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House of Representatives

The House was not in session today. Its next meeting will be held on Monday, May 12, 1997, at 12 noon.

Senate

FRIDAY, MAY 9, 1997

The Senate met at 9:15 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of the Universe and Lord of our lives, by the revolution of the Earth around the Sun, You have brought forth a new day. Just as You have made the sunrise, You have made us what we are; just as we cannot take credit for the sunrise, we dare not take pride in what we have made of ourselves. We can, however, be humbly grateful. To fail to glorify You for either the new day or the miracle You have made of each of our lives would be blasphemy. Help us to praise You both for this new day and the privilege of living life to the fullest. All that we have and are is Your gift. This day will be like no other day past or to come.

You who are everlasting Mercy, give us tender hearts toward all those for whom the morning light brings less joy than it does to us, those for whom the beginning of a new day does not bring rejoicing, but grief, suffering, or trouble. Free us to do all we can for all to whom we can communicate Your care. As we seek to make this a great day for others we will discover the practical love You want to communicate through our words and actions, deliberations and decisions. This is the day You have made and we will rejoice and be glad in You. Through our Lord and Saviour, Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader, Senator D'AMATO from New York, is recognized.

Mr. D'AMATO. Mr. President, it is indeed a pleasure to be with you today.

SCHEDULE

Mr. D'AMATO. Mr. President, on behalf of the majority leader, there will be a period of morning business to allow a number of Senators to speak. The time between 9:45 and 12:30 will be equally divided for statements regarding the Family Friendly Workplace Act. As previously announced, no rollcall votes will occur during today's session of the Senate.

On Monday, the Senate will consider the IDEA legislation and/or the CFE treaty. If an agreement can be reached for the consideration of those measures, the majority leader has stated it may be possible to stack any votes ordered until Tuesday. All Members will be notified accordingly when those agreements are reached and when the Senators can anticipate the next rollcall vote.

I thank my colleagues for their attention and I thank the President pro tempore for his recognition.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. THOMAS). Under the previous order, there will now be a period for the transaction of morning business.

RECOVERY OF WORLD WAR II GOLD

Mr. D'AMATO. Mr. President, pursuant to the order, I rise today to speak to the release of the report, and I will show you this report. The report is entitled, and I think the title is important, ''U.S. and Allied Efforts To Recover and Restore Gold Stolen by Germany During World War II.'' I think that description of the report is totally inadequate. It is a great report. The author and the person who has worked so hard, Ambassador Stuart Eizenstat, Under Secretary of Commerce and soon to be Assistant Secretary for Economic Affairs in the State Department, should be proud. We should all commend him for his efforts at getting the truth.

What this report might better be called is the report on the greatest robbery that mankind has seen take place under the guise of the law and under the guise of civilized conventions and under and with the approval of allies who did not face the killing machine of the German Nazi armies. This was after the war that the greatest looting continued and this conspiracy continued for 50-plus years.

Let me say we owe a great debt of gratitude to Stuart Eizenstat because he comes forward with the truth—not all of it, because not all of the documents and not all of the evidence are available or have been made available, but it is a beginning. His dedication to the truth and the perseverance he has demonstrated, and those who work with him, to bring us to this point should be commended. He has done this despite opposition from many quarters,

quarters within our own Government, the State Department. The State Department was not happy; they were not happy campers. He pushed forward and he saw to it that this report was released. It really cracks the conspiracy, the veil of secrecy that has existed for 50-plus years. It begins to unravel the web and the deception that has been continued for 50 years, the so-called neutrality of some nations, and particularly the Swiss.

Simply put, this report details the greatest robbery in the history of mankind. It underscores the necessity for a complete review and release of all of the documents and a full accounting of the assets that the Swiss held during the war and continued to hold for the past 50 years. It is outrageous that this crime could continue and that there were nations and citizens and representatives of this country, as well as our allies, as well as the French, as well as the English, who countenanced this. There were no great German armies threatening them at that point in time. The Swiss cannot claim that they were fearful because they were surrounded and they were a tiny little nation.

The report demonstrates beyond a shadow of a doubt the guilt and complicity of the Swiss Government as the bankers for the Nazis during World War II. Holocaust victims and their families have to shudder when they read this report. It leaves the unmistakable conclusion that we have to look carefully and ask our allies to look with us at whether or not we should reopen the Washington accords. The Washington accords set the basis for the distribution of billions and billions of dollars worth of gold.

Literally, let me say that it would appear that the Swiss Government withheld billions. I will get into some detail and indicate how much. It is very clear that the Swiss Government was not forthcoming, that they were deceptive in terms of how much in the way of assets they were holding, that the Nazi killing machine had deposited with them. They kept these billions of dollars illegally and improperly, notwithstanding the bonafideness they might claim as a result of the accords being agreed to by the Allies.

Some of this money, unmistakably, came from the death camps, places like Auschwitz and Treblinka, as well as from the peoples throughout Europe who were slaughtered when the Nazi killing machine swept across the Continent. In the 1946 accords between the Allies and Switzerland, the Swiss Government only agreed to give the Allies $58 million in gold. That would be the equivalent of about $580 million today, despite the fact that even some of our negotiators knew they had at least $398 million, or worth close to $4 billion today. So, while they had $4 billion that never belonged to them, they distributed and agreed to distribute a small portion of that. They basically said, ''We have it, we are not telling you how much, and this is how much we are going to give you.''

The report indicates that the Swiss refused to give the Allies any more than $28 million in what we call German external assets. Those are the assets that are stocks and bonds and insurance policies, real estate, and others. Despite the fact that we knew that they had the equivalent of between $4 and $8 billion, they said, ''We will give the equivalent of less than $300 million.''

