It started with other companies, but now it has reached epic proportions. Basically, what we are seeing in America today is the destruction of the working spirit, because what we are telling workers is they are like a piece of machinery. We can use you up and depreciate you down and then we can just kind of throw you out. I think it is destructive of the work ethic. I know it is destructive of human nature. I know it has destroyed a lot of people.

I first came across something like this, when my brother Frank was working at a plant in Des Moines, Delavan Manufacturing Co., started by Mr. Delavan, right before the Second World War. During the Second World War, it grew big because it made a lot of defense articles and it continued to make a lot of defense equipment on through the years. My brother went to work there. He was a machine tool operator and worked there for 23 years.

He loved his job. He loved the plant. He loved Mr. Delavan, a man I had met myself. He had a good job. He belonged to the United Auto Workers. He was a proud union man. He worked there for 23 years. In the first 10 years he worked there, he did not miss 1 day of work and was not late once in 10 years.

I remember I came home from the service on leave one time, and at a Christmas dinner they gave him a gold watch with his name on it because in 10 years he had not missed 1 day of work and he had not been late once in 10 years.

My brother worked in that plant for 23 years. He missed 5 days of work in 23 years because of the snow conditions. We lived in a small town outside Des Moines, and he could not make it to work.

The same thing happened there as happened at Firestone. Mr. Delavan got old. He sold the company. He took care of his workers. In all of those 23 years that plant never had labor strife; they never went on strike. When the contract went up for renegotiation, Mr. Delavan would sit down with them, and they would renegotiate.

Mr. Delavan got old and sold the company to a group of investors. They bought the company. One of the leaders of this investor group bragged at a speech in Des Moines. ''If you want to see how to bust a union, come to Delavan.'' The contract came up for negotiation. He refused to sit down and bargain.

The same thing is true at Bridgestone/Firestone. The workers went out on strike. They brought in the permanent replacements. That was the end of it.

For 23 years my brother worked there. My brother is a high school graduate. He gave the best years of his life, and worked hard. He would stay after work. No matter what they asked him to do, he would do it; 23 years.

Another part of the story I have not mentioned. My brother is disabled; he's deaf. He went to the Iowa School for the Deaf and Dumb. I remember he always said, ''You know, I may be deaf

but I am not dumb.'' But that is what they called it: The Iowa School for the Deaf and Dumb.

When he went there, they said, ''You can be three things: A shoe cobbler, a printer's assistant, or a baker. It is your choice.'' He said, ''I do not want to be any one of those.'' But he said, ''OK. I am going to be a baker.''

He got out of school and baked for a while. Then he got this great job at Delavan's. He made good money. He was a union member. He bought his own car. It was incredible. Here is a deaf man in his early twenties making decent money, bought a new car, out on his own.

You see, Mr. Delavan had gone out and hired disabled people—he was way ahead of his time—to work in his plant and found out that they made some of the best workers. When this new crowd came in and bought the plant, did they give a hoot? They did not care. The bottom line was profits. That was it. They figured it out. If they could take my brother, Frank, who had been there for 23 years and worked his way up the wage scale, if they could get rid of him, they could hire somebody else for a third less. That is exactly what they did.

I will never forget as long as I live two things my brother said to me. The one was when he said to me, ''I may be deaf but I am not dumb.'' I will never forget that. I will never forget that after he lost his job at Delavan's, he was then 54 years old. Do you know where a 54-year-old deaf man finds a job? He got a job as a janitor working at night cleaning out the latrines.

Here is a man who for 23 years operated a nice piece of equipment. It was a drill press. As a matter of fact, he made jet engine nozzles that I used in the jets that I flew in the Navy. He was contributing to the defense of his country. He was making a good wage. He was a member of a union; highly productive; 54 years old. No one is going to hire a 54-year-old deaf man. He went and got a job as a janitor at minimum wage; no union; no benefits; no health care; no anything.

The second thing he said to me that I will never forget. He said, ''I feel like that piece of machinery.'' Delavan had out in back a dump where they dumped all the tailings, and worn out machines. He said, ''I feel like one of those pieces of machinery that they used up and they threw out.''

I will tell you. When those things hit home, you never forget them. So I have been in favor of doing something about striker replacement ever since that time. It is just not right. It is not right for companies to do this to people. Not all companies do this. It started small. But now it is like a wildfire. Now they are all starting to do it. If Bridgestone/Firestone gets by with it, it will be Armstrong next and then it will be Goodyear and then it will be Dunlop and it will just keep going on because they are going to have to compete. That is what is happening in our society.

So that is what this is all about. It is not convoluted. It is not complicated. It is very simple. It is about whether or not working people in America have any dignity, whether they have any rights at all, whether we believe that people who work should have some bargaining power to bargain with their employer, or whether or not the employer can just say ''take it or leave it.'' That is all it is about. It is nothing more than that.

Finally, it is about whether or not we in the Federal Government will permit our tax dollars to be used to help subsidize this kind of corporate greed, corporate irresponsibility.

President Clinton did the right thing, and I hope we do the right thing. I hope we defeat the Kassebaum amendment and send a strong signal to our workers that the Federal Government, at least, is not going to use their tax dollars to subsidize companies like Bridgestone/Firestone.

I yield the floor.

EXHIBIT 1

[From the Wall Street Journal, Dec. 27, 1994]

CORPORATE FOCUS: BRIDGESTONE BETS IT CAN DEFEAT RUBBER WORKERS' STRIKE—KAIZAKI TRIES TO TURN AROUND FIRESTONE BY BUCKING INDUSTRYWIDE CONTRACT

(By Valerie Reitman, Masayoshi Kanabayashi, and Raju Narisetti)

When he took the wheel at Bridgestone Corporation's U.S. operation three years ago, Japanese executive Yoichiro Kaizaki warned managers that he's a born gambler, and that he always wins.

Mr. Kaizaki—who spent more time at the mahjong table than his college economics classes, a classmate says—was given bad odds for turning around the ailing U.S. operation. So far, he has beaten them.

His aggressive restructuring, known as ''risutora'' in Japanese, has produced the beginning of a turnaround at rusty Firestone Tire & Rubber Co., which Bridgestone acquired for $2.6 billion in 1988. Mr. Kaizaki's performance at the U.S. operation, known as Bridgestone/Firestone Inc., led to his promotion last year to president of the Tokyo-based parent company, one of the world's largest tire makers, with $10.7 billion in tire revenue last year.

Now, Mr. Kaizaki has cast the dice in perhaps his toughest wager yet: that he can crush a six-month old strike at three of the company's eight U.S. tire plants, allowing Bridgestone to stand alone against a costly master contract adopted by its industry peers. Analysts think it would be tough for the United Rubber Workers to maintain its clout in the industry if Bridgestone prevails in the strike.

The battle is reaching a flash point: Bridgestone says it's about to replace workers permanently, while the union vows to keep Bridgestone from gutting the hard-won increases at other companies.

The outcome likely will determine whether Bridgestone's purchase of Firestone—widely considered one of the worst Japanese investments in America several years ago—will prove a durable winner. Or whether it will go down on the list that includes Sony Corp.'s purchase of Columbia Pictures and Matsushita Electric Industrial Co.'s acquisition of MCA Inc.

The strike's resolution also will stand as a verdict on the management performance of Mr. Kaizaki, who has been applying the restructuring lessons he learned in America to Japan.

When it acquired Firestone, Bridgestone instantly gained a substantial base of U.S. and European factories and sales outlets, doubling its revenue. But Mr. Kaizaki's sweeping reorganization in the U.S. including cost cuts and massive layoffs, and his attempts to boost productivity, have led to this year's strike. Bridgestone and the union are ''locked in mortal combat,'' says William McGrath, a Cleveland tire-industry consultant.

Negotiations are at a stalemate in the strike, which has already surpassed the 141-day walkout that crippled the U.S. tire industry in 1976. Bridgestone is considering making permanent many of the temporary workers hired to replace the 4,200 strikers. Tension has erupted on racial lines, with pickets bearing placards saying ''Nuke 'em'' and ''WWII Part II—Japan's Bridgestone Attack on American Economy.''

The union wants Bridgestone to extend the same master contract adopted by U.S. tire industry bellwether Goodyear Tire & Rubber Co. The contract calls for wage and benefit increases of 16% over a three-year period from the current average of $67,000, with the average salary portion going up to $49,000 from $45,000.

Bridgestone and Mr. Kaizaki aren't budging. The company says its crushing debt load—$2 billion left over from the acquisition and subsequent capital investment, and another $500 million of off-balance-sheet debt—makes it unfeasible to accept the same agreement as its powerful rival, Goodyear. But Bridgestone contends its proposal is generous, providing average annual compensation of $63,000 when pegged to productivity improvements and 12-hour rotating shifts. The union abhors the work schedule and says it's impossible to calculate the value of the proposal, given several proposed reductions of pension and medical benefits.

The 61-year-old Mr. Kaizaki isn't looking for a compromise. ''Ending the strike is not necessary for the company if we are forced to set working conditions that kill the company,'' he says in an interview.

Mr. Kaizaki says Bridgestone is racking up losses of about $10 million a month at the three striking plants, but that the U.S. operations overall will still earn a profit for the year. Its five other plants are operating full throttle: Union contracts there do not fall under the URW master agreement. Indeed, for the first time since Bridgestone's acquisition, the U.S. operation swung into the black with a $6 million profit last year, and another $10 million in profit is expected this year.

While the strike has forced Bridgestone to import costly tires from Japan and to fall behind in farm-tire deliveries, the betting is that Mr. Kaizaki will prevail. With the union's war chest running low and some union workers crossing pickets, ''this one is an endgame,'' says University of Akron management Prof. Daniel Meyer. ''If the URW picket lines break and a lot of those workers go back, they (URW) will still be a force, but their ability to impact in a major way would be gone''

Judging by his past record, Mr. Kaizaki isn't likely to retreat. A maverick by any standard, he particularly stands out among Japanese managers, The son of a soy-sauce brewer, built like a fireplug, the chain-smoking Mr. Kaizaki resembles the bulldog of a manager he is.

He surprised Firestone workers when he arrived in the U.S. in 1991. He admitted that he knew little about the tire business, coming from Bridgestone's chemical division, and even less about North America. Nor did

he speak English. But what he did say was memorable—that he could make tough decisions because he ''had a strong stomach and no problem sleeping at night,'' recalls Bridgestone/Firestone Inc.'s vice president, Trevor Hoskins.

The first Japanese word many Firestone workers learned when he took over was dame (pronounced DA-may), or ''no good,'' which he often used about compromises with the union, according to Nikkei Business magazine.

Productivity assessments have been another hallmark. Mr. Kaizaki quickly divided the U.S. operation into 21 divisions, set clear goals for each manager and gave each division chief ''The Buck Stops Here'' placards. He says he has no second thoughts about the demands that prompted the strike, including a nonstop production cycle and tying wages to productivity.

From his U.S. vantage, Mr. Kaizaki says he could ''see many defects'' in the Japanese headquarters. ''When I went to the U.S., the parent in Japan did not possess the ability to institute cost-cutting measures.'' Now, he's implementing some of his U.S. changes at the Japanese parent, putting it on a restructuring diet that he calls slim-ka, in order to offset rubber-price increases (50% this year alone), the yen's appreciation and anemic sales. He has halved management positions, established direct managerial communication lines and meted out the lowest raises in the Japanese tire industry to Bridgestone workers, still the industry's highest-paid.

The diet is working: Bridgestone just boosted its 1994 earnings forecast for Japanese operations to 21.5 billion yen ($216 million), a 26% increase from 17.05 billion yen last year.

In the interview, Mr. Kaizaki dares to say he would lay off workers at the parent if it starts losing money. Even suggesting such a possibility is radical in Japan. But, he says, ''I will fire people if the company here falls into as bad a situation as Firestone was in when I was in the U.S.''

Even now, he acknowledges that it will be some time before Bridgestone beats the long odds placed on its investment in Firestone. ''I think it will take a long time for us to see results. We are getting on the right track, but we are still deeply hurt.''

Bridgestone by the numbers—the fundamentals

	1993	1992
Sales (trillions)	1.60	1.75
Net income (billions)	28.39	28.40
Earnings per shares	36.8	36.8

Major product lines: Tires (accounting for 74.5% of total sales), wheels, industrial rubber products, chemical products, sporting goods, bicycles.

Major competitors: Group Michelin (in Europe), Goodyear Tire & Rubber (in U.S.).

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you, Mr. President.

Mr. President, I want to associate myself and concur with the remarks of the Senator from Iowa, my neighbor. I, too, rise in opposition to the pending amendment.

This amendment would block the Executive order issued by President Clinton that prevents the Federal Government from contracting with employers that permanently replace legally striking employees. I strongly support the Executive order.

The time has come, Mr. President, for all of us in this body to begin to correct the significant imbalance that exists in labor law today; an imbalance that must be corrected if America is going to thrive in the increasingly competitive global marketplace.

Mr. President, under our Federal labor law, an employee cannot be fired for exercising the right to strike. Congress guaranteed that right in 1935 with the passage of the National Labor Relations Act, which told every worker that he or she had the right to organize labor unions, to bargain collectively with employers, and to strike in support of those bargaining demands.

Unfortunately, based on the Supreme Court decision in the case of NLRB v. MacKay Radio and Telegraph Company, that same employee who cannot be fired can be ''permanently replaced.'' Mr. President, I have yet to figure out how to console an employee who just lost his or her job for going out on strike by telling her that she has not really been ''fired,'' she has just been ''permanently replaced.''

The distinction makes absolutely no sense. It is newspeak. It is a distinction without a difference. Perhaps those in the Congress who oppose the President's Executive order could take a moment to explain the distinction to the Senate, the difference between being permanently replaced on a job versus being fired from that job. Or, better yet, perhaps they could take a minute to explain the difference to people like Carol Little, a former employee of the Woodstock Die Cast Co. in Woodstock, IL. I want to tell Carol's story because I think it is significant and it points to some of the issues that the Senator from Iowa raised in his eloquent statement.

In 1988, Woodstock workers went out on strike to protest severe company cutbacks. At issue were proposed reduction in wages and health care benefits, as well as complete elimination of pension benefits, all in a time when the company was making a profit.

Many strike participants had 30 and 40 years of service in the plant, and a majority had over 10 years of service. Carol Little was one of the 370 workers who went on strike as a typical Woodstock Die Cast worker. A 22-year veteran of the plant, she began working at Woodstock Die Cast in 1966.

The job made it possible for her to support her children and disabled husband, while putting a son through college. As the family's primary breadwinner, she depended on the fair wages and benefits historically provided by the Woodstock Die Co.

Within 2 days of the beginning of the strike, the company began advertising for and hiring permanent replacement workers. The company ultimately replaced 220 of the 370 strikers.

While the union provided hardship payments to workers facing severe financial problems, a number of strikers still lost their homes. Several of the striking Woodstock Die Cast workers were forced to file for bankruptcy. In addition, the practice of replacing strikers had severe repercussions throughout the community. The stress caused by the strike and the ensuing job losses contributing to an increase in the divorce rate among former Woodstock Die Cast employees. The most poignant example of tragic personal loss, however, is that of a 26-year-old striker who, in an act of hopelessness, took his own life after his wife left him.

Fortunately, everything turned out OK for Carol Little. She was able to find another job and continue to support her family, but not everyone was as fortunate as Carol Little.

This tragic story is not unique, Mr. President. Similar stories could be told by the 85 workers replaced by Capitol Engineering in 1983; the 100 workers replaced by Calumet Steel in 1986; the 160 workers permanently replaced by Aircraft Gear Corp. in Chicago, in 1990; and the 338 members of the Chicago Beer Wholesalers Association who were permanently replaced—to cite just a few examples.

Over the last few months, the Bridgestone/Firestone Corp. has also permanently replaced several hundred workers in its plant in Decatur, IL. There is a plant in Decatur as well as Des Moines. This decision has created severe economic disruptions for working families that depend on Bridgestone/Firestone for their livelihood. It has also impacted many people and businesses throughout the Decatur area that are not directly connected with the company.

The fact of the matter is, Mr. President, that there is no difference between permanently replacing a striking worker, or firing a striking worker. As Thomas Donahue, secretary-treasurer of the AFL–CIO stated:

> Stripped of the legal niceties, the Mackay doctrine is a grant to employers of the 'right' to punish employees for doing no more than unionizing and engaging in collective bargaining. Mackay takes back a large part of the Federal labor law's broad promise to employees that they are protected against employer retaliation if they choose to exercise their freedom to associate in unions. And it does so when that promise would have the most meaning: A collective bargaining dispute. At that critical time, the Mackay doctrine sacrifices basic workers' rights in the interest of aggrandizing employer prerogatives.

Mr. President, the Senate failed to end debate on the striker replacement act last July. This legislation would have amended both the National Labor Relations Act and the Railway Labor Act by banning the permanent replacement of striking workers.

The Executive order issued yesterday by President Clinton will help us take a small, first step; toward restoring the long-standing imbalance in labor-management relations by prohibiting the Federal Government from contracting with employers that replace legally striking workers.

It does not mean that the choice that employees have will be removed from them. They can still decide if they want to avail themselves of the right to permanently replace somebody, but it does mean that taxpayers will not be a party to decisions to permanently replace workers when indeed the law that guarantees people the right to strike would have prohibited it.

Mr. President, this order represents a lawful exercise of Presidential authority. The Federal Procurement Act, enacted by Congress in 1949, expressly authorizes the President to ''prescribe policies and directives, not inconsistent with the provisions of this act, as he shall deem necessary to effectuate the provisions of said act.''