There is a movie that has become somewhat famous called ''Jerry Maguire.'' In that, the athlete, I think the movie star Cuba Gooding Jr., has a great line when he says, ''Show me the money.'' Well, Mr. President, it is about time we said to the Swiss, ''Show us the money,'' give to the world a full and proper accounting, reopen those accords.

There was a claim by the Swiss Ambassador the other day saying, ''You cannot hold us responsible for what took place 50 years ago.'' To that extent I can say, that is correct. Most of the individuals today in Government or in positions of responsibility were nowhere around then. They did not make those decisions. They did not make the decisions relating to trafficking with the Nazis, being their bankers, or, indeed, keeping the loot thereafter and refusing to meet their legitimate obligations. But we can hold them accountable now. We can and we must.

There are going to be great pressures to say, ''Come on, stop rocking the boat.'' There are tremendous international consequences in terms of the international corporations that these banks do business with and/or control and/or work with. These billions of dollars that they have had and have used all these years at their disposal, they are not so anxious to depart with them. Indeed, if one were to say, ''Give us a real accounting, show us all of the money, the money and profits that were made as a result of the billions of dollars that you have kept over the years,'' wouldn't that be interesting.

The question as to where did all of that money go becomes important. Who concealed it for all these years? Why did it take a righteous man like Christophe Meili, a young bank guard, to stop the records of these transactions from being shredded? He attempted to. He is a young bank guard who stumbled upon Union Bank of Switzerland shredding records 5 months ago. Should we say anyone who is alive today is responsible for what took place 50 years ago when they were not there? We can certainly say, why would you shred records now, records that related to great companies and corporations and the business activities that they had with the Germans, records that, it would seem, indicated that there were properties of Jews that were forced to leave, forced sales? Why would the bank historian do this, and what was the fate of this particular young man?

This week we heard testimony from Mr. Meili, who, as a result of turning over some documents to the Jewish Historical Society, who then turned them over to the Swiss police, has come under tremendous pressure. Instead of being held as a righteous person and a man who did what was correct, he has received hundreds of death threats, in writing—not just by way of the telephone. His children have been the subject of harassment, and they are 2 and 4 years old. He has been threatened and the lives of his children—it has been indicated they would be kidnapped in retaliation for his act of courage. Here is a young man who acted as a righteous person, and instead of beinging treated as a hero for standing up and doing what is right, he has been treated like a criminal.

Yes, the Swiss Government and their Ambassador has said, ''Do not judge us on the events that occurred 50 years ago but on what we do today.'' Certainly, if the treatment of Mr. Meili is any indication of their commitment to finding truth, then it makes it rather difficult to hold out hope that they are really dedicated to attempting to deal with the horrors that took place and have been concealed for 50 years.

The Swiss bankers owe the world a total and full accounting, as do our allies. It is about time that our allies and this Government put aside the diplomatic niceties and do what they should have done 50 years ago and do the right thing. You don't have to be a rocket scientist to know that there are going to be great pressures to put this aside. I think what is taking place is unconscionable, and it is time to set the record straight.

Because of the importance of the report of Mr. Eizenstat, as well as the great work of Mr. Slany, the historian of the State Department, we will be holding Banking Committee hearings on Thursday, May 15. We will hear from Ambassador Eizenstat, and Mr. Slany, the State Department historian. They will discuss the findings of the report, what it covers, what it doesn't cover. We will also hear from Ambassador Borer, of the Swiss Foreign Ministry; he is their special ambassador. Finally, we will hear from Tom Bower, author of the book ''Nazi Gold,'' which traces the history of the Swiss banks during World War II, and Rabbi Marvin Hier, of the Simon Weisenthal Center in Los Angeles. Rabbi Hier has played a major role in tracing the flow of assets of Europe to South America during this period.

Mr. President, the world deserves the truth. For 50 years, it has been hidden in the archives while justice has been denied to the victims of the Holocaust and the survivors. This is the greatest tragedy, a tragedy of indifference, a tragedy of the indifference of the Swiss bankers and it is disgraceful. They knew they were accepting laundered gold and that they were financing the Nazi war machine. As Secretary Eizenstat said, the Swiss bankers extended the war. How many people died

because of this? We don't know. We may never know the answer. But it is our duty to get the facts and have a full accounting from the bankers.

During these ''Days of Remembrance'' of the Holocaust, it is our duty to go forward to try to achieve some measure of justice for those who cannot fight for themselves. In memory of those who died in the Holocaust, and the people who still act courageously, like Christophe Meili, we must continue the inquiry so that the full truth be known.

This past Tuesday, Mr. President, Mr. Meili came before the Banking Committee. His testimony was chilling, to say the least. As we reached the end, I asked him several questions. I turn to page 40 of the transcript. Mr. President, let me say that this was not a Q and A in which the questions were known to the person who was being asked, nor did I have any idea or know how Mr. Meili—the 28-year-old bank guard who came from Switzerland this past Friday, and is in this country now—would respond. I said:

Let me, if I might, just ask several other questions, and then put some letters . . . into the record.

And I turned to him and I said:

What made you, Christophe, think that the records you found were important and should be saved from destruction?

Through his interpreter, Mr. Meili said this:

A few months before, I had seen the movie ''Schindler's List.'' And that's how, when I saw these documents, I realized I must take responsibility; I must do something.

He is a 28-year-old bank guard in Switzerland. He did something that was right, that was courageous. He is a non-Jew, but he had seen ''Schindler's List'' and he was moved, he was compelled to respond, to stop the shredding of these documents or the destruction, to report them to someone, and to say should this be done?

And then, Mr. President, if that wasn't chilling enough—and, really, it seems to me a call for those of us who have the power and the responsibility of righting these wrongs—I asked him if there were any closing remarks he would like to make, that we would be glad to receive them. I asked that question of the three witnesses who appeared before us. Here is what Mr. Meili said:

Please protect me in the United States and in Switzerland. I think I become a great problem in Switzerland. I have a woman, two little children, and no future. I must see what goes on in the next days for me. Please protect me. That is all. Thank you, Mr. Chairman.

Mr. President, it is not good enough for the Swiss Ambassador to say, ''You can't hold us responsible for what took place 50 years ago,'' when a young man who has attempted to do what is right finds himself ostracized, finds the power of the Swiss Government and the Swiss banks—who indeed run the Swiss Government, as a practical matter—and that remark may draw their ire and their fire and their protest, that a young man who acted courageously now finds himself a victim scorned, the lives of his wife and children threatened. How can we do any less than what one individual, Christophe Meili, attempted to do, and that is to do what is right?

So, Mr. President, I hope that this week when we have these hearings, this will be a new beginning and it will energize our Government and our allies to come forward in a united way, to put aside the diplomatic niceties that have shrouded this over the years, to seek a full accounting and to seek justice once and for all.

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. JEFFORDS. 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. JEFFORDS. Mr. President, it is my understanding that we are now on general debate on S. 4; is that the order of business?

The PRESIDING OFFICER. Actually, we are in morning business until 12:30.

Mr. JEFFORDS. Fine. I will proceed anyway.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

THE FAMILY FRIENDLY WORKPLACE ACT

Mr. JEFFORDS. Mr. President, the legislation that we are discussing today, S. 4, the Family Friendly Workplace Act, is timely, commonsense legislation designed to give working families a much-needed option in balancing their busy work and family schedules. I am extremely pleased that the leadership has made passage of this bill a high priority.

The Family Friendly Workplace Act is intended to provide private-sector employers and employees with the same optional workplace flexibility benefits that public-sector employees have enjoyed since 1978. S. 4 provides three alternative work schedule options: One, compensatory time off in lieu of monetary overtime pay; two, biweekly work schedules; and three, flexible credit hours. I will explain each of these in more detail in a minute. In addition to the workplace scheduling option, S. 4 offers much-needed salary basis reform, and this is a very important problem that we now have as a result of recent court decisions.

Mr. President, there seem to be many misconceptions about what this legislation does and what it doesn't do. I appear today to clear that up.

I wanted to go over, first, the four components of S. 4. I believe this will give some of my colleagues a better understanding of this bill.

The first component of S. 4 is the compensatory time provision. S. 4 would amend the Fair Labor Standards Act's overtime provisions to allow employers to offer their employees the option of compensatory time off instead of traditional overtime pay.

In other words, you can trade the time and a half pay for compensatory time off. This provision will allow hourly employees the ability to take time off as a result of having worked overtime. Like State and local government employees, private sector employees would accrue comptime at the same rate as an employer's normal rate of overtime pay, that is 1½ hours of compensatory time off for every hour of overtime worked.

This legislation is not mandatory. It does not require employers to offer compensatory time off. If employers decide to offer the comptime option to their employees, it is up to the employees to decide whether or not to accept it. Employees who are members of unions will choose compensatory time through the collective bargaining process. Nonunion employees, on the other hand, must ''knowingly and voluntarily'' enter into an agreement with their employer for comptime before they perform any overtime work. Again, I want to stress that this provision is purely voluntary.

Mr. President, this legislation goes to great lengths to protect employees. If a nonunion employee does not like the comptime program, he or she may withdraw at any time by providing his or her employer with written notice. The withdrawal of employees who are members of unions will be controlled by the collective bargaining agreement.

I see no reason why unions should be in opposition to this bill.

If an employer finds that its comptime program is not working out, it can cancel its compensatory time off policy by providing the employees who have elected to earn comptime with 30 days with written notice. Again, there is nothing compulsory about this law at all.

Employees are also permitted to cash out—receive the case equivalent of their accrued comptime—at any time.

Let me repeat that. Employees are permitted to cash out—receive the pay equivalent of their accrued comptime—at any time. So even if an employee selects the comptime option, if that employee decides at a later date that he or she needs the overtime pay instead of time off, the employee has the ability to cash out, to get cash for their overtime work.

An employee will also receive the cash equivalent of any unused compensatory hours whenever an employer discontinues its compensatory time policy or in situations where an employee withdraws, resigns or is terminated.

The employer must cash out the employee's compensatory time at either the employee's overtime rate or the

employee's final rate of pay, depending on which is greater.

The legislation allows an employee to accrue up to 240 hours of compensatory time during a 12-month period. If, after the 12-month period, an employee has not used his accrued time, the employer has 31 days to remit the cash equivalent of those hours. If an employee has accrued over 80 hours at any time, an employer may remit the cash equivalent of those excess hours, in lieu of the employee taking time off.

While opponents of the legislation fear that employers will control when an employee will be able to use accrued compensatory time off, their concern is unfounded. The bill clearly states that an employee must be allowed to use his or her accrued compensatory time off within a reasonable period of time provided that the time off will not unduly disrupt the workplace. This portion of the bill mirrors what is already firmly established, strongly recognized, and upheld in the FLSA and the regulations applying to the public sector.

Under a compensatory time off program, an employee enjoys the preexisting protections of the Fair Labor Standards Act, including prohibitions against violations of section 7 and FLSA's discrimination provision, as well as S. 4's anticoercion provision, which will be an additional provision of FLSA. No employee may be coerced, intimidated or threatened to accept any of the bill's flexible workplace options. Violation of any of these provisions submits an employer to additional liability including liquidated damages and any other viable remedy at law or equity.