Republican and Democratic Presidents alike have issued Executive orders addressing the conduct of companies with which the Federal Government does business. For example, in 1941, President Roosevelt issued an Executive order which prohibited defense contractors from discriminating against individuals on the basis of race. In 1951, after enactment of the Procurement Act, President Truman—whose desk I share, by the way, Mr. President—issued an Executive order extending that requirement to all Federal contractors. When both orders were issued, such discrimination was not unlawful and, in fact, Congress had failed to enact an antidiscrimination law proposed by President Truman.

In 1964, President Johnson issued an Executive order prohibiting Federal contractors from discriminating on the basis of age. At the time, Federal law permitted such discrimination.

In 1969, President Nixon expanded the antidiscrimination Executive order by requiring all Federal contractors to adopt affirmative action programs. President Nixon did that.

In 1992, President Bush issued an Executive order requiring unionized Federal contractors to notify their unionized employees of their right to refuse to pay union dues.

Mr. President, since being elected to the Senate I have had the opportunity to speak to hundreds of workers about the issue of striker replacements throughout my State and indeed in other places, as well. The most important point that I try to make when I talk with working people is that a company's most important asset is its labor force.

This permanent replacement situation, I believe, is counterproductive in that it sets up a dynamic of mistrust and hostility between labor and management that cannot be constructive or conducive to productivity. That really breaks down the capacity of the organization to function.

Of course, every time I talk to working people, I am preaching to the choir. Telling a group of UAW members, for example, about the importance of passing legislation that would prohibit permanent striker replacements is like telling South Africans about the importance of voting. They get it right off, and they understand immediately what it means.

But I have also tried to get the same message through to members of the business community in Illinois. I hope I have been successful. America's employers have nothing to fear from President Clinton's Executive order. In the end, labor and management's interests really are the same. We are all in a global economy and we will rise or fall, sink or swim together. We are all in this together.

Mrs. BOXER. Will my colleague yield to me on that point for just a very brief comment?

Ms. MOSELEY-BRAUN. Certainly.

Mrs. BOXER. Mr. President, I really am pleased to hear the Senator talk about how important it is to have good relations between the workers and management.

I know that our Presiding Officer is a very successful business person. I know how much we think of him. We think he is one of the finest Senators, and I am sure that his workers felt the same way about him because this is a man of quality. I think that relationship is crucial.

I just wanted to put in the RECORD at this point a comment that was made by a nurse who was voted the nurse of the year in one of our great hospitals in California. There was a terrible strike going on and the nurses felt that they were really being abused in many, many ways. I will not go into all the details. It is not important here.

But what is important is that they went out on strike and within a day they were replaced. This is what she said:

I always felt that you strike because of the issues and when you settle the issues you go back to work. You do not win every issue. You compromise. That is how we do it in America. I never thought they would replace the workers. Why would anyone ever go on strike then?

And I think that very simple message gets through to me. We need to settle our differences amicably. And if you know that you are going to be replaced the minute you withhold your labor, which is a human right, then I think it has a tremendously chilling effect.

So I am very pleased to associate myself with the Senator's remarks, the fact that I think that it is the right thing for business and for the working people and that our President did the right thing. He stood up and said, you know, ''I'm drawing a line here in the sand.''

I am very sorry that we are into this on a bill that is supposed to reimburse the Pentagon for peacekeeping expenses. It seems to me very odd that the Republicans would offer such an amendment on a bill I know they want to get through. It is delaying us, but I guess that is the way it goes.

I am proud to associate myself with my colleague. I look forward to working with her on this issue.

Ms. MOSELEY-BRAUN. Thank you very much.

I thank the Senator from California for her remarks, as well.

Mr. President, I would like to address some of the incorrect statements that have been made about President Clinton's Executive order.

The President's Executive order will not encourage workers to strike, it will only restore balance to their relations with employers. It also will not prevent employers whose workers choose to strike from carrying on with their business.

A company faced with a strike has a number of options. It can hire temporary replacements. It can rely on supervisory or management personnel to complete jobs. It can transfer work to another plant, subcontract work, or stockpile in advance of a strike. In addition, the Supreme Court has long held that an employer lawfully may lock out employees as a means of controlling the time of a work stoppage and gain an advantage thereby in bargaining. The President's Executive order will not take away any of those alternatives.

All it will do, again, is keep taxpayers from being made an inadvertent, unwilling, and unexpected party to the capacity of an employer to permanently replace a worker. Again, ''permanently replace''—in my mind, I would like someone to explain how that is different from firing somebody.

There are, of course, those who say that the Executive order is unnecessary, that employers are no more likely to hire permanent replacements for their workers now than they were when the Mackay decision was originally issued. The facts, however, tell another story. Since 1980, employers have made far more frequent use of permanent replacements.

In 1990, Mr. President, the General Accounting Office released a study on the use of permanent replacements by employers of labor disputes covered by the NLRA. The study covered the years 1985 to 1989. The study found that in fully one-third of the strikes examined, employers indicated they intended to hire permanent replacements. In approximately 17 percent of the strikes, employers actually did hire permanent replacements. The GAO stated that approximately 14,000 striking workers were replaced in 1985 and 14,000 more in 1989.

Of course, this figure did not cover employees covered by the Rail Labor Act, or the RLA, such as the 8,000 pilots, machinists and flight attendants replaced by Continental Airlines in 1985, or the 7,000 employees replaced by Eastern Airlines in 1989. An AFL-CIO study found 11 percent of striking workers, 126,450 individuals in all, were permanently replaced in 1990.

What we are seeing is an increase in the use of permanent replacements, and an increase in the use of this tactic by employers. Again, given the trauma that it occasioned, I daresay it cannot

be in our national interests to promote or to continue.

What is even more important to realize, Mr. President, is the real issue is not ultimately how often the permanent replacement weapon is used. The truth is that the mere availability of this weapon to management distorts the collective bargaining process in many, many more labor disputes than those in which it is actually used. The mere existence of the threat, whether or not it is carried out, is enough to undermine the right to organize and to undermine workers' ability to bargain on a level playing field about the conditions of their work.

In that regard, I reference the letter that was read by the Senator from California, when the letter writer said, ''If you knew you were going to get fired, why would you try?''

After 12 years of antagonism during previous administrations, the time I believe has come to forge a new direction. The time has come for labor and management to work together in this country. Our major industrial competitors including Canada, Japan, Germany, and France, have recognized that banning the permanent replacement of strikers restores balance in the collective bargaining process and makes good economic sense. The time has come for Congress to do the same.

I point out again, with regard to Bridgestone/Firestone in Decatur and Des Moines, what is happening in Decatur, and what is happening in Des Moines, is illegal in Japan. It is almost too perverse to contemplate.

America's union workers are not simply another cost to be cut. They are human beings who are often struggling to provide for their families to make ends meet. Under our Nation's labor laws they have certain rights, including the right to strike. Congress thought that we were guaranteeing that in 1935 when the NLRA was passed. Unfortunately, they were wrong. They had not counted on someone coming up with the idea that to be permanently replaced was not the same thing as being fired.

But we can guarantee that today. We can acknowledge what everyone knows to be true: That absent the right to strike without being permanently replaced, collective bargaining does not work. It cannot. It cannot if management can replace workers the minute they take to the picket lines. Workers then do not have the right to bargain. They walk around in every negotiation with a loaded gun, frankly, at their heads.

Mr. President, we are entering a new era in economic competition. All over the world, barriers to trade between nations are falling. We are witnessing the development of a truly global marketplace. I believe that America can and must lead the way in this marketplace, but if we are to succeed, if we are to retain our competitive into the 21st century, there must be a symbiosis between labor and management and government. That means a mutually beneficial working relationship, one of mutual respect: Labor needs jobs, workers need jobs, workers need the business to be competitive to make a profit to be able to compete. Government should be a partner of all of that.

Certainly, this issue of permanent replacement of strikers just cuts against the grain and prohibits and precludes our ability to advance ourselves and to go forward in terms of this global marketplace and the competitiveness challenges that we are facing in the world.

Mr. President, President Clinton's Executive order, I believe, is a first step in restoring the balance, the delicate balance, that will allow America to retain its competitive edge. I would, therefore, like to conclude my remarks by urging this body to oppose the pending amendment. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

THE PELL GRANT PROGRAM

Mr. PELL. Mr. President, recently, concern was expressed that the Pell Grant Program may be giving college students a free ride, and that Federal funds might be better spent by transferring funds to the College Work Study Program. Because of this, I thought it might be helpful to take a somewhat closer look at the Pell Grant Program, and place it in a more proper context regarding student aid in general and its relationship to college work study in particular. I thought it might also be good to see just how many students today have to work to help pay for their college education.

At the outset, let me make it clear that I support both of these very worthy programs. The Pell Grant Program provides students with need the opportunity to pursue a college education that might be beyond their financial reach. The College Work Study Program often supplements the Pell Grant Program and offers deserving students the chance to help defray their educational expenses by working. Both programs are important, and both programs are essential.

I am concerned, however, that with respect to the Pell Grant Program, the impression in the public's mind might be that these students do not have to work and that their college education is being fully financed by their Pell grant. Nothing could be farther from the truth.

As my colleagues know, the Pell grant award is need-based, which means it goes only to students who demonstrate financial need. Over 75 percent of all students who receive Pell grants come from families with incomes of less than $15,000 a year, which means that the program is targeted to those students who have the greatest financial need.

In addition, it is very important that one realize that the maximum Pell grant can be no higher than $2,340, the current maximum, or 60 percent of the cost of attendance, whichever is less. Thus, in no situation does the Pell grant pay for a student's entire education. At best, it covers only 60 percent of the cost of attendance, and that in the case of those students who demonstrate the very greatest need.

Increasingly, more and more students find they must work in order to obtain the additional funds necessary to pay for a college education. A recent Washington Post article indicated that the proportion of all fulltime college students between the ages of 16 and 24 who worked to help pay for their education had increased from 35 percent in 1972 to 51 percent in 1993. And, fulltime students now work an average of 25 hours a week.

The figures for Pell grant recipients are even more dramatic. Of those who responded to a recent survey by the U.S. Department of Education, more than 75 percent of all Pell grant recipients worked and 60 percent worked while they were in school. Numerically, this means that almost 2.8 million Pell grant recipients work, and over 2.2 million must work and go to college at the same time.

I am equally concerned that there may simply not be enough hours in a day for needy and deserving students to pay for their entire education by working. One goes to college to learn. If that is to be done and done well, students must have sufficient time to study. While work may be both necessary and laudable, it should not rob students of the time they need to fulfill the academic responsibilities that led them to seek a college education in the first place.

Further, it is very doubtful that there are enough jobs in and around campus to meet the demand that would be created if the Pell Grant Program were handed over to college work study. When we reauthorized the Higher Education Act in 1992, we considered an expansion of the Work Study Program, but found that many colleges were literally stretched to the limits in terms of finding employment for their students. Thus, as worthwhile and important as the College Work Study Program is, it simply cannot meet the overwhelming needs of students.

One of the unique features of the Pell Grant Program is that it is targeted to the student and not the institution. If students demonstrate need, Pell grant funds are available to help them attend a college of their choice. Transferring that approach to the campus-based Work Study Program would change the very nature of the Pell Grant Program.

Access and choice are twin features of this important program, and I am of the mind that we should not alter that approach.

The Pell Grant Program has helped literally millions of students achieve a college education that otherwise would have been beyond their reach. This year more than 3.7 million students received Pell grants, and more than 54 million grants have been made since the program began in 1973–74 school year. It is a program that has outstripped the widely popular and important GI bill on which it was modeled.

Mr. President, today we are faced with the fact that more students and families are having to go deeply into debt to pay for a college education. The number of students and families who must borrow and the amount of money they are borrowing are reaching gigantic proportions. A decade ago the anticipated new loan volume in the Guaranteed Student Loan Program was $7.9 billion with just under 3.4 million borrowers. This year the anticipated loan volume is $25.8 billion and almost 6.6 million borrowers. The number of borrowers has less than doubled, but the amount borrowed has more than tripled.

Instead of focusing concern on either the Pell Grant Program or the College Work Study Program, we should be examining with care the long-term effects of student indebtedness. Instead of a debate that would have us choose between grants or work study, we should be debating how to increase both of those programs in order to relieve students and families of the terrible debt burden they are incurring through student loans.

Mr. President, in a Congress where the size of the national debt is rightfully a major focus and where the need for a better balance between income and expenditures is absolutely necessary, we should not lose sight of the fact that this applies not only to Federal spending but also to family spending and the deficit they face in trying to pay for a college education.

In a Congress where budget cutting is a major theme, it may not be popular to suggest that the right and prudent course to follow in student aid is to increase funding in both the Pell grant and the College Work Study program. Yet, that is, to my mind, the course we should be following if, in fact, we are really, truly concerned about the debt American students and families are incurring as they invest not only in education but in their own and their Nation's future strength and well-being.

What Disraeli said of England over a century ago is surely just as true for America today: ''Upon the education of our children depends the future of the nation.''

COMMEMORATION OF NATIONAL SPORTSMANSHIP DAY

Mr. PELL. Mr. President, it is with great pride that I bring to the attention of my colleagues National Sportsmanship Day which was celebrated on March 7.

My pride stems from the fact that this celebration, which is recognized by the President's Council on Physical Fitness and Sports, originated as a concept of the Institute for International Sport. The institute, housed at the University of Rhode Island, has brought us the hugely successful World Scholar-Athlete Games and the soon to be held Rhode Island Scholar-Athlete Games. National Sportsmanship Day, now in its fifth year, has grown into a national and now an international movement.

National Sportsmanship day was conceived to create an awareness among the students of this country—from grade school to university level—of the importance of ethics, fair play, and sportsmanship in all facets of athletics as well as society as a whole. The need to periodically refocus our young people on sportsmanship and fair play is sadly evident on the playing field in these days of taunting, fighting, winning at all costs mentality, and the lure of huge sums of money for athletes hardly ready to cope with life's normal challenges.

To commemorate National Sportsmanship Day, the Institute for International Sport sends to all participating schools—now numbering 5,000 in all 50 States as well as a number of schools in nearly 50 countries—packets of information with instructional materials on the themes surrounding the issue of sportsmanship. Throughout the country, students are involved in discussions, writing essays, creating art work, and in other creative ways engaging each other on the subject.

The institute's nationally recognized Sports Ethics Fellows Program, which counts among its present members Olympic gold medal skater Bonnie Blair, promotes and supports National Sportsmanship Day activities.

Mr. President, as it has in past years, the President's Council on Physical Fitness and Sports had recognized National Sportsmanship Day. I ask unanimous consent that the letter signed by the council's cochairs Florence Griffith Joyner and former Congressman Tom McMillen be printed in the RECORD following my remarks. I also urge my colleagues, Mr. President, to encourage students to focus on National Sportsmanship Day.

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

THE PRESIDENT'S COUNCIL ON
PHYSICAL FITNESS AND SPORTS,
Washington, DC, November 28, 1994.

Mr. TODD SEIDEL,
Director of National Sportsmanship Day, Institute for International Sport, University of Rhode Island, Kingston, RI.

DEAR MR. SEIDEL: The President's Council on Physical Fitness and Sports is pleased to recognize March 7, 1995, as National Sportsmanship Day. The valuable life skills and lessons that are learned by youth and adults through participation in sports cannot be overestimated.

Participation in sports makes contributions to all aspects of our lives, such as heightened awareness of the value of fair play, ethics, integrity, honesty and sportsmanship, as well as improving levels of physical fitness and health.

The Council congratulates the Institute for International Sport for its continued leadership in organizing this important day and wish you every success in your efforts to broaden participation and awareness of National Sportsmanship Day.

Sincerely,

FLORENCE GRIFFITH JOYNER,
Cochair.
TOM MCMILLEN,
Cochair.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Labor and Human Resources.

REPORT RELATIVE TO THE ATOMIC ENERGY ACT—MESSAGE FROM THE PRESIDENT—PM 31

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 Foreign Relations.

To the Congress of the United States:

The United States has been engaged in nuclear cooperation with the European Community, now European Union, for many years. This cooperation was initiated under agreements that were concluded in 1957 and 1968 between the United States and the European Atomic Energy Community [EURATOM] and that expire December 31, 1995. Since the inception of this cooperation, EURATOM has adhered to all its obligations under those agreements.

The Nuclear Non-Proliferation Act of 1978 amended the Atomic Energy Act of 1954 to establish new nuclear export criteria, including a requirement that the United States have a right to consent to the reprocessing of fuel exported from the United States. Our present agreements for cooperation with EURATOM do not contain such a right. To avoid disrupting cooperation with EURATOM, a proviso was included in the law to enable continued cooperation until March 10, 1980, if EURATOM agreed to negotiations concerning our cooperation agreements. EURATOM agreed in 1978 to such negotiations.

The law also provides that nuclear cooperation with EURATOM can be extended on an annual basis after March 10, 1980, upon determination by the President that failure to cooperate would be seriously prejudicial to the achievement of U.S. nonproliferation objectives or otherwise jeopardize the common defense and security, and after notification to the Congress. President Carter made such a determination 15 years ago and signed Executive Order No. 12193, permitting nuclear cooperation with EURATOM to continue until March 10, 1981. Presidents Reagan and Bush made similar determinations and signed Executive orders each year during their terms. I signed Executive Order No. 12840 in 1993 and Executive Order No. 12903 in 1994, which extended cooperation until March 10, 1994, and March 10, 1995, respectively.