BIWEEKLY WORK SCHEDULES

The second alternative is a work scheduling option called biweekly work schedules. Biweekly schedules give employees the option of scheduling 80 hours at any time within a 2 week period rather than confining employees to scheduling 40 hours in 1 week. This greater flexibility gives employees the ability to create schedules that coordinate their work responsibilities with their personal obligations.

That is an important thing to know. This gives the employees the flexibility to try to manage their hours within the 2-week period to take care of their own personal problems, whether it is with schools, day care, or whatever else it is—to make everything a little bit more flexible, a little bit more friendly to the family.

Just as the election of compensatory time is voluntary, so too, is the election of biweekly work schedules. Employers do not have to offer biweekly schedules and any employee who is not interested in a biweekly schedule and may keep a traditional work schedule.

Again, I want to emphasize that the biweekly schedule is completely voluntary. Employees who are satisfied with the existing 40 hour work week are under no obligation to enter into a biweekly schedule arrangement with their employer.

An employee who wants to work under a biweekly schedule must meet with his or her employer prior to each 2-week work period and prearrange a schedule for that period. Regardless of how the hours are divided, the employee will not be required to work past 80 hours during the 2-week period. An employer will have to pay overtime for any deviations from the schedule. Any hours that an employer requests the employee to work beyond the predetermined 80 scheduled hours are considered overtime.

So overtime provisions are maintained. Again, it is totally voluntary. So the employees have flexibility and have an understanding of what happens if the employer asks them to deviate from that schedule.

Once the biweekly period begins, an employer cannot alter an employee's scheduled hours to meet the employer's overtime needs. Even if the employee has worked less than 40 hours during the week, if an employer asks the employee to work hours in addition to the preset schedule, the additional time is considered overtime.

Under S. 4's biweekly work schedule provisions, employees enjoy the preexisting safeguards of the FLSA. Employees will also benefit from S. 4's provisions prohibiting an employer from directly or indirectly intimidating, threatening, or coercing an employee to participate in a biweekly schedule program.

Again, there is very strong protection for the employee to be protected against any abuse by the employer.

For union employees, the particulars of a biweekly work schedule, such as hours to be worked and methods of withdrawal, will be set forth in a collective bargaining agreement.

There is no reason why any union should disagree with this. If unions do not care for the biweekly scheduling option, they do not have to select it.

In the nonunion setting, an employee would enter into an agreement with his or her employer. Again, it is totally at the option of the employer and the employee.

Because biweekly work schedule programs are voluntary, nonunion employees may withdraw their agreement to participate by providing written notice to the employer. Similarly, an employer may discontinue a biweekly work schedule program upon 30 days notice to all participating employees.

The third provision may seem new to some of you but, again, we have taken this concept—that of flexible credit hours—from the public sector.

FLEXIBLE CREDIT HOURS

It is not uncommon for employees to need to take unpaid leave for common life events such as caring for a loved one, assisting an elderly parent or studying for an exam. Employees may wish to work additional hours, in excess of the traditional 40 hour week, in order to bank those additional hours for future use.

Under the FLSA, however, an hourly employee is not permitted to carry over additional hours for use in a future work week. Instead, the employer would have to pay overtime for the additional hours worked by that employee. Employers who have no need for their employees to work extra hours are unlikely to be willing to pay employees an overtime premium. As a result, there is really a disincentive under the FLSA for employers to provide employees with the flexibility that they demand.

To assist employees who would like to accrue hours for future use, the third provision in this legislation is the flexible credit hour program. The flexible credit hour program would allow an employee to request to work up to 50 hours over his or her regularly scheduled hours.

Flexible credit hours are awarded on a one-to-one ratio: 1 credit hour for one hour over an employee's regular schedule. Each hour is a flexible credit hour which is then banked for future use. When employees use their flexible credit hours they are compensated for their time off at their regular rate of pay.

Therefore, employees wishing to take an additional week of vacation would have the ability to work 2 extra hours a week for 20 weeks and then use the 40 flexible credit hours that they have banked so that they collect a regular paycheck on their extra week off.

It is very, very important for workers that are trying to plan their time off and who are trying to coincide with school vacations, or other family events that will require them to be away from work.

Allowing employees to bank hours would also provide the millions of Americans who do not work overtime hours with more flexibility because it would give them the ability to work additional hours so that they could use the paid time off when necessary.

As with compensatory time and biweekly programs, an employer has the initial decision of whether to offer the flexible credit hour program. However, once an employer offers the program, whether an employee participates is 100 percent voluntary. If an employee elects to participate, the employer and the employee jointly designate hours for the employee to work that are in excess of the basic work requirement of the employee so that the employee can accrue flexible credit hours.

The anticoercion, remedy, and sanction provisions applicable to compensatory time-off options and biweekly work schedule programs apply to the flexible credit programs as well.

Compensation for unused accrued credit hours is handled in much the same way that compensation for unused compensatory time is handled. If an employee has not used all his or her credit hours within a 1-year period, the employer is required to cash out the employee's remaining credit hours at the employee's normal rate of pay. An employee must be allowed to use accrued credit hours within a reasonable period of time following the request so

long as doing so will not unduly disrupt the workplace. This program's particulars also track those of both the compensatory time off option and the biweekly work schedule program. Employees remain entitled to the same protections and remedies, agreement, accrual, withdrawal, and notice requirements.

These are all just merely required because the FLSA and the 40-hour work week are so rigid that it is very difficult for employees and employers to arrange things such that they can help employees to better manage the obligations of work and family.

The final provision of S. 4, the salary basis fix, may seem a bit arcane, but it is a very serious problem.

The fourth provision impacts the treatment of salaried employees rather than hourly wage employees.

The final portion of this legislation helps clarify a problem that has arisen under the ''salary basis'' test. In recent decisions, courts have clouded the salary basis test and caused unnecessary litigation and windfall awards for highly paid employees. This portion of the legislation simply clarifies who is and who is not an exempt employee to prevent additional unfair payments of overtime back pay to salaried employees.

Under the salary basis test, an employee is considered to be paid on a salary basis, and thus exempt from FLSA, if that employee regularly receives a straight salary. The FSLA provides that an exempt employee's salary cannot be—subject to reduction for absences of less than a day. A number of court cases, however, have interpreted this language to mean that the theoretical possibility of a salary being docked—that is, decreased—for an absence of less than a day is enough to destroy the employee's exemption even if that employee has never experienced an actual deduction.

It is one of those things where the Court has found something they believe to be an accurate interpretation of the law. When in fact it is not Congress' intent for the law to work this way. The impact that it has can be incredibly destructive.

For more than 5 decades the ''subject to'' language generated little or no controversy. In recent years, however, courts began to interpret the salary-basis standard, seizing upon the ''subject to'' language, large groups of employees, many of them who are highly compensated, have won multimillion-dollar judgments. These awards have been granted in spite of the fact that many of the plaintiff employees have never actually experienced a pay deduction of any kind and have never expected to receive overtime pay in addition to their ''executive administrative or professional'' salaries. This problem has been particularly onerous in the public sector.

I want to be clear that the bill is intended to clarify that an employee would not lose his or her exempt status just because his or her employer has a policy on the books that provides for a reduction in pay for absences of less than a full day or less than a full week. Those employees should remain exempt and this bill would ensure that happens. However, if an employee's salary was actually docked, the legislation would not affect the outcome as to that employee.

Again, I want to emphasize that if an employer docks the pay of a salaried employee, that employee could still lose his or her exempt status, but only if it has been docked.

The legislation also clarifies that employers may give bonuses and overtime payments to salaried employees without destroying their exemption from the FLSA. That is the opposite side of the equation.

Finally, Mr. President, while the FLSA was enacted to protect workers, many of today's work force view certain of the FLSA provisions as harmful rather than helpful. Given the overwhelming success of public sector programs which S. 4 is modelled after here, I believe it is important that Congress now extend the same freedom and flexibility to private workers.

Again, I emphasize this is voluntary for both parties. The flexible work schedules would give employees more control over their lives by giving them a better tool to balance their family and work obligations. Employers and hourly employees must be given the ability to reach agreement on flexible schedules beyond the standard of the inflexible 40-hour workweek and to bank compensatory time in lieu of cash overtime where such an agreement is mutually beneficial, and voluntarily entered into. Salary-basis reform for nonexempt employees would also increase flexibility options.

The FLSA should be amended to assist workers in balancing the needs of an evolving work environment and quality family time.

I thank most of all Senator ASHCROFT, who has been the leader in this fight and who has done an outstanding job of bringing the attention to this legislation, not only to the Members, but nationwide. I look forward to working with him and Senator DEWINE on this bill. Mr. President, as I discuss the wonderful provisions in this legislation I can't help but wonder why anybody could oppose it, but I expect that some of my colleagues will express a differing view.

Mr. President, I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Ohio is recognized.

Mr. DEWINE. Madam President and colleagues, let me first congratulate Senator JEFFORDS for bringing this bill to the floor and for a very eloquent statement about the merits of this bill. I see Senator ASHCROFT, who is the author of the bill, in the Chamber. I know he wishes to speak about the bill, as I do. I also see Senator KENNEDY, who wishes to speak as well. Before I begin to talk about this bill, I would like to talk about two other items.

SHERIFF RUSSELL A. BRADLEY

Mr. DEWINE. Madam President, I rise this morning to note the passing of a friend and former colleague. Russell A. Bradley died yesterday morning. It was to me rather ironic that as I heard the news, I was preparing to go to a Judiciary Committee hearing to talk about the crime problem in this country because Sheriff Bradley, Russell Bradley, was my home county sheriff for 30 years. Russell Bradley was a dedicated public servant, a great politician, and was my friend. Russell Bradley served as Greene County Sheriff from 1957 to 1987. For 30 years, Russ Bradley was the sheriff. Elected eight times, he built the Greene County sheriff's office into the professional organization that it is today and that today we, frankly, take for granted. It was not so when he became sheriff in January 1957.

I first met Russ Bradley when I was a young boy growing up in the village of Yellow Springs. Russ Bradley at that time was the chief of police. Russ Bradley was a person whom you would go to if you had a problem in the community. I remember talking with him, being with him, fishing with him when I was a very, very young boy. In 1956, when I was 9, Russ Bradley was elected county sheriff. He ran in the Republican primary and beat the incumbent, a shock to everyone across the county. Frankly, it was a shock to most of us who were his friends because we did not think he could win. That was the first of eight victories he won running for the office of sheriff in Greene County.

He remained sheriff long enough so that a 9-year-old boy who knew him when he was first elected had an opportunity to grow up, go away to college, go to law school, come back home and become assistant county prosecutor and then have the opportunity to work on a professional basis with Sheriff Bradley. I had a chance for a little over 2 years to serve as assistant county prosecutor, then to serve as the elected county prosecutor for 4 more years. I had the opportunity then to see this man whom I had known as a young boy, to see him up close and personal and work with him literally on a daily basis as we dealt with crime problems in our county.