In addition to numerous informal contacts, the United States has engaged in frequent talks with EURATOM regarding the renegotiation of the U.S.-EURATOM agreements for cooperation. Talks were conducted in November 1978; September 1979; April 1980; January 1982; November 1983; March 1984; May, September, and November 1985; April and July 1986; September 1987; September and November 1988; July and December 1989; February, April, October, and December 1990; and September 1991. Formal negotiations on a new agreement were held in April, September, and December 1992; March, July, and October 1993; June, October, and December 1994; and January and February 1995. They are expected to continue.

I believe that it is essential that cooperation between the United States and EURATOM continue, and likewise, that we work closely with our allies to counter the threat of proliferation of nuclear explosives. Not only would a disruption of nuclear cooperation with EURATOM eliminate any chance of progress in our negotiations with that organization related to our agreements, it would also cause serious problems in our overall relationships. Accordingly, I have determined that failure to continue peaceful nuclear cooperation with EURATOM would be seriously prejudicial to the achievement of U.S. nonproliferation objectives and would jeopardize the common defense and security of the United States. I therefore intend to sign an Executive order to extend the waiver of the application of the relevant export criterion of the Atomic Energy Act until the current agreements expire on December 31, 1995.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 9, 1995.*

REPORT ON UNITED STATES SUPPORT FOR MEXICO—MESSAGE FROM THE PRESIDENT—PM 32

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:

On January 31, 1995, I determined pursuant to 31 U.S.C. 5302(b) that the economic crisis in Mexico posed ''unique and emergency circumstances'' that justified the use of the Exchange Stabilization Fund [ESF] to provide loans and credits with maturities of greater than 6 months to the Government of Mexico and the Bank of Mexico. Consistent with the requirements of 31 U.S.C. 5302(b), I am hereby notifying the Congress of that determination. The congressional leadership issued a joint statement with me on January 31, 1995, in which we all agreed that such use of the ESF was a necessary and appropriate response to the Mexican financial crisis and in the United States' vital national interest.

On February 21, 1995, the Secretary of the Treasury and the Mexican Secretary of Finance and Public Credit signed four agreements that provide the framework and specific legal arrangements under which up to $20 billion in support will be made available from the ESF to the Government of Mexico and the Bank of Mexico. Under these agreements, the United States will provide three forms of support to Mexico: short-term swaps through which Mexico borrows dollars for 90 days and that can be rolled over for up to 1 year; medium-term swaps through which Mexico can borrow dollars for up to 5 years; and securities guarantees having maturities of up to 10 years.

Repayment of these loans and guarantees is backed by revenues from the export of crude oil and petroleum products formalized in an agreement signed by the United States, the Government of Mexico, and the Mexican government's oil company. In addition, as added protection in the unlikely event of default, the United States is requiring Mexico to maintain the value of the pesos it deposits with the United States in connection with the medium-term swaps. Therefore, should the rate of exchange of the peso against the U.S. dollar drop during the time the United States holds pesos, Mexico would be required to provide the United States with enough additional pesos to reflect the rate of exchange prevailing at the conclusion of the swap.

I am enclosing a Fact Sheet prepared by the Department of the Treasury that provides greater details concerning the terms of the four agreements. I am also enclosing a summary of the economic policy actions that the Government of Mexico and the Central Bank have agreed to take as a condition of receiving assistance.

The agreements we have signed with Mexico are part of a multilateral effort involving contributions from other countries and multilateral institutions. The Board of the International Monetary Fund has approved up to $17.8 billion in medium-term assistance for Mexico, subject to Mexico's meeting appropriate economic conditions. Of this amount, $7.8 billion has already been disbursed, and additional conditional assistance will become available beginning in July of this year. In addition, the Bank for International Settlements is expected to provide $10 billion in short-term assistance.

The current Mexican financial crisis is a liquidity crisis that has had a significant destabilizing effect on the exchange rate of the peso, with consequences for the overall exchange rate system. The spill-over effects of inaction in response to this crisis would be significant for other emerging market economies, particularly those in Latin America, as well as for the United States. Using the ESF to respond to this crisis is therefore plainly consistent with the purpose of 31 U.S.C. 5302(b): to give the United States the ability to take action consistent with its obligations in the International Monetary Fund to assure orderly exchange arrangements and a stable system of exchange rates.

The Mexican peso crisis erupted with such suddenness and in such magnitude as to render the usual short-term approaches to a liquidity crisis inadequate to address the problem. To resolve problems arising from Mexico's short-term debt burden, longer term solutions are necessary in order to avoid further pressure on the exchange rate of the peso. These facts present unique and emergency circumstances, and it is therefore both appropriate and necessary to make the ESF available to extend credits and loans to Mexico in excess of 6 months.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 9, 1995.*

MESSAGES FROM THE HOUSE

At 11:53 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 9. An act to create jobs, enhance wages, strengthen property rights, maintain certain economic liberties, decentralize and reduce the power of the Federal Government with respect to the States, localities, and citizens of the United States, and to increase the accountability of Federal officials.

H.R. 988. An act to reform the Federal civil justice system.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 9. An act to create jobs, enhance wages, strengthen property rights, maintain certain economic liberties, decentralize and reduce the power of the Federal Government with respect to the States, localities, and citizens of the United States, and to increase the accountability of Federal officials; to the Committee on Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–480. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, the report on a transaction involving U.S. exports to various countries; to the Committee on Banking, Housing, and Urban Affairs.

EC–481. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, the report on a transaction involving U.S. exports to various countries; to the Committee on Banking, Housing, and Urban Affairs.

EC–482. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, the report on a transaction involving U.S. exports to various countries; to the Committee on Banking, Housing, and Urban Affairs.

EC–483. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, the report on tied aid credits; to the Committee on Banking, Housing, and Urban Affairs.

EC–484. A communication from the Secretary of Housing and Urban Development, transmitting pursuant to law, the report entitled ''Effect of the 1990 Census on CDBG Program Funding''; to the Committee on Banking, Housing, and Urban Affairs.

EC–485. A communication from the Secretary of Energy, transmitting a draft of proposed legislation to provide additional flexibility for the Department of Energy's program for the disposal of spent nuclear fuel and high level radioactive waste, and for other purposes; to the Committee on Energy and Natural Resources.

EC–486. A communication from the Assistant Secretary of the Interior for Territorial and International Affairs, transmitting a draft of proposed legislation to authorize appropriations for United States insular areas, and for other purposes; to the Committee on Environment and Public Works.

EC–487. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, a report of the building project survey for Hilo, Hawaii; to the Committee on Environment and Public Works.

EC–488. A communication from the Assistant Secretary of the Interior for Policy, Management and Budget, transmitting, pursuant to law, a report relative to the progress in conducting environmental remedial action at federally owned or federally operated facilities; to the Committee on Environment and Public Works.

EC–489. A communication from the Secretary of the Treasury, transmitting the administration's policy proposals on disaster assistance and disaster-related insurance; to the Committee on Environment and Public Works.

EC–490. A communication from the Acting Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the ''Report to Congress on Abnormal Occurrences, July-September 1994''; to the Committee on Environment and Public Works.

EC–491. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, prospectuses for U.S. courthouses in Jacksonville, FL, Albany, GA, and Corpus Christi, TX; to the Committee on Environment and Public Works.

EC–492. A communication from the Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law, the report of the December 1994 issue of the Treasury Bulletin; to the Committee on Finance.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Wilma A. Lewis, of the District of Columbia, to be inspector general, Department of the Interior.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THOMAS (for himself, Mr. NICKLES, Mr. HELMS, Mr. BURNS, Mr. LOTT, Mr. STEVENS, and Mr. KYL):

S. 518. A bill to limit the acquisition by the United States of land located in a State in which 25 percent or more of the land in that State is owned by the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DASCHLE (for himself, Mr. EXON, Mr. FORD, Mr. CONRAD, Mr. DORGAN, Mr. KOHL, Mrs. FEINSTEIN, Mr. BUMPERS, Mr. ROBB, Mr. KERRY, Mr. FEINGOLD, Mr. HARKIN, Mr. REID, Mr. HOLLINGS, Mrs. BOXER, Mr. LEVIN, Mr. PRYOR, and Mr. BIDEN):

S. 519. A bill to require the Government to balance the Federal budget; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. SHELBY:

S. 520. A bill to amend the Internal Revenue Code of 1986 to allow a refundable tax credit for adoption expenses; to the Committee on Finance.

By Ms. SNOWE:

S. 521. A bill entitled ''the Small Business Enhancement Act of 1995''; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 522. A bill to provide for a limited exemption to the hydroelectric licensing provisions of part I of the Federal Power Act for certain transmission facilities associated with the El Vado Hydroelectric Project in New Mexico; to the Committee on Energy and Natural Resources.

By Mr. BENNETT (for himself, Mr. BROWN, Mr. CAMPBELL, Mr. HATCH, and Mr. KYL):

S. 523. A bill to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WELLSTONE (for himself, Mr. KENNEDY, Mr. REID, Mr. BRADLEY, and Mrs. MURRAY):

S. 524. A bill to prohibit insurers from denying health insurance coverage, benefits, or varying premiums based on the status of an individual as a victim of domestic violence and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BAUCUS (for himself, Mr. DASCHLE, Mr. DORGAN, and Mr. PRESSLER):

S. 525. A bill to ensure equity in, and increased recreation and maximum economic benefits from, the control of the water in the Missouri River system, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GREGG (for himself and Mr. BOND):

S. 526. A bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LOTT:

S. 527. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and for the vessel *Empress;* to the Committee on Commerce, Science, and Transportation.

S. 528. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for three vessels; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THOMAS (for himself, Mr. NICKLES, Mr. HELMS, Mr. BURNS, Mr. LOTT, Mr. STEVENS, and Mr. KYL):

S. 518. A bill to limit the acquisition by the United States of land located in a State in which 25 percent or more of the land in that State is owned by the United States, and for other purposes; to the Committee on Energy and Natural Resources.

THE NO-NET-LOSS OF PRIVATE LANDS ACT

Mr. THOMAS. Mr. President, I rise today to introduce a bill, the No-Net-Loss of Private Lands Act.

Mr. President, this is a bill that I think is a commonsense approach that would begin to slow and halt the Federal Government's continual land acquisition in the public land States.

This is an issue that is peculiar to the West; peculiar to public land States. As you know, as the original States grew at the Mississippi River and beyond, as the States came into the Union, they acquired all the lands that lay within their States. They even went into private ownership, or in fact belonged to the State. Those kinds of things that were of public interest, such as parks and forests and others, were withdrawn later by the Government for a particular use. I certainly support that idea.

In the West, however, it was handled differently. There was a period of time for homestead, and much of the public land was taken up. But there were incentives to take it up. However, the West is peculiar. The arid States are peculiar in that the lands pretty much rely on the water. They rely on the feed for livestock.

So lands that were not taken up were left after the homestead time was over. These were simply lands that were there when all the private ownership was done.

So they were managed by the Federal Government. And in fact, the organic act of the land management agencies indicated that they would be held prior to pending disposal. The fact is, to make a long story short, there was no disposal, and that they are now permanently managed by the Federal Government.

The Federal Government continues in addition to that to acquire substantial amounts of land throughout the Nation in every State. I think people are saying it is time to slow or stop the growth of the Federal Government in its land ownership and to limit its ever-increasing impact on our lives.

In my State of Wyoming, approximately 50 percent of the surface belongs to the Federal Government, and more, as a matter of fact, in the subsurface in the State. But when half of your State belongs to the Federal Government and is managed by Federal land managers, then your economic future depends a great deal upon how the management takes place and what happens in those lands.

Other Western States have an even higher percentage of Federal ownership. For example, in Idaho it is 61 percent; Utah, 63 percent; and, in Nevada, nearly 85 percent of that State is owned and managed by the Federal Government.

Unfortunately, particularly, in recent years, as the economies begin to grow, the Federal Government has not always been a good neighbor to the people of the West. The Federal land management agencies continue to make it more difficult, and continue to lock up vast amounts of land in the West.

We are not talking here in multiple use of parks or wilderness. We are talking about lands that have been set aside for multiple use and the Federal Government—and particularly this administration—has made it increasingly difficult to use these lands as multiple use for timber harvest, for grazing, and for mining. All these uses, many of which are compatible ones with another, play a very important part, of course, in our economy. So there has indeed and continues to be a ''war in the West.''

Just yesterday we had some hearings to talk about domestic energy. One of the issues that certainly is a part of that is the difficulty of access to public lands for exploration and production of minerals. It has been almost a deathblow to the domestic oil industry in the West.

Recently, the General Accounting Office released a report detailing the growth of the amount of lands and found that over the last 3 decades the Federal land ownership has increased dramatically. In the fiscal year 1994 alone, the Federal land management agencies acquired an additional 203,000 acres of land in the United States.

These increases, of course, were a result of expansion to the forests or wildlife refuges or national parks. I have no objection to that. As a matter of fact, when there is a reason to acquire lands for a public purpose that is determined through the process, I have no problem with it.

The purpose of this bill is to say that in States where more than 25 percent of the surface is owned by the Federal Government and when additional lands are acquired, there should be lands of equal value disposed; a fairly simple concept, and I think a fairly fair concept. It is particularly, of course, appropriate only for the West, only with those States with more than 25 percent.

It seems to me it is a fairness issue. It puts the West in sort of the same position as the rest of the States. It is an equity issue. It certainly is an issue of economics for us.

So I am very pleased to introduce this bill. I have a number of cosponsors. I urge my colleagues to take a look at this bill and see if they think there is fairness causing the Federal Government through trades or sales to dispose of lands of equal value to additional lands that are acquired.

It is time for the Federal Government to take a look at itself. Of course, that is what this whole Congress has been about; making some fundamental changes in Government in terms of the size of Government, in terms of the cost of the Government, and in terms of shifting those things—that can be managed better in the private sector or by the States—back to the private sector and to the States. This bill is consistent with that view.

Mr. LOTT. Mr. President. I am pleased to join Senator THOMAS in introducing legislation which will limit land acquisition by the Federal Government. Very simply, it makes no sense for the Federal Government, with all of its financial problems, to continue buying land that it can not afford to properly manage.

On the contrary, the Federal Government should be examining its current land holdings for possible sale prospects. I am sure there are many instances where the Government bought land over 100 years ago to support a program or policy which is no longer valid in today's society. Here is where Senator THOMAS' bill will ask the question: why do we still have the land? Under this legislation, a review would occur prior to any land purchase to maintain a no-net-gain public lands policy. This analysis will permit the identification of land to be sold to compensate for the piece considered for purchase. It will also answer that important question.

This legislation applies only to States in which the Federal Government currently controls more than 25 percent of the land. This approach focuses a legislative solution where the problem is the greatest. It avoids that one-size-fits-all mentality which existed in past Congresses.

Presently, there are 13 States in which the Federal Government already owns and controls over a fourth of the land. You could call these States Federal colonies. They are virtual hostages to Federal policies and to the Washington bureaucrats who dominate the States' economies by their whims and agenda.

Fortunately, Mississippi's public lands percentage is under 5 percent. That does not mean I do not appreciate the problem. I became a cosponsor because Federal intrusion into local jurisdictional matters is pervasive.

Every State must have the ability to sustain a viable growing economy and to manage its natural resources. How can a State or local municipality function when out of the blue, a Federal policy can override legitimate local concerns? We saw that happen last year with regard to a questionable agenda concerning grazing fees.

Let's talk numbers because they will illustrate the magnitude of the Federal Government's appetite. There are roughly 2 billion acres in the United States, of which the Government already owns about 650 million acres. When this patchwork of Government ownership is consolidated, it translates into a land mass equal to the size of 11 Southern States starting with Virginia and stretching around the gulf to Texas and going north to Arkansas and Kentucky. And we still need more. In addition to the South, you would have to add the west coast from California through Oregon and half of Washington is required to equal the size of the land area controlled by the Federal Government.

That's over one-fourth of the United States, and if that is not enough, the Federal Government continues on a buying frenzy. Just last year, it claimed over 7 million more acres of land. That represents an area larger than the State of Maryland. I do not think anyone can dispute the fact that this Federal land policy needs to be reviewed and put on a diet. The Thomas legislation provides a responsible first step. It merely tries to stabilize the growth.

When you visualize the extent of Federal ownership, several questions come to mind. Why does the Federal Government need so much land? Is it all really needed? Will the sky fall if this Government stops buying up more private land?

Beyond Federal land gluttony, what is even more disturbing is how poorly the Federal Government manages these lands. For the Government to take land on the premise that it will do a better job conserving the land, ignores reality. There is ample evidence that private lands are far better managed ecologically than Government lands.

A review of the budgets for just two Federal agencies responsible for land management reveals they are funded only to a level to perform custodial care. Ordinarily, I would be sympathetic to their desire for more funds for

land management improvements, but these same agencies are the ones who seek to acquire more and more land. The Bureau of Land Management and the National Park Service just can not say no. Rather than use their budget to manage and husband natural resources already in their care; they are out shopping for more land. They have become the Nation's largest absentee landlord. Evidently, their agenda is to take as much private land as possible with no real intention to manage it wisely.

Today, Senator THOMAS is offering a win-win legislative solution. The Federal Government gets a maintenance diet, and the States get a chance to chart their own destiny without fear of more Government intrusion.

Let me be clear about this: Federal holdings take land off local tax rolls, causing the property tax base to shrink and tax rates to rise commensurately for those who remain. This only gets worse as more and more land is taken.

Let me be even more candid: A growing Federal presence is increasingly perceived as an oppressive Federal occupation. In most instances, the Federal Government is not necessarily a good neighbor.

Our Founding Fathers deeply believed in individual rights. That includes freedom of speech and religion; and the right for Americans to own property. Unfortunately, today it looks as if the Federal Government believes it must own and control the land, rather than individual Americans. Senator THOMAS has provided us an opportunity to stop this policy and restore our country to what our Founding Fathers envisioned.

I thank my colleagues for their consideration, and I hope they will examine this worthwhile legislation.

By Mr. DASCHLE (for himself, Mr. EXON, Mr. FORD, Mr. CONRAD, Mr. DORGAN, Mr. KOHL, Mrs. FEINSTEIN, Mr. BUMPERS, Mr. ROBB, Mr. KERRY, Mr. FEINGOLD, Mr. HARKIN, Mr. REID, Mr. HOLLINGS, Mrs. BOXER, Mr. LEVIN, Mr. PRYOR, and Mr. BIDEN):

S. 519. A bill to require the Government to balance the Federal budget; to the Committee on the Budget and the Committee on Governmental Affairs, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be charged.

THE BALANCED BUDGET ACT OF 1995

Mr. DASCHLE.

Mr. President, I wish to thank the distinguished Senator from North Dakota for his comments this morning. I have respected the leadership of Senator CONRAD on this issue, as I have of the distinguished Senator from Montana.

Mr. President, a number of Senators have been developing for some time a bill that we are introducing today that would put our money where our mouth is when it comes to making the tough decisions on the budget that we all know must be made.

Over the course of the last several weeks, we have had a vigorous debate about the advisability, the practicality, and the prudence, of a balanced budget amendment to the U.S. Constitution.

As everyone knows, by a very close vote, the Senate has decided, at least for now, that there will not be a constitutional amendment to balance the budget. But no one should interpret that to mean there will not be an effort to reduce the deficit, or that we will not continue on the progress that we have made in the past 3 years on getting the deficit under control. We intend to continue deficit reduction further than it has come to this point. We want to balance the budget by a date certain without relying on the Social Security trust funds.

We made good progress. We have reduced the deficit, now, by 40 percent from what it was just 3 years ago. It has been a long time since the Senate and the Congress has done that. The last time Washington has reduced the deficit 3 years in a row was during the time of Harry Truman. So we have come a long way. We have made some very tough choices. We made tough choices with regard to both revenue as well as cuts in 1990. We made very tough choices, and on another very close vote, passed a $600 billion deficit reduction package in 1993.

We have come this far as a result of those very tough choices, choices for which a lot of Members took a lot of political heat. We can say, perhaps somewhat boastfully, that because of those tough choices, our country is stronger today. Because of those tough choices, we have actually been able to make real progress in meaningful deficit reduction.

We need another effort just like that this year. The only change that I hope we can make is that in 1993, unfortunately, it became a very partisan choice, the Republicans versus Democrats. I hope this year, given the tremendous burden we all must share in coming to grips with this deficit, that it does not have to be partisan; that it indeed will be a bipartisan effort at deficit reduction; that we could put the next installment on deficit reduction into place now in 1995.

So the bill that we are introducing, Mr. President, will do just that. It says very fundamentally three things. First and foremost, that we shall reduce the deficit to zero by the year 2002, or at the earliest possible date set by the Budget Committee.

Our view is that unless we have a time certain, it is really impossible to develop the necessary blueprint to get us from here to there. Recognizing that we have $1.8 trillion of deficit reduction decisionmaking ahead of us, there is no way we can come to grips with it and do all that we must to do it right unless we take it in installments year after year, recognizing that each year has to be a downpayment.

So that is the provision in our bill: to set a date certain, either 2002 or the earliest date set by the Budget Committee.

The second provision is one that we have talked a good deal about: protecting Social Security. I said the deficit over the course of the next 7 years will be $1.8 trillion more if we do nothing. That is our goal. It would be $1.2 trillion if we were to use the Social Security trust funds to finance the deficit. Many of us feel that using Social Security trust funds to pay for other government programs is wrong. There is a designated purpose for those trust funds, and we do not want to play games with trust fund dollars or with the revenue that would be required to meet the obligations we have to workers who will need the trust funds to retire in future years.

So our view is to take Social Security off the table, to recognize the magnitude of the problem for what it really is—$1.8 trillion—and to begin making the effort to balance the budget, as we know we must.

The third, and an equally important element in this budget package, is one which simply says this must be the Congress to start this effort. This must be the Congress to begin making the headway and leading the way to ensure that future Congresses do what we know we must do. We cannot delegate the responsibility to future Congresses, it has to be this one now, this year, this session of Congress. And so our bill makes that point very clear.

Our bill provides for a budgetary point of order—a requirement that 60 Senators must vote to overturn—against any reported budget resolution that does not balance the budget by a date certain.

So, Mr. President, there has been a lot of discussion, a lot of debate, and a lot of strongly held feelings about how we get from here to there. I believe the time has come for us to put aside the rhetoric, to get down to the real hard decisionmaking that we all must do if we are going to accomplish this in a successful way.

In 23 days' time, the Budget Committee is required—by law—to produce a budget blueprint. In 38 days, Congress must approve a plan. We stand ready to work with our Republican colleagues to craft a plan that meets the goals set out in the bill we are introducing today. We hope they will support this bill.

Mr. President, the Social Security trust funds are the only Federal funds that are explicitly excluded from the deficit calculations under this bill. That is because, as I have said, the surplus revenues building up in those trust funds—amounting to $705 billion between now and 2002—would otherwise be raided to balance the budget.

Just as we are determined to protect Social Security, this bill would force Congress to set national priorities as

we balance the budget. As we engage in that process, we need to protect those who need our help. Cutting back on meals for schoolchildren, as some are proposing, is not what proponents of this bill have in mind. Neither would we support cutting back on benefits to veterans with service-connected disabilities.

The debate should be about priorities. We must balance the budget, and we must do it in a way that strengthens the economy and that is fair.

I am very pleased that so many of my colleagues have joined me in cosponsoring this bill. Many of them are on the floor this morning to participate in this colloquy. I yield the floor at this time to accommodate the other statements.

Mr. President, I ask that the time that I have just used be taken from my leader time. And I ask unanimous consent that the full 30 minutes under my control be made available to my colleagues.

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

Mr. DASCHLE. With that, I yield to the distinguished Senator from North Dakota, and I designate the distinguished Senator from North Dakota as the manager of the time.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I yield myself such time as I may consume.

The discussion by Senator DASCHLE, the minority leader, is about an initiative that would give this Congress a procedure to try to reduce the Federal budget deficit and reach a balanced budget. All of us understand that changing the Constitution will not change the budget deficit. That requires specific actions by the Congress.

We finished a battle last week that was a bruising debate, a battle on the question of should the U.S. Constitution be amended to require a balanced budget. That proposition would have had 75 or 80 votes had it included a provision that said the Social Security trust funds will not be used to balance the budget. But that provision was voted down, and, therefore, the amendment itself lost.

But the question is not whether there is a constitutional amendment. The question is whether we will balance the Federal budget. We have proposed today a process by which we hope Republicans and Democrats can join together to say it is up to us now together to balance the Federal budget.

I said yesterday I had watched ESPN 1 day just very briefly and they were showing a bodybuilding contest. The announcer, in announcing this bodybuilding contest, said something kind of interesting that I thought applied to Congress as well. He said, ''You know, there's a difference in the skills a bodybuilder uses between when he poses and when he lifts,'' because in this contest they were posing. He said, ''That requires a different skill than lifting.''

It occurred to me that that is a perfect description of what happens here. Some are skillful posers and do no lifting at all. The question at the moment is not how do we pose on the issue of a balanced budget, the question is how will we all decide to lift together to cut the spending, to do the things necessary in a real way to balance the Federal budget.

So we propose that by statute we require that as a Congress we complete a budget that includes a specific plan to bring the deficit down to zero by the year 2002, without raiding the Social Security trust funds. No one need force us to do that. It is our job to do that.

We propose a 60-vote point of order against any budget that would come to the floor of the Senate that does not do that. We propose to set up a supermajority against legislation that would fail to do exactly what everyone in this Chamber says we want to do, and that is require a budget plan to balance the Federal budget by the year 2002.

That is real medicine. That is not in the sweet by-and-by. That is not posing. That is deciding on a process that will require real lifting.

Everyone in this Chamber understands, or should, that what happened in 1993 probably will not happen again. We won by one vote a $500 billion reduction in the Federal deficit over 5 years. It turned out to be a $600 billion reduction in the accumulated deficits. We carried that by one vote because one side of the aisle decided they would help lift, the other side did not. That probably will not happen again.

The only way we can achieve progress toward a goal the American people want and a goal the American people know this country needs is if every one of us, all of us—Republicans and Democrats, conservatives and liberals—decide our goal is 2002, our responsibility is a budget plan that is real and enforceable and our determination, our grim determination is to get there and to do that. This legislation establishes a process that will accomplish that.

The question then for Members of the Senate is not a question of posing anymore. It is a question of who is going to join together to be involved in helping balance the budget in a real way.

I hope that in the coming days, we will decide as a Senate to adopt this process, which was proposed by the minority leader and I hope will be embraced on a bipartisan basis. The minority leader is saying that we share a common goal and we will come together for a common purpose. We will legislate in a manner that gives this country a balanced budget by the year 2002. No excuses. No raiding the Social Security trust funds. No dishonest budgeting. If we do that, this country will have been well served by all of us working together for a change, and I think that will strengthen America.

Mr. President, I yield the floor and I yield 3 minutes to the Senator from Wisconsin, Senator KOHL.

Mr. KOHL. I thank the Senator. Mr. President, I rise today to offer my support for the Democratic leadership's balanced budget legislation. This legislation says two things: First, the only budget that Congress should consider is one that contains a plan that will bring us into balance; and second, in bringing our budget into balance, Congress should protect Social Security.

Though there is disagreement on whether we need a constitutional amendment to balance the budget, there are few who think that we should not be moving toward that goal. And though a few want Social Security on the budget cutting table, a large majority believe that we ought to balance the budget without using the Social Security trust fund. And so I do not see why the legislation that we are talking about today should not gain a huge majority vote in the U.S. Senate.

Anyone who voted for the balanced budget amendment, as I did, and anyone who believes that we should not balance the budget using Social Security, as I do, should clearly support this legislation. The American people are tired of hearing us endlessly debate the idea of a balanced budget. They want to see us do something to get there. If that means changing our rules so we cannot consider a budget that is out of balance, then we ought to change our rules. And if that means Democrats and Republicans sitting down together to map out the hard cuts we need to make, then we ought to sit down together. But make no mistake, we will be held accountable if we let our work toward a balanced budget end with the defeat of the balanced budget amendment. I voted for the balanced budget amendment even though it would not take effect for years because I believe that it is imperative we get our Nation's fiscal affairs in order. I support this legislation because it does something right now to force Congress into balancing the budget.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 519

Be it enacted in the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Balanced Budget Act of 1995''.

SEC. 2. ENFORCEMENT OF A BALANCED BUDGET.

(a) PURPOSE.—The Congress declares it essential that the Congress—

(1) require that the Government balance the Federal budget without counting the surpluses of the Social Security trust funds;

(2) set forth with specificity in the first session of the 104th Congress the policies that achieving such a balanced budget would require; and

(3) enforce through the congressional budget process the requirement to achieve a balanced Federal budget.

(b) POINT OF ORDER AGAINST BUDGET RESOLUTIONS THAT FAIL TO SET FORTH A GLIDE PATH TO A BALANCED BUDGET.—Section 301 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

''(j) CONGRESSIONAL ENFORCEMENT OF A BALANCED BUDGET.—

''(1) POINT OF ORDER.—It shall not be in order to consider any concurrent resolution on the budget (or amendment, motion, or conference report thereon) unless that resolution—

''(A) sets forth a fiscal year (by 2002 or the earliest possible fiscal year) in which, for the budget as defined by section 13301 of the Budget Enforcement Act of 1990 (excluding the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust fund), the level of outlays for that fiscal year or any subsequent fiscal year does not exceed the level of revenues for that fiscal year;

''(B) sets forth appropriate levels for all items described in subsection (a)(1) through (7) for all fiscal years through and including the fiscal year described in paragraph (A);

''(C) includes specific reconciliation instructions under section 310 to carry out any assumption of either—

''(i) reductions in direct spending, or

''(ii) increases in revenues.

''(3) NO AMENDMENT WITHOUT THREE-FIFTHS VOTE IN THE SENATE.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, motion, or conference report that would amend or otherwise supersede this section.''.

(c) REQUIREMENT FOR 60 VOTES TO WAIVE OR APPEAL IN THE SENATE.—Section 904 of the Congressional Budget Act of 1974 is amended by inserting ''301(j),'' after ''301(i),'' in both places that it appears.

(d) SUSPENSION IN THE EVENT OF WAR OR CONGRESSIONALLY DECLARED LOW GROWTH.—Section 258(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting ''301(j),'' after ''sections''.

Mr. BUMPERS. Mr. President, I rise today to join my colleagues in introducing the Balanced Budget Act of 1995. It is my understanding that this proposal will be offered as an amendment on legislation the Senate will be considering shortly. I look forward to working with my colleagues to pass this legislation to put the Federal Government on a path toward a balanced budget.

The proposal we are introducing today contains elements of an amendment Senator EXON, the distinguished ranking Democrat on the Budget Committee, offered when the Senate considered the congressional accountability bill, and an amendment I offered during Senate consideration of the constitutional balanced budget amendment. In my opinion this proposal is one of the most sensible ideas ever presented to this body. It is sensible because it is more likely to actually achieve a balanced Federal budget than the amendment to the Constitution considered by the Senate last week and secondly because this proposal is statutory in nature, and thus would not trivialize the Constitution with an unenforceable amendment.

The proposal we are introducing today would set the Federal budget on a glide path toward being balanced beginning this year. What this means is that, rather than waiting 7 years before acting, as the constitutional balanced budget amendment provided for, the Congress would have to begin reducing the deficit this year. Under this glide path the Federal budget deficit would be lower every year between now and 2002, when the budget presumably would be balanced.

If the Budget Committee were to report a budget resolution that did not set us on a glide path toward a balanced budget or that failed to achieve a balanced budget by the targeted date, any Member of this body could raise a point of order. It would take 60 votes to overcome this point of order. In comparison, the constitutional balanced budget amendment failed to provide an enforcement mechanism. If Congress failed to achieve a balanced budget, nothing would happen unless Congress passed legislation permitting the courts to enforce the amendment—a result most proponents of the amendment said would not occur.

When I offered my amendment as an alternative to the constitutional amendment, Senator HATCH, the distinguished manager of House Joint Resolution 1, pointed out that statutory budget restrictions don't work because they can be overcome by a simple majority vote. However, Senator HATCH failed to note that my amendment required 60 votes in order to modify or repeal the balanced budget requirement. The very same 60 votes that would have nullified the balanced budget requirement of the constitutional amendment. The Balanced Budget Act of 1995, which we are introducing today, contains the very same 60 vote requirement before changes could be made.

The proposal we are introducing today is also far superior to the constitutional amendment because it addresses some of the very legitimate concerns expressed by Senators during the debate on House Joint Resolution 1. For instance, unlike the constitutional amendment, the Social Security trust fund would not be able to be used to mask the deficit. When we say the budget is balanced, it will really be balanced.

In addition, our proposal would prevent a minority of Senators from sending this country into an economic tailspin. Congress could suspend the balanced budget requirement by passing a joint resolution in a fiscal year which CBO identified a period of low-growth—at least 2 consecutive quarters of below zero real economic growth. The constitutional amendment, in comparison, would have allowed 41 Senators to stop any effort by the Government to prevent a depression through stimulus spending.

Mr. President, the people of this country do not expect miracles. They expect us to be sensible, and they expect us to keep faith with them in their demands to get our deficit under control. The beauty of the proposal we are offering today is that we can both achieve a balanced federal budget and save our sacred organic law called the Constitution of the United States, which every single one of us held up our hand to protect, preserve, and defend when we were sworn into the Senate. That did not just mean to protect the Constitution and all the rights it provides for the people of this country; it also meant protecting it against trivialization and politicization.

There have been over 11,000 efforts to amend the Constitution since this country was founded. Think of it, 11,000. And because of the eminent good sense of the Congress and people of this country, we have only amended the Constitution on 18 separate occasions, and that includes the Bill of Rights, which was adopted at the same time the Constitution was.

The only time we have ever attempted to put social policy into the Constitution was Prohibition. We found out that you can say as an amendment to the Constitution everybody will love the Lord, but you cannot enforce that. You should not put things that are unenforceable into the Constitution.

Mr. President, I ask unanimous consent I be permitted to proceed for 3 more minutes.

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

Mr. BUMPERS. Mr. President, since last week's vote on the balanced budget amendment I have received calls and letters from people saying, ''Senator, you are going to be in big trouble if you run for reelection in 1998.'' My response is far better that I be in political trouble than the Nation be in big trouble by starting down the path of putting every single whim and caprice that somebody can come up with in some national magazine in the Constitution.

The people in this body who do not want the issue for political purposes but who really want a balanced budget are not only going to support the Balanced Budget Act of 1995 when the Senate considers the proposal, they are going to support it strongly, because it has teeth and it requires action immediately.

The people in this country are not interested in all the partisan bickering that has taken place in Congress. When it comes to the deficit, they expect the people of this body to hold hands and work together.

I made a chamber of commerce speech the other night. I said the beauty of our system is that while you may not like our politics, the truth of the matter is that we agree on a lot more things than we disagree on.