Russ Bradley really taught a whole generation, really two generations of Greene County and Ohio public servants and politicians how to win elections. He was the person we watched, we copied, we emulated, we stole ideas from. He was literally the master and we were the students. He taught us how to campaign door to door and the significance of that, the tenacity to continue to do that night after night. He taught us how to work the county fair. He even taught us things such as how to go out and put your signs along the

road to make sure the signs were positioned in exactly the right position so that the headlights of the car would strike that sign just as you came around the corner. He had it all, he did it all, and he taught us very well.

The most important thing that he taught politicians and people in public office in our area was how to be a public servant. He taught us the essential lesson of politics, that public service is good politics and good politics is public service, and that the way to ensure being elected, the way to ensure being successful is always remember where you came from and always remember who you serve.

Russ Bradley was a person who was dedicated to service. He delivered service every single day. I remember talking to him when I was county prosecutor. He would say: Mike, you are worried about this and you are worried about that. The only thing you really have to worry about is giving people service. Give them what they are paying you to do. When anybody comes in here with a problem, you try to help them solve that problem. And even if you cannot solve it, if you try to help them solve the problem, that is what you should be doing.

That is a lesson I certainly have never forgotten.

Russ Bradley was a great investigator. I have been involved and seen an awful lot of people in law enforcement over my now quarter-of-a-century career. I have never seen anyone as good as Russ Bradley at heading up an investigation. The tougher the case, the better he was.

I remember many days going into his office as he assembled his team at 8 o'clock in the morning, his detectives and his road men. You have to keep in mind this was not a huge department. Our county is only 130,000, 135,000. But we would have, unfortunately, our share of murders, our share of very difficult cases. I remember him bringing people together every day, and he orchestrated how his men and women were to go out that day and continue to follow every lead they could come up with.

Russ Bradley knew what all people in law enforcement know. This is not a glamorous job. It is a tough job. It is hard work. It is grunt work, really, and following leads and being lucky if 1 out of 100 turns into anything. And if you are lucky, that 1 out of 100 turns into something else and you can keep trying to unravel the crime and try to put the puzzle together to solve the crime.

He was an expert at what, for want of a better word, I would call the drive-by shooting, the roadside murder where, when the police get there, the sheriff gets there, the only thing they can find is the body. There is just no other evidence at all. I have seen him take cases like that and reconstruct those cases and slowly build them week after week after week and ultimately lead to a conviction of the person who committed the murder.

Russ Bradley was the best I have known at getting a confession, and he managed to operate in the pre-Miranda days and in the post-Miranda days, which is quite an accomplishment. As Russ said, if anyone could get a confession, I could. If I couldn't get them, nobody could. He would laugh with people. He would cry with them. He would pray with them, whatever it took, but he would get that person's confidence and he would ultimately get that person to tell him what the facts were. He was a master at that.

Sheriff Bradley was also a great judge of people. When I would go into a case, the first thing, of course, you do in a case, as a prosecutor, you begin the process of selecting the jury. That is a judgment call of who you want to serve on that jury. I always wanted Russ Bradley right by my side to eyeball that jury and tell me who he thought would be a good juror, who he thought might not be such a good juror. He was able to do this, not only because he knew about everybody in the county or knew their sister or brother or cousin or somebody, but also because he was a consummate judge of human nature. He knew people very well and could size a person up, his or her character, what kind of people they were—he could do that probably better than just about anybody that I know or ever met.

This is a time to recall Sheriff Bradley, though it is not a time to be sad. I do not think anyone who knew Russ Bradley could think of Russ Bradley without smiling. He was someone who was a great practical jokester, someone who loved to laugh, someone who loved to hunt, someone who loved to fish, someone who loved to have a good time.

He was a tremendous coon hunter. I remember many mornings coming in and, as we were about to start a trial at 9 o'clock, in Judge Aultman's court or Judge Weber's court, the sheriff would come rolling in. I would meet him at the courtroom. I would look over and say, ''Russ, you been out coon hunting?''

He would say, ''Oh, no, just a little bit last night.''

Then it would come out from one of his deputies he had been up to 4 a.m., gone home, taken a shower, a little catnap, and was able to come into court raring to go. He was able to do that night after night.

Russ Bradley was once interviewed about his prowess as a coon hunter. He said: ''A coon hunter has got to be tough. There's a lot of them who can walk faster than I can, but not many who can walk longer than I can.''

Russ Bradley, a great coon hunter, a great fisherman, someone who liked to have a good time as well as someone who was a great politician and a great public servant. I pause at this point to remember my friend, Russ Bradley. There will never be another like him. He is someone who taught me a great deal over the years. He is someone whom we should honor. It was an honor for me to actually serve with him on a daily basis for 4 years when I was county prosecutor, but it was also, frankly, a lot of fun to serve with him as well. For the rest of my life I will have great memories of him, what kind of person he was and the fun that we had with him, all the time he continued to do an excellent job as our county sheriff.

HAITI

Mr. DEWINE. Madam President, let me at this point turn to another topic, which I believe is very timely. It has to do with a meeting that President Clinton is having tomorrow.

Madam President, President Clinton will be meeting tomorrow with President Preval of Haiti. This is a very important meeting. It is important because Haiti is at a crossroads and the United States needs to provide all the leadership it can to help Haiti choose the right path. In view of this important meeting, I think it is important to review Haiti's situation. I have visited the country of Haiti four times in the last 2 years, most recently just this past month. I have done so to examine the conditions there and to find out about the progress being made by U.S. policies in regard to that country.

Let me begin, if I could, by talking about the economy. The economy is today, as it has been for many years, to put it bluntly, in a shambles. Unemployment—no one knows how high the unemployment is, but it is said to be running at about a 65 percent rate. Privatization has yet to occur, but it is essential. It must occur if Haiti is to recover. While it has not occurred yet, the good news is the Haitian Government has announced a calendar for privatization, something we had not seen before the last several months. There is a calendar, there is a schedule. Everyone from President Preval, through the president of Haiti's central bank, to members of the legislature, all personally assured me that this privatization calendar will be maintained, it will be met. Privatization will, in fact, occur, they tell me, and guaranteed to me, while I was there, that this would happen.

Let me say, for the good of the people of that country, this privatization simply must begin to take place. The people of Haiti have to have jobs. They need hope. They are not going to have jobs, they are not going to have hope unless privatization begins, because it is only with privatization that they will be able to get the economy moving again. It is only by privatization that the climate will be created and the right signals will be sent to the world so the world community will begin to invest in Haiti. Promises will not create jobs. The people of Haiti have been fed on promises for two centuries. Only action will create jobs and only action will start to break this cycle of despair.

This privatization is important for basic economic reasons, but it is also

essential for the preservation of democracy, a goal for which this country risked American lives and has already spent hundreds and hundreds of millions of dollars. For democracy to survive in Haiti, people need to see real improvement in the lives of their families, of their children, of their loved ones. Real improvement in their lives will only come with privatization. If democracy is to survive, it is not enough to have elections. People have to have something to eat as well. Elections are just not enough and people know that. The turnout in the recent legislative elections in Haiti was less than 10 percent. I believe we have to view that as a vote of no confidence in the progress being made by the Haitian Government. Clearly Haiti needs to turn it around. They need, if I can use the term—they need some victories. All politicians need victories. The Government of Haiti has to have some victories. They need to take the kind of action that will inspire confidence in their common future, the kind of confidence that is a prerequisite for economic success. The way to do this is to send the right message to the rest of the world. That message is that Haiti is serious about participating in the global economy. Only by doing this, by doing what is necessary to participate in the rising tide of international growth, can Haiti hope to spark a real economic upturn.

The first privatization is scheduled for this July. They first start with cement factories and the flour mills. The schedule further calls for, in November, the Haitian Popular Bank to privatize; in December, the National Port Authority; in January, the airport and the National Bank of Credit; finally, in February, the telephones and in March the electric company. When I was in Haiti last month I stressed to my hosts that they must act on this plan. Frankly, no one in Congress was going to believe what they said or be convinced that they were serious until, actually, some action took place.

I have also spoken to President Clinton about this matter, and I have asked the President, when he meets with President Preval tomorrow, to stress the importance of this privatization, to make sure the President of Haiti understands our very legitimate concern that this privatization really take place.

Madam President, another key area in which Haiti needs to follow through is the investigation of the political murders. Palace security forces are alleged to have killed two prominent opposition politicians, Mr. Fleurival and Reverend Leroy. In response to these murders, the Government of Haiti suspended the chief of palace security, they suspended his deputy and seven Presidential Security Unit guards who were allegedly at the scene.

The Haitian Government needs to send the strongest possible message that this kind of subversion of democracy, murder of political opponents, will simply not be tolerated. There is a reasonable chance the Leroy case will be solved, but only if there is adequate leadership from the top of the Haitian political system. In my view, this is a test case of the rule of law, one that President Clinton must take up with President Preval at their meeting tomorrow.

In other areas, Haiti is making real and measurable progress. One such area is the civilian police. In my visit to Haiti, I met again with United States police officers who are helping retrain the Haitian police. These are Haitian-born, Creole-speaking United States citizens on leave from their jobs as city police officers in this country. They come from cities such as Boston—I see Senator KENNEDY on the floor. I met with a number of those police officers from Boston. They come from New York. They come from Miami. They are veterans, and they are mentoring these inexperienced, young Haitian police recruits.

Madam President, nobody expected miracles from this training program, but they are making slow but solid progress. This is a program that works. I am glad the State Department has responded positively to my urging that the number of United States advisers be doubled. That has taken place, and we are now up to the number of 49. Frankly, I believe it is in our national interest to again significantly increase the number of these dedicated United States police officers who are serving in Haiti. I met with these advisers during my recent visit. I was gratified by what I saw. They are doing an excellent job and they need our continuing support. These advisers, I believe, are America's signal to the Haitian people that we will help them in the difficult process of building the rule of law in their country.

I, later today, will continue to discuss the situation in Haiti. At that time I intend to talk about the agricultural situation and several other suggestions that I have that I believe will help the situation there.

I believe, in conclusion for now, the meeting the President of the United States is having tomorrow with President Preval is a crucial meeting. I believe Haiti is at a crossroads. I believe it is important for our country to continue to work internally in this country to develop a bipartisan foreign policy in regard to Haiti. But, ultimately, it is abundantly clear that, no matter what we do, the important players are really the Haitian politicians, Haitian Government officials, and the Haitian people. Our message to President Preval and to the Haitian people must simply be this: We can and we will help you, but the destiny of your country really lies in your own hands.

Madam President, I will turn to this later in the day. I also will have the opportunity, later, to discuss the comptime and flextime bill.

I do see my colleague from Massachusetts on the floor, so at this time I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

THE FAMILY FRIENDLY WORKPLACE ACT

Mr. KENNEDY. Madam President, I welcome the opportunity to make some brief comments on the measures which are before us here this morning, and that is on the legislation which is, allegedly, the family friendly workplace legislation. I will just take a brief time, but I want, just at the outset, to indicate where we are in terms of working families in this country.

We have made important progress in the last Congress in increasing the minimum wage.

It was not long ago that we made real progress in trying to provide employees who have worked over a long period of time in a plant or a factory with notification when there was going to be a plant closing, so that men and women who worked years, for some a lifetime, in a particular plant would not show up on Monday and find the doors boarded up. In the past, individuals like these were often virtually cast out into the dark without any kind of notification whatsoever. We tried to give, at least for the larger companies that were included in that legislation, notice to the employees so that they would be treated more respectfully and have more time to find a new job. That law has worked very well despite the dire predictions of some in the U.S. Senate.