The people on that side of the aisle and the people on this side of the aisle get awfully partisan, almost personal at times. But the truth of the matter is where the country is at risk we join

hands. And every day in the world, we agree on a lot more things than we do not agree on.

Mr. President, if there ever was a time when the American people have a legitimate demand that we join hands and agree on something, it is this deficit. And the proposal we are introducing today does what the American people want and it does not tinker or clutter our Constitution.

I yield the floor.

Mr. FORD. Mr. President, it is always good to listen to my distinguished friend from Arkansas. He tells it like it is, and I think we all enjoy his remarks and the manner in which he expresses his convictions. It is very difficult for some of us in this Chamber to be as eloquent as he is. We are no less sincere than he is, but his sincerity can be put in a way that communicates with all of us.

During the debate over the balanced budget amendment, our colleagues from the other side of the aisle put forth grand sounding resolutions about how they would balance the budget by a date certain without using the Social Security trust fund to do it. That was all well and good, and many Democrats voted in favor of the honorable sounding proposals. The problem is, they did not do anything. Those sense-of-the-Senate resolutions, you know, had no teeth. We could vote for that, go back home, pound our chests and say we voted for it, but it did not mean anything. It had no enforcement provisions.

Yesterday, several of our colleagues, those who voted for the constitutional amendment and those who voted against the amendment passing this Chamber—but all with the same goal, the same end, and that is a balanced budget—said let us start eliminating the deficit, get to paying off the debt. As the Senator from Arkansas said, we all want the same thing and the way to get there is here and now. It is not later. We can do it today.

So our colleagues yesterday held a press conference. We put forth what I feel is a real budget balancing piece of legislation. This proposal replaces words with action. It calls for a 60-vote point of order on any budget resolution that comes before this body that does not lead to a balanced budget by a certain date. This point, a certain date, is important. It may be difficult to get there. But we need, as the Senator from Arkansas said, to tell our constituents that we are making an honest effort. I have heard my colleagues on the other side say, and in the press, making speeches back in their home States: I have never supported a tax increase in my political career. But now, if we pass this balanced budget amendment, I will start considering tax increases.

That tells this Senator—and it does not take a brain surgeon to understand it, I do not think—they want a gun to their head to balance the budget. Otherwise, they are not going to do it. They are not going to lean on this amendment to the Constitution to be that gun to their head to start helping.

You can hear a lot of things, but in 1993, when it was a tough vote and the hide was coming off politically, we stood here without a Republican; 50 of us voted, and the Vice President of the United States broke that tie. We reduced the deficit over $600 billion, and we did it without any help of those who proposed a constitutional amendment. That proves that the body can, with a capital C—do it.

Now, all we have to say is let us get down to it; pass this amendment and say every year, every year, every year the deficit has to be less than it was the year before.

With or without a balanced budget amendment to the Constitution, Mr. President, we the Congress must still act to implement it. We have the power to achieve the desired goal right now. We do not have to wait until 38 States ratify an amendment. We do not have to wait until 2005, if they do not ratify it until 2003. We can start right now.

So let us use that power that the people placed in our hands. Our proposal would force this action—and I underscore force this action. If the constitutional amendment would force that Republican who made the speech, that he would now consider increased taxes if you have the balanced budget amendment in the Constitution, why do we not have the intestinal fortitude to do it now?

Our proposal would force this action and get on the path to what we all want. As the Senator from Arkansas said, we all agree on more things than we disagree on. Already this morning, I have seen reports that suggested our colleagues from the other side of the aisle have already labeled our actions that we took yesterday and are attempting to take here as just another political ploy—just another political ploy.

Vote for this amendment and see if it is a political ploy. See if we do not start on the right path to get a balanced budget. And we will come closer by this action today, or tomorrow, than we would have had we voted for a balanced budget amendment and waited for the States to ratify it. Try us. That is all I ask. If you think this is a political ploy: Try us. Vote for it and see what happens.

I hope they do not mean this, that it is a political ploy. I truly believe that this amendment will do what everybody in this Chamber talks about but we do not have the right kind of action on, such action as this is, to achieve a balanced budget. If they do not join us in this effort, we will never get to a balanced budget. This can be the most political of all actions, trying to take the issue—trying to take the issue.

I said last evening that before the vote in the hearts of some of those on the other side of the aisle, and at the national committee, they hope it fails because they want the issue. Boy, it did not take 24 hours to find out they wanted that issue. I want to tell you. My phone calls are still the same. They are still better than 50 percent. If you count the votes, you win by better than 50 percent. You do not lose. So I am still getting more thanking me than those saying you are out of here. They are going to get a chance, I guess, to tell me more in the next few years. But let us not take the issue. Let us take the action. The action is necessary to actually balance the budget.

So if this is a political ploy, I say again, Mr. President, try us. Vote for this amendment. Let us start doing something right and leave Social Security alone. I was here in 1983. We made a hard decision then. I think it would have been very, very tough on any of us to vote in 1983 to say in 12 years we are going to take this tax that we are taking out of the pockets of the employees and the employers to pay for foreign aid and welfare, and to attempt to do all these other things.

So, Mr. President, I hope that all our colleagues will join on this and not say that it is just anther political ploy.

By Mr. SHELBY:

S. 520. A bill to amend the Internal Revenue Code of 1986 to allow a refundable tax credit for adoption expenses; to the Committee on Finance.

THE ADOPTION ASSISTANCE FOR FAMILIES ACT

● Mr. SHELBY. Mr. President, today I am introducing a bill to help strengthen the role of the family in America. With the hustle and bustle of the world today, we sometimes overlook simple, commonsense ways to help one another. My bill, entitled ''Adoption Assistance for Families Act,'' would effectively find homes for children who need parents and find children for parents who need families. Mr. President, the objective of my legislation is to provide an appropriate and reasonable incentive to encourage a policy which should be embraced by all Americans.

Adoption is a positive action that benefits everyone involved. Obviously, a loving, caring family is the primary benefit of adoption. Studies show the child also receives a strong self identity, positive psychological health and a tendency of financial well-being.

On the other hand, parents who adopt children also benefit. They receive the joy and responsibility of raising a child as well as the love and respect only a child can give. The emotional fulfillment of raising children clearly contribute to the fullness of life.

Lastly, do not forget society. Society is unambiguously better off as a result of adoption. Statistics show time and again that children with families intact are more likely to become productive members of society than children without both parents.

Unfortunately more times than not, a financial barrier stands in the way of otherwise qualified parents-to-be. The monthly costs of supporting the child

is not the hurdle, but instead the initial outlay. Many people may not realize, but there are many fees and costs involved with adopting a child. These include: maternity home care, normal prenatal and hospital care for the mother and child, preadoption foster care for the infant, home study fees, and legal fees. These costs can range anywhere from about $13,000 to $36,000 according to the National Council for Adoption.

Just like the person who wants to buy a home, but cannot because the financial hurdle of a downpayment stops them, so are the parents-to-be who cannot adopt a child because of the substantial initial fees, fees that could actually exceed the cost of a downpayment for a house. As a result, the benefits to everyone involved never materialize; children do not receive loving parents and married couples are prohibited from welcoming children into their compassionate family.

My bill seeks to address this problem. The Adoption Assistance for Families Act would allow a $5,000 refundable tax credit for adoption expenses. This credit would be fully available to any individual with an income up to $60,000 and phased out up to an income of $100,000.

I believe this tax credit will go a long way in helping children find the caring homes they so desperately need. This legislation would undeniably benefit children, parents, and society as a whole. Mr. President, I hope my colleagues will join me in reaching out to families in order to provide a better, brighter future for our children and a heightened degree of appreciation for the potential life holds.

Mr. President, I urge my colleagues to support this legislation.●

By Ms. SNOWE:

S. 521. A bill entitled ''the Small Business Enhancement Act of 1995''; to the Committee on Finance.

THE SMALL BUSINESS ENHANCEMENT ACT OF 1995

● Ms. SNOWE. Mr. President, I introduce a package of legislation to meet the needs of America's small businesses. The legislation I am introducing today will help these small businesses by extending a tax deduction for health care coverage, requiring an estimate of the cost of bills on small businesses before Congresses passes those costs, and assign an Assistant U.S. Trade Representative for Small Business.

In order to create jobs both in my home State of Maine and across America, we must nurture small businesses, because small business is the engine of our economy. Businesses with fewer than 10 employees make up more than 85 percent of Maine's jobs, and nationally, small businesses employ 54 percent of the private work force. In 1993, small businesses created an estimated 71 percent of the 1.9 million new jobs. When we call small business the ''engine'' of our economy, we mean it: and America's small businesses are jumpstarting our economy.

Small businesses are the most successful tool for job creation that we have. They provide two-thirds of the initial job opportunities in this country, and are the original—and finest—job training program. Unfortunately, as much as small businesses help our own economy—and the Federal Government—by creating jobs and building economic growth, Government too often gets in the way. Instead of fueling small business, Government too often stalls our small business efforts.

Government regulations and redtape add up to more than a billion hours of paperwork time by small businesses each year, according to the Small Business Administration. Moreover, because of the size of some of the largest American corporations, U.S. commerce officials too often devote a disproportionate amount of time to the needs and jobs in corporate America rather than in small businesses.

My legislation will address three aspects of our Nation's laws on small businesses, and I hope it will both encourage small business expansion and fuel job creation.

First, this legislation will allow self-employed small businessmen and women to fully deduct their health care costs for income tax purposes. This provision will place these entrepreneurs on equal footing with larger companies by eliminating a provision in current law that limits deductions to 25 percent of the overall cost. In addition, the legislation makes the tax deduction permanent. At a time when America is facing challenges to its health care system, and the Federal Government is seeking remedies to the problem of uninsured citizens, this provision will help self-employed business people to afford health insurance without imposing a costly and unnecessary mandate.

From investors to start-up businesses, self-employed workers make up an important and vibrant part of the small business sector—and too often they are forgotten in providing benefits and assistance. Indeed, 11 percent of uninsured workers in America are self-employed. By extending tax credits for health insurance to these small businesses, we will help to provide health care coverage to millions of Americans.

I am pleased that the Committee on Ways and Means in the U.S. House of Representatives has decided to report out a bill restoring the 25-percent tax deduction retroactively. This decision will allow self-employed small business people to deduct health care costs on their 1994 tax returns. I can think of no better incentive for small businesses than a positive action of this nature.

Earlier this month, I joined 74 of my colleagues in writing to the Senate leadership urging quick consideration of this issue once it is transmitted to the Senate from the other body. I remain committed to working with the leadership to restore this crucial provision.

My legislation will also require a cost analysis of legislative proposals before new requirements are passed on to small business. Too often, Congress passes well-intended programs that shift the costs of programs to small businesses. The proposal will ensure that these unintended consequences are not passed along to small businesses. According to the U.S. Small Business Administration, small business owners spend at least 1 billion hours a year preparing Government forms, at an annual cost that exceeds $100 billion. Before we place yet another obstacle in the path of small business job creation, we should understand the costs our plans will impose on small businesses.

The legislation will require the Director of the Congressional Budget Office to prepare for each committee an analysis of the costs to small businesses that would be incurred in carrying out proposals contained in new legislation. This cost analysis will include an estimate of costs incurred in carrying out the bill or resolution for a 4-year period, as well as an estimate of the portion of these costs that would be borne by small businesses. This provision will allow us to fully consider the impact of our actions on small businesses—and through careful planning, we will succeed in avoiding unintended costs.

Finally, this legislation will direct the U.S. Trade Representative to establish a position of Assistant U.S. Trade Representative for Small Business. The Office of the U.S. Trade Representative is overburdened, and too often overlooks the needs of small business. The new Assistant U.S. Trade Representative will promote exports by small businesses and work to remove foreign impediments to these exports.

Mr. President, I am convinced that this legislation will truly assist small businesses, resulting not only in additional entrepreneurial opportunities but especially in new jobs. I urge my colleagues to join me in supporting this legislation.●

By Mr. BENNETT (for himself, Mr. BROWN, Mr. CAMPBELL, Mr. HATCH, and Mr. KYL):

S. 523. A bill to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes; to the Committee on Energy and Natural Resources.

THE COLORADO RIVER BASIN SALINITY CONTROL ACT AMENDMENTS ACT OF 1995

Mr. BENNETT. Mr. President, I rise to introduce legislation which will amend the Colorado River Basin Salinity Control Act and authorize additional measures to carry out the salinity program. During the last session of Congress, this noncontroversial bill passed the Senate Energy Committee;

however, the legislation was stalled in a log jam in the closing days of the session. I am hopeful we will be able to move this bill early in this session of Congress.

The Colorado River Basin Salinity Control Program has been authorized by Congress and implemented by Federal and State entities for the last 20 years. There is now a need to update and revise the authorizations provided for in the Colorado River Basin Salinity Control Act so that the Bureau of Reclamation [Reclamation] can move ahead in a more responsive and cost-effective way with the portion of the program which Reclamation is responsible for administering. The following statement provides general background as to the purposes and legislative history of the Salinity Control Act and the identified reforms necessary to the act.

BACKGROUND

In the 1960's and early 1970's, rising salinity levels in the Lower Colorado River caused great concern because of damages inflicted by salt dissolved in the water. This damage was occurring in the United States and Mexico. In 1972, with the passage of the Clean Water Act, it was apparent that water quality standards needed to be adopted in the United States, and a plan of implementation to meet those water quality standards needed to be identified. The U.S. Environmental Protection Agency [EPA] published water quality standards for the Colorado River. The United States modified the treaty with Mexico to add to the United States commitments a water quality parameter.

The Colorado River Basin States were involved in many of the discussions with respect to both the Mexico commitment and the water quality standards. Through the formation of a Colorado River Basin Salinity Control Forum, the States became collectively and formally involved in discussions with Federal representatives concerning the quality of the Colorado River.

At the urging and with the cooperation of the basin States and the State Department in 1974, the Colorado River Basin Salinity Control Act was enacted by Congress. That authority became formally known as Public Law 93–320 (88 Stat. 266), the Colorado River Basin Salinity Control Act. That act consisted of two titles. Title I addressed the United States commitment to Mexico, and title II addressed the authorization for programs above Imperial Dam to help control the water quality in the river for the benefit of users in the United States.

The amendments now being proposed in this legislation are exclusively related to title II authorizations. Title I has not been amended since the original enactment in 1974. Title II has received minor modifications as authorities were given to Reclamation to consider salinity control implementation strategies in some additional areas of the Colorado River Basin. More importantly, title II was amended in 1984 by Public Law 98–569 (98 Stat. 2933). The 1984 amendments provided for a formally constituted U.S. Department of Agriculture [USDA] program within the Salinity Control Act. The amendments gave additional responsibilities to the U.S. Bureau of Land Management [BLM] to seek cost-effective salinity control strategies. The amendments further described the basin States' cost-sharing responsibilities with respect to the USDA program, and further increased the cost-sharing requirements of the basin States with respect to newly authorized and implemented Reclamation programs.

NEEDED REFORMS

The Colorado River Basin Salinity Control Forum [Forum] has perceived for some period of time the need for amendments to the authorization relating to Reclamation's program. It has been felt by the States that the program has, at times, been encumbered by formalities imposed by Reclamation and the authorizing legislation which related to procedures Reclamation used in implementing major water development projects in decades past. It is felt that authorization which would allow Reclamation to avoid some of these encumbrances and move more expediently and cost effectively to the best salinity control opportunities would ensure compliance with the water quality standards of the Colorado River, and this compliance could be accomplished at less cost.

There is a need to allow Reclamation to consider salinity control strategy implementation in three geographic areas where planning documents have been prepared and cost-effective salinity control strategies have been identified. In the past, for Reclamation to implement salinity strategies in new areas, formal approval by Congress has been required. It is viewed that this is encumbering.

Further, it is felt that Reclamation needs flexibility so that it might move to opportunities with the private sector to cost-share, offer grants, and/or allow the private sector, rather than the Federal Government to contract for the expenditure of appropriated funds. In this manner the limited dollars would not be partially lost through expenses which have been directly identified with the use of Federal procurement procedures.

Last, Reclamation was authorized a ceiling expenditure in 1974 by Congress. After two decades, the funds expended are approaching the authorized ceiling. It is believed that it would be more appropriate for a $75 million authorization provision to be placed on the program. This will allow the salinity program to move forward for approximately 3 to 5 years at proposed spending levels.

The Salinity Forum believes that legislative reform for the Reclamation program would be tailored after authorities given to the USDA by the Congress in 1984. The inspector general for the Department of the Interior released findings in 1993. Those findings are incorporated in a document entitled, ''Audit Report, Implementation of the Colorado River Basin Salinity Control Program, Bureau of Reclamation'', March 1993. The above legislation proposals are in keeping with the recommendations of the inspector general.

Last year, Reclamation sent out a broad-based mailing to affected parties and interest groups asking for recommendations concerning the need for potential future efforts by Reclamation with respect to salinity control. Further, Reclamation asked for input as to how the program might possibly be reformulated. The responses received by Reclamation are in keeping with this legislation, and it is my understanding that the Bureau of Reclamation is expected to support this legislation again this year.

To that end, I appreciate the excellent working relationship that has existed between my office, the Commissioner's Office of the Bureau of Reclamation, and the Colorado River Basin Salinity Control Forum.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 523

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BASINWIDE SALINITY CONTROL PROGRAM FOR THE COLORADO RIVER BASIN.

(a) AUTHORIZATION TO CONSTRUCT, OPERATE, AND MAINTAIN A BASINWIDE SALINITY CONTROL PROGRAM.—Section 202 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking ''the following salinity control units'' and inserting ''the following salinity control units and salinity control program''; and

(ii) by striking the period at the end and inserting a colon; and

(B) by adding at the end the following:

''(6) SALINITY CONTROL PROGRAM.—

''(A) IN GENERAL.—The Secretary, acting through the Commissioner of Reclamation, shall implement a basinwide salinity control program.

''(B) CONTRACTS AND OTHER VEHICLES.—The Secretary may carry out this paragraph directly, or may enter into contracts and memoranda of agreement, or make grants, commitments for grants, or advances of funds to non-Federal entities, under such terms and conditions as the Secretary considers to be appropriate.

''(C) COST-EFFECTIVE MEASURES.—The salinity control program shall consist of cost-effective measures and associated works to reduce salinity from saline springs, leaking wells, irrigation sources, industrial sources, erosion of public and private land, or other sources, as the Secretary considers to be appropriate.

''(D) MITIGATION.—The salinity control program shall provide for the mitigation of incidental fish and wildlife resources that are lost as a result of the measures and associated works described in subparagraph (C).

''(E) PLANNING REPORT.—The Secretary shall submit a planning report concerning

the salinity control program to the appropriate committees of Congress.

''(F) The Secretary may not expend funds for any measure or associated work described in subparagraph (C) before the expiration of a 30-day period beginning on the date on which the Secretary submits a planning report under subparagraph (E).''; and

(2) in subsection (b)(4) by striking ''and (5)'' and inserting ''(5), and (6)''.

(b) ALLOCATION OF COSTS.—Section 205(a) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1595(a)) is amended—

(1) in paragraph (1) by striking ''authorized by sections 202(a) (4) and (5)'' and inserting ''authorized by section 202(a) (4), (5), and (6)''; and

(2) in paragraph (4)(i) by striking ''sections 202(a) (4) and (5)'' each place it appears and inserting ''section 202(a) (4), (5), and (6)''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 208 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1598) is amended by adding at the end the following new subsection:

''(c) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts authorized to be appropriated under subsection (b), there are authorized to be appropriated—

''(1) such sums as are necessary to pay for nonfederally financed salinity control; and

''(2) $75,000,000 for the construction of federally financed improvements described in section 202(a).''.

By Mr. WELLSTONE (for himself, Mr. KENNEDY, Mr. REID, Mr. BRADLEY, and Mrs. MURRAY):

S. 524. A bill to prohibit insurers from denying health insurance coverage, benefits, or varying premiums based on the status of an individual as a victim of domestic violence and for other purposes; to the Committee on Labor and Human Resources.

THE VICTIMS OF ABUSE ACCESS TO HEALTH INSURANCE ACT

Mr. WELLSTONE. Mr. President today I am introducing the Victims of Abuse Access to Health Insurance Act. This bill would outlaw the practice of denying health insurance coverage to victims of domestic violence.

In Minnesota three insurance companies denied health insurance to entire women's shelter because ''as a battered women's program we were high risk.'' The women's shelter in Rochester was told that it was considered uninsurable because its employees are almost all battered women.

A woman sought the services of Women House in St. Cloud because the abuse during her 12-year marriage had escalated to such an extent that she was hospitalized for a broken jaw and spent 2 weeks in a mental health unit of a hospital. She was subsequently denied coverage by two insurance companies—one said they would not cover any medical or psychiatric problems that could be related to the past abuse.

These are just a couple examples of women who have been physically abused and sought proper medical care only to be turned away by insurance companies who say they are too high of a risk to insure.

Victims of domestic violence are being denied health insurance coverage. This is a abhorrent practice. It is plain old-fashioned discrimination. It is profoundly unjust and wrong. And, it is the worst of blaming the victim.

We must treat domestic violence as the crime that it is—not as voluntary risky behavior that can be easily changed and not as a pre-existing condition. Insurance company policies that deny coverage to victims only serve to perpetuate the myth that the victims are somehow responsible for their abuse.

Domestic violence is the single largest threat to women's health. Denying women access to much needed health care must be stopped.

The Victims of Abuse Access to Health Insurance Act is a very simple and straightforward bill. It would prohibit insurance companies from ''engaging in a practice that has the effect of denying, canceling, or limiting health insurance coverage or health benefits, or establishing, increasing or varying the premium charged for the coverage or benefits'' for victims of domestic violence.

It would prohibit insurance companies from considering domestic violence as a preexisting condition. Under the bill, domestic violence is defined as any violent act against a current or former member of the family or household, or someone with whom there has been or is an intimate relationship. This could mean spouse, partner, lover, boyfriend, or children. If an insurance company, or even a company that is large enough to self-insure, violates this act it could be held civilly and criminally liable.

Reporting domestic violence and seeking medical help is often the first step in ending the cycle. Oftentimes health care providers are the first, and sometimes the only, professionals in a position to recognize violence in their patient's lives. Battered women should be encouraged to seek medical help. We should not be discouraging this by allowing insurance companies to use this information against them. Women should not have to fear that when they take that first step they could lose their access to treatment.

Doctors and other health care providers need to be encouraged to properly diagnose, treat, and document domestic violence. Denial of health insurance coverage will cause doctors not to document it accurately if only to protect the victim.

Domestic violence is the leading cause of injury to women, more common than auto accidents, muggings, and rapes by a stranger combined. It is the No. 1 reason women go to emergency rooms. And research indicates that violence against women escalates during pregnancy.

Last year during the health care reform debate, I raised this issue in the context of requiring insurance companies to make insurance available to all people who wanted it. We should certainly all be moving toward that goal. However, this is a real immediate need and it must be addressed.

Last year Congress passed the first most comprehensive package of legislation to address gender based violence—the Violence Against Women Act. It was a great step forward in stopping the cycle of violence. But, it is not enough. We cannot stop at reforming and improving the judicial system and think it will solve the problem. The entire community must be involved in the solution—we all must be involved in stopping the cycle of violence.

Insurance companies should not be allowed to discriminate against anyone for being a victim of domestic violence. This is an abhorrent practice and should be prohibited.

I urge my colleagues to support it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Victims of Abuse Access to Health Insurance Act''.

SEC. 2. PROHIBITION OF HEALTH INSURANCE DISCRIMINATION RELATING TO VICTIMS OF CERTAIN CRIMES.

(a) IN GENERAL.—No insurer may engage in a practice that has the effect of denying, canceling, or limiting health insurance coverage or health benefits, or establishing, increasing, or varying the premium charged for the coverage or benefits—

(1) to or for an individual on the basis that the individual is, has been, or may be the victim of domestic violence; or

(2) to or for a group or employer on the basis that the group includes or the employer employs, or provides or subsidizes insurance for, an individual described in paragraph (1).

(b) PRE-EXISTING CONDITIONS.—

(1) IN GENERAL.—A health benefit plan may not consider a condition or injury that occurred as a result of domestic violence as a pre-existing condition.

(2) PREEXISTING CONDITION.—As used in paragraph (1), the term ''preexisting condition'' means, with respect to coverage under a health benefit plan, a condition which was diagnosed, or which was treated, prior to the first date of such coverage (without regard to any waiting period).

SEC. 3. CIVIL AND CRIMINAL REMEDIES AND PENALTIES.

(a) IN GENERAL.—Whoever violates the provisions of this Act shall be—

(1) subject to a fine in an amount provided for under title 18, United States Code, for a class A misdemeanor not resulting in death;

(2) subject to the imposition of a civil monetary penalty; and

(3) subject to the commencement by the aggrieved party of a civil action under subsection (b).

(b) CIVIL REMEDIES.—

(1) IN GENERAL.—Any individual aggrieved by reason of the conduct prohibited in this Act may commence a civil action for the relief set forth in paragraph (2).

(2) RELIEF.—In any action under paragraph (1), the court may award appropriate relief, including temporary, preliminary, or permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for plaintiffs attorneys

and expert witnesses. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of $5,000 per violation.

(3) CONCURRENT JURISDICTION.—Both Federal and State courts shall have concurrent jurisdiction over actions brought pursuant to this section.

SEC. 4. DEFINITIONS.

For purposes of this Act:

(1) DOMESTIC VIOLENCE.—The term ''domestic violence'' means the occurrence of one or more of the following acts between household or family (including in-laws or extended family) members, spouses or former spouses, or individuals engaged in or formerly engaged in a sexually intimate relationship:

(A) Attempting to cause or intentionally, knowingly, or recklessly causing bodily injury, rape, assault, sexual assault, or involuntary sexual intercourse.

(B) Knowingly engaging in a course of conduct or repeatedly committing acts toward another individual, including following the individual, without proper authority, under circumstances that place the individual in reasonable fear of bodily injury.

(C) Subjecting another to false imprisonment.

(2) INSURER.—

(A) IN GENERAL.—The term ''insurer'' means a health benefit plan, a health care provider, an entity that self-insures, or a Federal or State agency or entity that conducts activities related to the protection of public health.

(B) HEALTH BENEFIT PLAN.—The term ''health benefit plan'' means any public or private entity or program that provides for payments for health care, including—

(i) a group health plan (as defined in section 607 of the Employee Retirement Income Security Act of 1974) or a multiple employer welfare arrangement (as defined in section 3(40) of such Act) that provides health benefits;

(ii) any other health insurance arrangement, including any arrangement consisting of a hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract;

(iii) workers' compensation or similar insurance to the extent that it relates to workers' compensation medical benefits (as defined by the Secretary of Health and Human Services); and

(iv) automobile medical insurance to the extent that it relates to medical benefits (as defined by the Secretary of Health and Human Services).

SEC. 5. INAPPLICABILITY OF MCCARRAN-FERGUSON ACT.

For purposes of section 2(b) of the Act of March 9, 1945 (15 U.S.C. 1012(b); commonly known as the McCarran-Ferguson Act), this Act shall be considered to specifically relate to the business of insurance.

SEC. 6. REGULATIONS.

The Secretary of Health and Human Services shall issue regulations to carry out this Act.

SEC. 7. EFFECTIVE DATE.

This Act shall take effect 90 days after the date of the enactment of this Act.

Mr. KENNEDY. Mr. President, I strongly support the Victims of Abuse Access to Health Insurance Act, and I commend Senator WELLSTONE for introducing it. This needed legislation will prohibit insurers from denying health insurance coverage, benefits, or premiums to victims of domestic abuse. Enactment of this measure is an essential step in the struggle to combat domestic violence and to assist women and children who are its victims.

Violence against women has reached epidemic proportions. Nationwide a woman is beaten every 18 seconds. A woman is raped every 5 minutes. More than 1 million women across the country are victims of reported crimes of domestic violence; 3 million more such crimes go unreported.

Last year, as part of the omnibus crime bill, Congress passed the Violence Against Women Act. In doing so, we established new Federal penalties for spouse abusers, provided a civil rights cause of action for gender-motivated crimes of violence, and authorized funds for services for victims, including victim counselors, battered women's shelters, rape crisis centers, and a national domestic violence toll-free hotline.

By enacting that law, Congress made a strong commitment to do more to help the victims of domestic violence. We encouraged them to report their abusers, and to seek assistance. We gave them new means to help them protect themselves. And now, with this legislation, we must tell them that they will not be denied health insurance for doing what is necessary to protect themselves and their children.

Insurance companies that refuse to cover battered women commit an injustice to those women and to society. Denial of health insurance to victims of domestic violence is discrimination against women and children. It is another way to blame and punish the victim, while letting the abuser go free. Allowing this discrimination tacitly endorses it—and endorses the myth that victims of domestic abuse are responsible for the violence committed against them.

Denying such insurance also discourages victims of domestic abuse from reporting the crimes against them and from leaving their abusers and seeking help. It discourages victims from seeking medical treatment for injuries inflicted by their abusers. For countless Americans, health insurance is the only realistic means of obtaining access to health care. The loss of health care for themselves and their children is enough to intimidate many victims into staying in abusive environments and keeping silent.

We must not condone any practice which makes it harder for women to leave their abusers or deters them from reporting the crimes against them and their children. We must not condone any practice which punishes women for seeking medical treatment for themselves and their children, for seeking safety from violence, or for speaking out against the crimes committed against them. I urge my colleagues to support this legislation, and I look forward to working with my colleagues to promote its passage.

By Mr. BAUCUS (for himself, Mr. DASCHLE, Mr. DORGAN, and Mr. PRESSLER):

S. 525. A bill to ensure equity in, and increased recreation and maximum economic benefits from, the control of the water in the Missouri River system, and for other purposes; to the Committee on Environment and Public Works.

THE MISSOURI RIVER WATER CONTROL EQUITY ACT

Mr. BAUCUS. Mr. President, I will not speak for the full 25 minutes; it will be 10 or 15 minutes. I thank the Chair for recognizing me. Mr. President, I rise this morning with my colleagues from North Dakota and South Dakota to discuss the Army Corps of Engineers and particularly the Missouri River system.

We are here today to make our side of the story known on what is called the Preferred Alternative to the Missouri River Master Water Control Manual. That sounds very technical, but it is really about the heart and soul of our State of Montana. Let me explain.

MONTANA AND THE MISSOURI RIVER

It is difficult to describe what the Missouri River means to Montana. People across the country may be familiar with the writer Norman Maclean's book ''A River Runs Through It.'' He grew up in Missoula, and the title refers to the Big Blackfoot on the western side of the Divide. But for so many of us growing up east of the Continental Divide, the river is the Missouri.

This river was part of our life before we became a State. Our attachment to Missouri began eight decades before statehood, when Lewis and Clark came up in their boats way back in 1805.

I grew up in the Helena Valley. My parents and friends—my friends and I, in particular, spent our summers swimming in Holter Lake by my family's ranch on the Missouri. Sometimes in Hauser Lake, sometimes Canyon Ferry. Is it impossible to imagine Montana without lie on the Missouri River.

The Missouri is where farmers get water for their crops; where ranchers take their stock to drink; where sportsmen take the weekend to go rafting or fishing. It comes up through Broadwater and Lewis and Clark Counties, Great Falls, and Fort Benton, and runs all the way through the State to the Fort Peck Dam and the North Dakota line.

So when people at the Army Corps of Engineers headquarters in Washington, DC, or St. Louis, or Omaha, decide how high the reservoirs will be, how much water we will have for irrigation, or whether we can dock our boats at Fort Peck, it is an emotional, important decision that affects us.

THE 1987–92 DROUGHT

That would be true even if they at corps made good decisions. but up to now, most of the decisions have not been good. They have been bad—very bad.

We were hit by a big drought a few years ago that lasted 6 years, from 1987

to 1992. During most of that drought, the corps did absolutely nothing to help us out. It stuck like a leech to the status quo. Everything for irrigation down river, almost nothing for recreation up river. One drawdown after another—drawdown during a drought—when we had no rain to refill our reservoirs.

Our lake levels fell dramatically. At Fort Peck, the lake shore receded until it was more than a mile from many boat ramps. Weeds were growing in fields by the docks. This picture to my left will give you an idea of the wreckage. At that point, I and other Montanans decided we had enough, we were not going to take any more. We needed the corps to go back to the book and make basic changes.

TRADITIONAL CORPS MANAGEMENT MISTAKEN

Well, why did the corps allow this disaster to take place? Because the corps has traditionally given the maximum preference to barge traffic down river, which makes no sense.

According to the corps' own numbers, navigation is worth only about $15 million a year. Many experts think even that is too high. Recreation and tourism, according to the corps' own numbers, bring in much more—about $77 million annually, which is five times the value of navigation.

For years, the corps said the law required this approach. They said, that is the law, you have to do it. But again, the corps is wrong—dead wrong.

As the General Accounting Office testified at a hearing I held in Glendive, MT, last year:

> Contrary to what the Corps believed, Federal statutes do not require the Corps to give recreation a lower priority than other project purposes—flood control, navigation, irrigation, and the generation of hydroelectric power—in major decisions about water releases.

NEW MASTER MANUAL IS INADEQUATE

For years, I urged the corps to update its operating plan for the Missouri River. The draft of the new preferred alternative operating plan is a step in the right direction.

But I am sorry to say it is not good enough. It is not much more than a rehash of the status quo. It continues to give recreation the lowest priority, even though recreation yields the most economic benefits. It ignores the need to raise permanent reservoir levels, and it ignores erosion below Fort Peck Dam. Let me examine these issues one by one.

DISPROPORTIONATE BENEFITS FOR LOWER BASIN STATES

The first is simple fairness.

The four upper basin States receive about $358 million, or 32 percent of the benefits, from river management. Lower basin States get $756 million, or 68 percent of benefits. As for Montana, we receive only about 4 percent—not even a nickel of each dollar—of all of the economic benefits of the Missouri River system. The preferred alternative will not change that.

As you can see from this chart, it will mean that 32 percent for the upper basin States and 68 percent for the lower basin States. That is the allocation; no change, which is obviously unfair.

RECREATION TOO LOW A PRIORITY

Second, the corps still values navigation over recreation. That is backwards. Navigation is worth only 1 percent of the river system's economic benefits. One percent. Recreation brings in more. It is more than just pleasure boating, it is jobs. Recreation is therefore more valuable to the country, and it should be a much higher priority.

As I mentioned earlier, recreation benefits, overall, are five times navigation benefits. The corps undervalued recreation in its Master Manual Review. According to the corps, the average visitor to a corps reservoir spends about $7 a day. But the Sports Fishing Institute found that the amount spent for walleye fishing, for example, is $45 a day. And at Fort Peck, the average was $69 a day. The corps' figures do not add up.

MINIMUM POOL LEVEL MUST BE HIGHER

Third, the new plan does not change reservoir levels. The minimum pool level, below which the corps will not release water in a drought, is now 18 million acre-feet. At that level, weeds grow on the bed of Fort Peck Reservoir. Boat ramps are high and dry a mile from shore. Under the preferred alternative, the minimum pool level is still 18 million acre-feet.

The right level should be 44 million acre-feet. The master manual environmental impact statement prepared by the corps states that 44 million—not 18—44 million acre-feet yields the greatest economic benefit to the Missouri basin States. Repeating that, 44 million acre-feet yields the greatest economic benefit to the Missouri basin States. Specifically, it adds $1.28 million to the regional economy.

As you can see from the chart on my left, those numbers speak for themselves. And that level would benefit the environment and the quality of life—things we cannot estimate in cold cash, but which are more important in Montana than I can tell you.

River management requires compromise, and we understand that. Downstream States have not understand that in the past. They wanted to stone wall. They wanted everything, and they have usually gotten it in the past. But the problems remain. We pledge to work with our friends downstream to find a fair solution.

I can tell you now, Mr. President, that anything under 44 million acre-feet is unacceptable, and anything that gives navigation more than its fair share will not fly.

PLAN IS INADEQUATE IN COMBATING EROSION

Finally, the plan ignores erosion. Before we completed Fort Peck Dam in 1940, there was virtually no erosion anywhere along the river, from what is now the dam to Lake Sakakawea. Since then, 4,935 acres of prime farm land have eroded away, washed down to North Dakota by explosive releases from the Fort Peck Reservoir. And the corps itself predicts in the next 50 years, erosion will cost us another 4,500 acres.

Talk about taking private property without compensation. Here is an example. The farmers in Montana have received no compensation for what they have lost. And the corps has done nothing to stop further erosion. In the 54 years we have had the Fort Peck Dam, the corps has built one—just one—streambank stabilization project in Montana.

That defies common sense. It defies good policy. And it defies the law. The Water Resources Development Act of 1990 requires the corps to spend $3 million every year to perform streambank stabilization. And under the preferred alternative, there will be more releases, not fewer. It is no better—in fact, it is worse—than the status quo.

FDR'S PROMISE

Plain and simple, the corps must do better. It is time the corps kept the old promise that the river would be managed for everybody.

President Franklin Delano Roosevelt made that promise to us. He came to Fort Peck 4 years before I was born. In those days, few Montanans owned cars. The Depression had us flat on our back. Twenty-eight Montana counties applied for aid from the Red Cross. We have only 56 counties in the entire State. North of Fort Peck, in Daniels County, 3,500 of the county's 5,000 citizens were on Federal relief—3,500 of the county's 5,000 citizens were on relief.

But even so, 20,000 Montanans came out to see their President. FDR stood under the massive wooden scaffold they put up to build the dam. And he said:

> The Nation has understood that we are building for future generations of our children and grandchildren, and that in the greater part of what we have done, the money spent is an investment which will come back a thousand-fold in the coming years.

We believed him. We put in the investment. Montana farmers gave up 250,000 acres of prime riverbottom land. But very little of it—forget ''a thousand-fold''—has returned.

Year after year, for six decades, the corps has betrayed FDR's promise. We are sick and tired of it. It is time to put it right.

CONCLUSION

I am sorry if I have gotten a little emotional about this. But when it comes to keeping Montana's water in Montana, most of us get emotional. And I do want to recognize the progress the corps has made.

Ken Byerly, the editor emeritus of the Lewistown News Argus, once wrote that ''solving this problem is like eating an elephant; you take it one bite at a time.''

We have taken some bites already. About 4 years ago, the late Senator

Quentin Burdick and I convinced the corps to admit that the basic manual—a work drafted in the 1950's, before the Interstate Highway System made barge traffic more or less obsolete—had to be redone to meet the needs of the 1990's.

But the corps has not spent a penny. Instead, it orders releases of water that increase erosion.

In 1993, at our hearing in Glendive, Colonel Schaufelberger, who was the commander of the Missouri River Division of the corps at that time, somewhat sheepishly agreed that the corps' lawyers had been wrong. Federal laws actually do let the corps consider recreation on an equal basis with navigation and other uses. I ask unanimous consent that an excerpt of his testimony be printed in the RECORD.

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

EXCERPT FROM A HEARING BEFORE THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, OCTOBER 1, 1993

Senator BAUCUS. * * *

I would like to begin with Mr. Duffus. You state in your report that there is no legal requirement that the Corps give preference to navigation over recreation; in fact, you state in your report that recreation must be given at least equal status to navigation. That is, the law makes that clear, in GAO's judgment, that recreation has equal status compared with navigation. Is that correct?

Mr. DUFFUS. That's correct, Mr. Chairman.

Senator BAUCUS. And what do you base that on? Is that just your reading of the statute? What's the reason for that?

Mr. DUFFUS. The basis for the Corps' categorization of project purposes as primary or secondary rose out of their conclusion that if a project purpose was not identified and had cost allocated to it, then it was not primary, it was secondary. It had to be relegated to a secondary purpose. In documents that they sent up to the Congress when the project was authorized in 1994 and approved, recreation was not allocated any cost. So it was on that basis that the Corps came to the conclusion that recreation was a secondary purpose.

Our review of the statute and our review of the legislative history found no basis for that.

Senator BAUCUS. Colonel, do you agree that there is nothing in the law that requires navigation to be given preference over recreation—or to ask the same question turned around, that the law in fact requires that equal emphasis be given to recreation as compared to navigation?

Colonel SCHAUFELBERGER. Sir, the law does not discriminate. The law says in the purposes of the reservoirs—and they are enunciated—there is no priority established. So there is nothing in the law that says there has to be one priority over the other. The only priority established in the law is the O'Mahoney-Milliken amendment, which specifies that consumptive use has priority over other purposes. That's the only priority that I'm aware of that is specified by law.

Senator BAUCUS. But there is nothing in the law that gives preference to navigation over recreation?

Colonel SCHAUFELBERGER. That is correct, there is nothing in the law.

Mr. BAUCUS. And today I am introducing a bill entitled the ''Missouri River Water Control Equity Act.'' It will balance the equities between the upper and lower basin States. It will require a greater emphasis on recreation. And it will ensure that common sense, not pork-barrel politics, determine how the Missouri River is run.

It may seem unimportant compared to many bills before the Congress. But it means everything to Montanans. We have a lot of elephant steak left to fry, but we are firing up the grill and we are determined to make progress.

I thank you, Mr. President, and I want to thank my colleagues, particularly the distinguished minority leader and also my very good friend, the Senator from North Dakota, Senator CONRAD, for joining me here today.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 525

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1 SHORT TITLE.

This Act may be cited as the ''Missouri River Water Control Equity Act.''

SEC. 2. FINDINGS.

Congress finds that—

(1) gross revenues from recreation on the Missouri River system are estimated by the Army Corps of Engineers to be $77,000,000 annually;

(2) gross revenues from navigation on the Missouri River system are estimated by the Army Corps of Engineers to be $15,000,000 annually;

(3) barge traffic produces only 1 percent of the annual net revenue that derives from the operation of the Missouri River system;

(4) the Army Corps of Engineers requires 18,000,000 acre-feet of water to remain in the reservoirs of the Missouri River system;

(5) maximum economic benefits for the Missouri River system are estimated by the Army Corps of Engineers to be achieved if 44,000,000 acre-feet of water are maintained in the reservoirs of the Missouri River system;

(6) the recreation industry along the Missouri River has been stifled by drawdowns of the reservoirs of the Missouri River system during drought periods;

(7) barge traffic on the Missouri River has steadily decreased since 1977 so that currently the quantity of cargo shipped on the Missouri River is only 1,400,000 tons annually;

(8) the States of Missouri, Iowa, Kansas, and Nebraska receive 68 percent of the total economic benefits of the Missouri River system; and

(9) the States of Montana, North Dakota, South Dakota, and Wyoming receive only 32 percent of the total economic benefits of the Missouri River system.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to ensure that the States of Montana, North Dakota, South Dakota, and Wyoming receive an equitable portion of the economic benefits from the operation of the Missouri River system;

(2) to encourage the development of the recreation industry along the Missouri River;

(3) to maximize the economic benefits to the United States of the operation of the Missouri River system; and

(4) to phase out navigation, which is the least productive use of the Missouri River system, in order to increase the productivity of other competing uses of the system such as hydropower and flood protection.

SEC. 4. MINIMUM POOL LEVELS.

(a) MISSOURI RIVER SYSTEM.—The Secretary of the Army, acting through the Assistant Secretary of the Army having responsibility for civil works (referred to in this Act as the ''Secretary''), shall not permit the permanent pool levels in the Missouri River system to fall below 44,000,000 acre-feet at any time unless the Secretary makes a finding that a lower level is required to provide necessary—

(1) emergency flood control to protect human life and property;

(2) hydropower; or

(3) water supply.

(b) FORT PECK LAKE.—The Secretary shall not permit the permanent pool level in Fort Peck Lake to fall below 12,000,000 acre-feet (which is equivalent to an elevation of 2,220 feet) at any time unless the Secretary makes a finding that a lower level is required to provide necessary—

(1) emergency flood control to protect human life and property;

(2) hydropower; or

(3) water supply.

SEC. 5. NAVIGATION DEAUTHORIZED.

(a) TRANSITION PROVISION.—The Secretary shall decrease the length of the first navigation season that begins after the date of enactment of this Act, and each navigation season thereafter, by 30 days from the length of the previous navigation season, until such time as the navigation season for the Missouri River is eliminated.

(b) PROHIBITION.—Beginning on the day after the end of the last navigation season under subsection (a), the Secretary may not authorize a program, project, or activity that involves navigation on the Missouri River.

SEC. 6. MITIGATION OF EROSION.

(a) IN GENERAL.—Not later than January 1, 1997, the Secretary shall develop and implement a plan to mitigate streamback and reservoir erosion caused by the operations of the Missouri River system.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the plan developed under subsection (a) $20,000,000 for each fiscal year.

Mr. CONRAD. Mr. President, I would like to salute the Senator from Montana, Senator BAUCUS, for his leadership on this subject. The Senator from Montana has been an absolute champion for our part of the country in trying to get fair treatment and equity with respect to the management of the mainstream reservoirs. He has been absolutely determined and dedicated to achieving a fair result.

I can remember very well when the Senator from Montana and I teamed up to stop the appointment of a new head of the Corps of Engineers until our part of the country got fair treatment in the depths of the worst drought we had suffered since the Great Depression. The Senator from Montana, Senator BAUCUS, has shown nerves of steel in taking on the Corps of Engineers on this issue. Very frankly, our part of the country has gotten short shrift, gotten shortchanged, and it has to be altered.

Now we know that for years the Corps of Engineers was operating on a policy that was not supported by law and was not supported by fact. And it is because of the energy and effort of the Senator from Montana, in large

measure, that we are moving toward a new day today. I want to thank him publicly for everything he has done.

Mr. BAUCUS. Will the Senator yield?

Mr. CONRAD. Yes.

Mr. BAUCUS. I thank the Senator.

Mr. President, I think that North Dakotans should know that there is no Senator who has worked harder on this issue than their Senator, KENT CONRAD. He and I have teamed up many times on this matter. And I must say it is a combination of working with the Senator from North Dakota, as well as the other Senator from North Dakota, Senator DORGAN, and other members of the House delegation that has enabled us to stem—pardon the pun—more of the flow down the stream. But this is a problem that has to be corrected, and I thank my colleague for joining me in assuring this correction is made.

Mr. CONRAD. I thank the Senator from Montana. It has been a team effort, but I think there is no doubt the Senator from Montana, Senator BAUCUS, has been a key player in this effort.

Mr. President, from its origins in Montana to its end near St. Louis, the mighty Missouri River is managed and controlled by the Army Corps of Engineers. Five years ago, the Army Corps of Engineers began a review of its river management plan, commonly called the master manual. This was the first major review of the manual since it was implemented in 1960.

The corps started this review in response to our concerns over falling reservoir levels in the Dakotas and Montana. At that time, we were in the middle of the worst drought since the Great Depression, and the corps was draining huge amounts of water from the reservoirs for the sole purpose of keeping a small number of barges on the Missouri River afloat.

I can remember very well holding a hearing in the midst of that terrible drought and learning, to my shock and my surprise, that the Army Corps of Engineers was releasing record amounts of water from our reservoirs in the midst of the worst drought in 50 years. I mean, think about it. It is absolutely extraordinary. In the worst drought in 50 years, they were releasing record amounts of water and, as a result, our reservoir levels were dropping like a stone.

Mr. President, while the barges continued to float, Lake Sakakawea and other mainstream reservoirs dropped by almost 30 feet. It is hard to imagine. It is hard to visualize what that meant, Mr. President. I know the occupant of the chair, the distinguished occupant of the chair, is from a downstream State, and I know there are legitimate interests there as well. But I say to you, if you could have seen what was happening in our part of the country, I think even the downstreamers would have been stunned. To see a reservoir drop 30 feet in a very short period of time and to see the economic wreckage caused by that drop, I think, told many of us that something was badly askew.

I can still remember a young couple. He had been a pro football player. He and his wife put everything they had into a resort right before the drought hit. And when the reservoir dropped, they found their marina high and dry. They found everything they had put in, all their life savings, everything they could borrow, was lost, all of it put at risk and all of it lost.

Mr. President, the water has returned to our reservoirs, but the need to change the master manual remains. Five years of corps study has made it clear that the current master manual provides disproportionate benefits for downstream States at the expense of upstream States. About 70 percent of the system's economic benefits goes to downstream States, while upstream States get roughly 30 percent. This is not a fair distribution of benefits and it should change.

Of special concern to me is the fact that the current plan destroys a growing recreation industry from the upper basin to keep subsidizing a shrinking Missouri River barge industry.

The main problem with the current manual is that it is slanted toward navigation and based on outdated assumptions. The master manual anticipates annual river navigation traffic of 12 million tons. We have never even gotten close to that number. Commercial navigation is now around 2 million tons per year; in other words, one-sixth of what is assumed in the current master manual.

Navigation supplies only 1 percent of the system's annual economic benefits—$17 million out of $1.3 billion. This compares with $76 million in annual benefits from recreation. Yet, the corps continues to manage the entire system for the benefit of navigation and to the detriment of other functions. Navigation is the only project function managed for 100 percent of its potential—potential—economic output.

In economic terms, does it make any sense for the corps to favor navigation over recreation? Anyone who takes an honest look at the facts would answer ''No.''

Mr. President, the time has come to change this policy. The corps should stop pretending that navigation is king. It is not. It never was. My colleagues may be surprised to hear that the entire Missouri River system would actually generate greater economic benefits if Missouri River navigation were deemphasized. In other words, we would give the taxpayers a better return on their investment if we would place less emphasis on barges on the Missouri.

I believe that a better way to manage the river would be to deemphasize Missouri navigation and keep more water in the upstream reservoirs. Such a move would increase total economic benefits, improve the river ecosystem, and result in more equitable distribution of the benefits. Recreation and hydropower benefits would increase while flood control and water supply functions would be largely unaffected.

In addition, deemphasizing Missouri river navigation would significantly improve the river ecosystem. This approach makes economic sense. It makes environmental sense. I cannot understand how any rational review of the situation could reach any other conclusion.

Mr. President, the public has been fed a good deal of misinformation about the master manual review. I want to address two falsehoods that are being spread by some who are opposed to change.

First, the upstream States are not trying to use up, take away, or sell all of the Missouri River water that would otherwise go downstream. There is no way that North Dakota or any other upstream State could use enough Missouri River water to affect the downstream flows. It simply cannot be done. In addition, North Dakota has, I say, no—and I repeat no—plans to divert to another State, sell, or trade away the rights to Missouri River water.

Second, changes in the Missouri River master manual will not significantly impact navigation and water supply on the Mississippi River. Corps analysis concluded that ''Changes in the Missouri River operations would not''—let me repeat that—''would not affect water supply on the Mississippi River.'' Corps analysis also found there was essentially no difference in Mississippi navigation between the current plan and the corps' proposed change.

Finally, my colleagues should keep in mind that there is a legitimate issue of fairness at work here. The upstream States have sacrificed 1.2 million acres of prime land to house the reservoirs that serve and protect the downstream States. In return, we get a fraction of the benefits and a fraction of the water projects that were promised as compensation some 50 years ago.

Mr. President, let me emphasize, we have given up 1.2 million acres—a permanent flood in our States—in order to save the downstream States from repetitive flooding. So we have the permanent flood to save them from annual flooding. Yet, they get the lion's share of the benefits of the management of the system.

In contrast to what we have experienced upstream, the downstream States have sacrificed nothing but received the lion's share of the benefits, including navigation water supply, and to date $5 billion worth of flood control—not million—$5 billion worth of flood control. This is not what I call equity.

Mr. President, what we need in the Missouri River Basin is balance in fairly meeting the competing interests along the river. By making key changes in the master manual, we can achieve this balance while at the same time increasing economic and environmental benefits.

Mr. DASCHLE. Mr. President, the Corps of Engineers manages the flow of the Missouri River based on assumptions about economic uses of the river that have not been seriously reexamined or revised in 50 years. Impartial observers, including the General Accounting Office, acknowledge that the rules for operating the dams along the river, known as the master manual, are outdated.

Historically, upstream States, including South Dakota, have accepted the burden of flood control on the river. This tradition began with the sacrifice of prime land to the construction of dams to prevent downstream flooding.

Over time, recreation in upstream States has come to play a much more prominent role in producing economic benefits from the river. Yet corps management of the river ignores this development and continues to give recreation lower priority than competing downstream uses.

Today there is general consensus on the need to substantially revise the guidelines by which the Federal Government operates the dams on the Missouri River. After reviewing the management of the Missouri River in 1992, the General Accounting Office concluded that the corps has been managing the river based on ''assumptions about the amount of water needed for navigation and irrigation made in 1944 that are no longer valid.'' According to GAO, ''the plan does not reflect the current economic conditions in the Missouri River Basin.''

As a result, in 1989 the Corps of Engineers initiated a study of the operation of the main stem of the Missouri River, in anticipation of revising the master manual. A number of alternative management plans were developed and, based on the historical behavior of the river—from 1898 to 1994—the economic and environmental impacts of each alternative were evaluated. The goal of this exercise was to identify which alternative would maximize the economic value of the river, considering such factors as flood control, navigation, hydropower, water supply, and recreation.

In May 1994, the corps selected a preferred alternative, which called for shortening the navigation season by 1 month and maintaining a higher permanent pool behind the dams. In July 1994, the draft environmental impact statement [EIS] was released for review. The public comment period ended on March 1.

What has become clear through this 6-year process is that the downstream States will go to great lengths to prevent this reassessment from moving forward. Congressional representatives from downstream States consistently have attempted to block any revision of the Master manual that reflects the changing economics of the river and gives recreation the priority it deserves.

The House Appropriations Committee in 1993—at the behest of downstream members—called on the corps ''to follow the legislative priorities and regulatory guidelines expressed in its current master manual until a new management plan is approved by Congress.'' Now that the corps has selected the preferred alternative, the downstream States have made it clear that they will fight the changes it recommends.

It appears increasingly unlikely that even modest changes in the master manual will be allowed to occur without legislation. That is regrettable.

To focus light on the heart of this issue, today Senator BAUCUS is introducing the Missouri River Water Control Equity Act, which seeks to ensure that the changing economic conditions are acknowledged and reflected in the management of the river. This bill simply states explicitly policy that should be implicit.

This bill reflects the analysis of corps professionals. It would require the agency to maintain a permanent pool of 44 million acre-feet behind most dams, while allowing it to maintain lower levels if necessary to meet downstream needs for flood control, water supply and hydropower. It would also reduce the navigation season and require the corps to develop and implement a plan to mitigate stream bank erosion caused by operation of the dams.

Mr. President, times have changed. Assumptions valid 50 years ago are no longer valid today.

Since 1944, significant economic changes have occurred in the economy of the Missouri River. The downstream users refuse to accept this fact. Instead, they cling to the outdated assumptions that disproportionately reward their States to the detriment of upstream users.

Given the results of the corps' own evaluation, the revisions should have gone much farther. Greater consideration should have been given to increasing the permanent pool from its current level of 18 million acre-feet. The analysis performed by the corps demonstrates significant increases in recreation and wildlife habitat benefits at higher permanent pool levels. Given the immense economic value of recreation in the upstream States—now a $77 million per year industry—as well as the ecological damage that has been suffered over the years due to disruption of wetlands and the flooding of prime crop land—the master manual should be altered to better support these activities.

The bill introduced today would require the corps to make modest changes in the management of the river that their professionals have recommended; changes that are fair and that increase national environmental and economic benefits from the river.

Neither the upstream States nor the Nation as a whole can afford to continue business as usual. It is my hope that Congress will take an objective look at this issue, recognize the merits of this legislation and move swiftly to enact it.

By Mr. GREGG (for himself and Mr. BOND):

S. 526. A bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions, and for other purposes; to the Committee on Labor and Human Resources.

THE OSHA AMENDMENTS OF 1995

● Mr. GREGG.

Mr. President, when OSHA was enacted it was intended to make the workplace free from ''recognized hazards that are causing, or likely to cause, death or serious physical harm to * * * employees.'' As with many programs established by Congress, however, over the years OSHA has developed a well-earned reputation for overregulation. OSHA has moved from its original purpose of protecting the workers to hindering businesses with excessive mandates.

While I feel that a major problem within OSHA is of a cultural nature, the bill will concentrate on five areas that will relieve the oppressive and burdensome regulations. My bill, the OSHA Amendments of 1995, addresses the need for employee participation, risk assessment in standard making, consultation services, reduced penalties for nonserious violations, and warnings in lieu of citations.

This balanced approach will remove a feeling among the American employers and employees that OSHA is the bad cop, and institute an awareness of a partnership in assuring safety and health in the workplace. The limitation of burdensome and repetitious paper work, compiled with risk assessment and a reduced threat of large fines, will make for a more business-like approach.

As Chairman of the Labor Subgroup of the Regulatory Relief Task Force, I have received numerous requests for the reform of OSHA. This past month I held a roundtable on regulatory reform in my State of New Hampshire and, although there were many issues raised, the one that was unanimously supported was OSHA reform. Businesses across America share New Hampshire's exasperation with what OSHA has become, as well as their demands for relief. This bill begins to answer that call to action.●

By Mr. LOTT:

S. 527. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Empress;* to the Committee on Commerce, Science, and Transportation.

CERTIFICATE OF DOCUMENTATION LEGISLATION

Mr. LOTT. Mr. President, I am introducing a bill today to direct the vessel *Empress,* Official Number 975018, be accorded coastwise trading privileges.

The *Empress* was constructed in 1925 in the United States. It is 75 feet in length, 16 feet in width, 5.5 feet in depth, and is self-propelled. The vessel was owned by the United States until 1960. The vessel has been used as a corporate business vessel, private residence, and charter vessel. It has also been used by nonprofit groups such as the Special Olympics, March of Dimes, and the Ronald McDonald House.

The current owner obtained the boat from his father. The owner has all ownership records except for the years 1960 to 1965, when the vessel was being used by the Boy Scouts of America.

The owner of the vessel is seeking a waiver of the existing law so that the vessel can be used as a charter vessel.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 527

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel EMPRESS (United States official number 975018).

By Mr. LOTT:

S. 528. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for three vessels; to the Committee on Commerce, Science, and Transportation.

CERTIFICATE OF DOCUMENTATION LEGISLATION

Mr. LOTT. Mr. President, today I am introducing legislation which seeks to temporarily authorize the operation of three vessels in the coastwise trade. Ordinarily, I do not support any legislative relief from section 27 of the Merchant Marine Act of 1920 to allow operation of vessels not constructed in the United States. In this particular instance, however, temporary relief from the Merchant Marine Act will increase jobs in the shipbuilding industry, support the addition of maritime jobs and expand the maritime transportation base.

I want to point out that the bill I am introducing today protects the U.S.-build requirements of the Jones Act by stipulating that these three vessels are authorized to operate in the coastwise trade if, and only if, three criteria are met. These criteria are:

The owner of these vessels must execute a binding contract for construction of replacement vessels within 9 months of enactment of this provision;

All necessary repairs required to operate these vessels in the coastwise trade must be performed in shipyards in the United States; and

Each of these vessels must be manned by U.S. citizens.

If this legislation is adopted, jobs in the U.S. maritime industry will be increased and new opportunities for maritime passenger transportation in high demand areas will be created. Without this authorization, these opportunities—including the addition of over 100 new shipyard jobs—will not occur.

I appreciate the attention of my colleagues and yield the floor.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COASTWISE TRADE AUTHORIZATION FOR HOVERCRAFT.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Act of June 19, 1886 (46 U.S.C. App. 289), and sections 12106 and 12107 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for each of the vessels IDUN VIKING (Danish Registration number A433), LIV VIKING (Danish Registration number A394), and FREJA VIKING (Danish Registration number A395) if—

(1) all repair and alteration work on the vessels necessary to their operation under this section is performed in the United States;

(2) a binding contract for the construction in the United States of at least 3 similar vessels for the coastwise trade is executed by the owner of the vessels within 6 months after the date of enactment of this Act; and

(3) the vessels constructed under the contract entered into under paragraph (1) are to be delivered within 3 years after the date of entering into that contract.

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. MCCAIN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 4, a bill to grant the power to the President to reduce budget authority.

S. 50

At the request of Mr. LOTT, the names of the Senator from Utah [Mr. HATCH], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 50, a bill to repeal the increase in tax on social security benefits.

S. 88

At the request of Mr. HATFIELD, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 88, a bill to increase the overall economy and efficiency of Government operations and enable more efficient use of Federal funding, by enabling local governments and private, nonprofit organizations to use amounts available under certain Federal assistance programs in accordance with approved local flexibility plans.

S. 90

At the request of Mr. HATFIELD, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 90, a bill to amend the Job Training Partnership Act to improve the employment and training assistance programs for dislocated workers, and for other purposes.

S. 145

At the request of Mr. GRAMM, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 145, a bill to provide appropriate protection for the constitutional guarantee of private property rights, and for other purposes.

S. 191

At the request of Mrs. HUTCHISON, the names of the Senator from Missouri [Mr. BOND], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of S. 191, a bill to amend the Endangered Species Act of 1973 to ensure that constitutionally protected private property rights are not infringed until adequate protection is afforded by reauthorization of the Act, to protect against economic losses from critical habitat designation, and for other purposes.

S. 240

At the request of Mr. DOMENICI, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

S. 267

At the request of Mr. STEVENS, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 267, a bill to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas, and for other purposes.

S. 327

At the request of Mr. HATCH, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 348

At the request of Mr. NICKLES, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 348, a bill to provide for a review by the Congress of rules promulgated by agencies, and for other purposes.

S. 351

At the request of Mr. HATCH, the names of the Senator from New York [Mr. D'AMATO], and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 351, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for increasing research activities.

S. 478

At the request of Mr. BREAUX, the names of the Senator from Connecticut [Mr. DODD], and the Senator from

Washington [Mr. GORTON] were added as cosponsors of S. 478, a bill to amend the Internal Revenue Code of 1986 to allow the taxable sale or use, without penalty, of dyed diesel fuel with respect to recreational boaters.

S. 497

At the request of Mr. HELMS, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 497, a bill to amend title 28, United States Code, to provide for the protection of civil liberties, and for other purposes.

S. 503

At the request of Mrs. HUTCHISON, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 503, a bill to amend the Endangered Species Act of 1973 to impose a moratorium on the listing of species as endangered or threatened and the designation of critical habitat in order to ensure that constitutionally protected private property rights are not infringed, and for other purposes.

S. 508

At the request of Mr. MURKOWSKI, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 508, a bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

S. 510

At the request of Mr. MCCAIN, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 510, a bill to extend the authorization for certain programs under the Native American Programs Act of 1974, and for other purposes.

AMENDMENT NO. 331

At the request of Mrs. KASSEBAUM the names of the Senator from Oklahoma [Mr. NICKLES], and the Senator from Tennessee [Mr. FRIST] were added as cosponsors of Amendment No. 331 proposed to H.R. 889, a bill making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

At the request of Mr. HELMS his name was added as a cosponsor of Amendment No. 331 proposed to H.R. 889, supra.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. NICKLES. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Energy Production and Regulation.

The hearing will take place Tuesday, March 21, 1995, at 10 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 92, a bill to provide for the reconstitution of outstanding repayment obligations of the administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Howard Useem or Judy Brown at (202) 224–6567.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, March 9, at 9:30 a.m., in SR–332, to discuss ''Farm Programs: Are Americans Getting What They Pay For?''

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

COMMITTEE ON ARMED SERVICES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m. on Thursday, March 9, 1995, in open session, to receive testimony on the defense authorization request for fiscal year 1996 and the future years defense program.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 9, 1995, at 10 a.m. to conduct a hearing on the Mexican peso.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, March 9, 1995, for purposes of conducting a full committee business meeting, which is scheduled to begin at 10:30 a.m. The purpose of this meeting is to consider the nomination of Wilma Lewis to be Inspector General of the Department of the Interior.

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

COMMITTEE ON FINANCE

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Thursday, March 9, 1995, beginning at 9:30 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing on welfare reform.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 9, 1995, at 10 a.m. to hold a hearing on ''Implementation and Costs of U.S. Policy in Haiti.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 9, 1995, at 2 p.m. to hold a hearing on the ''Overview of South Asian Proliferation Issues.''

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. JEFFORDS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, March 9, for a markup at 9:30 a.m. on S. 219, Regulatory Transition Act of 1995.

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

COMMITTEE ON THE JUDICIARY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, March 9, 1995, at 10 a.m. to hold a hearing on ''S. 227, the Performance Rights in Sound Recordings Act of 1995.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. JEFFORDS. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on the nomination of Dennis M. Duffy to be Assistant Secretary for Policy and Planning for the Department of Veterans Affairs, and on the budget for veterans programs for fiscal year 1996. The hearing will be held on March 9, 1995, at 10 a.m., in room 418 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON AVIATION

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Aviation Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on March 9, 1995, at 2:30 p.m. on the Metropolitan Washington Airports Authority.

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

ADDITIONAL STATEMENTS

ODDS AGAINST CONTROLLING GAMBLING FEVER IN ILLINOIS

● Mr. SIMON. Mr. President, recently, the Bloomington Pantagraph had an

editorial that I ask be printed the RECORD, commenting on the matter of gambling in Illinois.

The phenomenon is not a problem only in Illinois.

I have introduced legislation calling for a national commission to look at where we are going in this area and to look into its impact on the Nation.

We are talking about the fastest growing industry in the United States, and there are obviously problems that go with that escalation.

The Drake Law Review recently had a very extensive study of this question and came to the conclusion that we are harming our country.

I hope Congress will authorize a careful look at this whole question.

The editorial follows:

[From the Pantagraph, Feb. 23, 1995]

ODDS AGAINST CONTROLLING GAMBLING FEVER IN ILLINOIS

Gambling fever seems to be spreading across Illinois like a prairie fire.

Horse tracks have been around for awhile, but the state broke new ground by subsidizing the rebuilding of Arlington International Raceway when the original track burned.

For those who didn't want to go to the tracks, there have been plenty of bingo parlors around. And the state finally got around to licensing them to make them legal.

And there is the state lottery, where the proliferation of games to lose money—with a few exceptions, of course—never ceases to amaze us.

We also have the riverboats, the floating crap games. It hasn't been enough to just have the riverboats; owners have chartered buses to transport gamblers from various cities.

Oh yes, let's not forget the offtrack betting parlors that have sprung up in at least a half-dozen Illinois cities.

But there is still constant stirring in Springfield for more licensed gambling—casino gambling.

Had enough? There's more.

The mega-raffles seem to be hitting Illinois much harder this year, too.

There's one in Bloomington-Normal now. Central Catholic High School's Dream House raffle is offering a top prize of a $200,000 house under construction on Bloomington's northeast side. Only 2,400 tickets are being sold at $100 each.

Sangamon County is concerned enough about such raffles that it regulates them with a code. Last month, the county raised the maximum for such raffles from $150,000 to $250,000. Since then, a fourth ''mega-drawing'' of the year has been announced in Springfield—this one for a $180,000 house to benefit Big Brother/Big Sister of Sangamon County.

Perhaps we shouldn't be surprised that in that same city, legislation was introduced two weeks ago to permit video lottery gambling at locations licensed to conduct charitable games, primarily private/social clubs.

We haven't even mentioned the office pools or the illegal bookies and tip boards in probably every major city.

It seems rather ironic that this fever pitch for gambling is often tempered because proceeds are earmarked for charity, or education, or county fairs.

We know gambling is an easy way to make a quick buck—for the sponsor.

And we haven't mentioned that a small bet for a large prize can be titilating.

But the stakes seem to be escalating. It's time Illinois legislators take a more critical look at gambling—what it was, what it has become, what it has done and where it is going.

Please, no more legalized gambling. We'll bet there are ample opportunities to lose money now.●

ORDERS FOR TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. on Friday, March 10, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business not to extend beyond the hour of 11:00 a.m., with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator GRASSLEY, 10 minutes; Senator Abraham, 10 minutes; Senator KOHL, 10 minutes; and Senator GRAHAM from Florida, 15 minutes.

I further ask unanimous consent that at the hour of 11:00 a.m., the Senate resume consideration of H.R. 889, the supplemental appropriations bill.

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

PROGRAM

Mr. DOLE. Mr. President, for the information of all of my colleagues, a cloture motion was filed today on the pending amendment offered by Senator KASSEBAUM. Therefore, cloture will occur on the Kassebaum amendment during Monday's session of the Senate. It is my hope that tomorrow we will temporarily set aside the Kassebaum amendment so we may continue to consider other amendments to the bill. Senators should be aware that rollcall votes are expected throughout Friday's session of the Senate.

I will just say to my colleagues who are in their offices, or staff, that I have not had a procedural vote this year. I do not like procedural votes. I do not like Sergeant at Arms votes, but unless we can make some progress tomorrow—of course, if Senators are talking, there would be no need, but unless those who are opposing us from putting the question on the pending amendment are willing to talk, we will have procedural votes tomorrow, even though I have never been particularly excited about that approach.

I will also say, we come in at 10 a.m., and tomorrow Dr. Halverson will lead us in prayer for the final time. So I hope my colleagues will be here a little before 10 a.m. tomorrow morning.

RECESS UNTIL 10 A.M. TOMORROW

Mr. DOLE. Mr. President, if there be no further business to come before the Senate, I now ask that the Senate stand in recess under the previous order.

Thereupon, the Senate, at 8:03 p.m., recessed until Friday, March 10, 1995, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 9, 1995:

UNITED STATES INSTITUTE OF PEACE

DANIEL A. MICA, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 1997, VICE W. SCOTT THOMPSON, TERM EXPIRED.

HARRIET M. ZIMMERMAN, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 1999, VICE WILLIAM R. KINTNER, TERM EXPIRED.