Then we had the battle on family and medical leave which gives parents who have a sick child the opportunity to take unpaid leave. Every other industrial nation in the world has paid leave under those circumstances, yet it took a lengthy battle in the U.S. Senate to get unpaid leave. We were able to pass it for employers with 50 or more employees. I will come back to that issue in just a few moments. That battle was led by our friend and colleague, Senator DODD of Connecticut. I welcomed the chance to join with him on that. It was a 5-year battle in the Senate. Twelve million Americans have taken advantage of it, the law has worked very well and most Americans wonder why it took us so long.

Those are just three examples of issues, Madam President, which we have fought for on behalf of working men and women. There have been many others. What is so interesting is that in each and every one of those battles, we faced opposition from the National Association of Manufacturers; the Labor Policy Association, which is comprised of many different companies and employers; the National Restaurant Association; and the NFIB. It is very interesting that now on the floor of the U.S. Senate, on legislation that is supposed to protect workers, those four organizations are trying to portray themselves as friends of the worker.

It is very interesting that those groups, and many others that have opposed every single protection for workers in the past, are embracing S. 4 and are now suddenly going to protect all the employees in America.

As we begin this debate, I think it is worthwhile to examine those that are for this legislation and those who are critical of this particular legislation. We should ask who has credibility as advocates for America's workers and who does not. This bill has been described by its authors as ''a Mother's Day gift to America's working women.'' Nothing could be further from the truth. It is a Mother's Day hoax. A more appropriate description would be the ''Employer Choice and Paycheck Reduction Act,'' and it has four fatal flaws.

First, it would result in a pay cut for many working families. The bill eliminates the guarantee of pay for overtime work for 65 million employees. Many of them are already struggling to make ends meet. Nearly half of those who earn overtime pay have a total income of $16,000 a year or less. More than 80 percent of them earn under $28,000 a year. Employees could allocate all overtime work to employees who agree to accept time off instead of extra pay for working overtime. Those who insist on receiving overtime pay will no longer get overtime work.

Second, the bill provides no employee choice. Let me repeat that, because that is the heart, I think, of this whole debate: Will the employee have the right to make the decision to take time off when he or she needs it, to go with a child to that school meeting or to that play or to the dentist appointment? Or will the employer have the ultimate authority and power to say no?

Under the terms of S. 4, the employer is given the power to dictate when workers can use comptime. S. 4 would not let working mothers choose when to take their hard-earned comptime. That is the key to what is wrong with this bill. It is the heart of the debate: Where is the power, who determines when the employee can use the comptime which has been earned. This bill provides no employee choice.

Third, the bill will cut benefits for many workers; because it does not count hours of comptime as hours worked. Health and retirement benefits are widely based on the number of hours worked by employees. But under the Republican bill, comptime hours do not count as hours worked. As a result, employees can lose eligibility for health coverage while they are working, and lose eligibility for pension benefits when they retire.

And fourth, the Republican proposal effectively abolishes the 40-hour workweek. An employer can literally require employees to work up to 80 hours in a single week without overtime pay. As long as the 2-week total does not exceed 80 hours, the workers would not be entitled to extra pay. A company can schedule a worker for 60 hours in one week, and 20 in the next, all without a penny of overtime pay. That is hardly a gift to working mothers, forcing them to try to arrange child care to coincide with such an erratic work schedule.

Madam President, I will just take a moment or two this morning to talk about the issue of employee choice. I have listened to the eloquent remarks of our friends and colleagues who are supporting this proposal. Talk is pretty cheap around here, and it is important that we look at the legislative language.

The bill gives employees, as I mentioned, no right to use the comptime when he or she needs it. Instead, the bill makes it easy for employers to discourage the use of the comptime during the busy periods on the job. The bill says this, Madam President: ''The employee shall be permitted to use comptime within a reasonable period after making the request if the use of comptime off does not unduly disrupt the operations of the employer.''

The employer gets to decide what is a ''reasonable period'' and what ''unduly disrupt'' means. The bill does not define those terms. The employer, not the employee, makes those judgments. In practice, for example, the employee cannot use comptime to go to the school play the next afternoon if the employer decides that the employee has not asked far enough in advance. Another example, if the employee plans to take a child to a dentist appointment during a school vacation, the employer can refuse to let the employee use the comptime for that purpose on the grounds that the absence would unduly disrupt the employer's business.

Madam President, the bill also provides no penalty, no enforcement. Unless you provide a remedy, you are not giving a right. We have seen that time and time again. The bill provides no penalty at all if the employer violates this reasonable period/unduly disrupt standard—none.

If the employer unreasonably denies the employee's request to use the comptime, the employee has no recourse. We will hear how in the legislation there is going to be a balance between the employer and the employee, and the terms will have been agreed upon before the parties. But, in reality, that is not the case. We will get back to that in the course of the debate.

One of the problems in the bill is that it can be an oral agreement. The employer can say, ''Look, we had an agreement, this employee wanted to have time off later on. Don't you remember our conversation around the water cooler? You don't remember it? I remember it.'' And the employee has the burden of challenging that representation.

Contrast this with the Family and Medical Leave Act. Under that law, if the employer denies the worker's request to take family leave, the worker can recover damages, including money spent on child care, compensatory damages and the like. The supporters of S. 4 say the unduly disrupt standard comes from the Family and Medical Leave Act. That is what they say. ''Senator, you don't really understand, the unduly disrupt standard is the same language as the Family and Medical Leave Act.''

This is not true, Madam President. The FMLA has two types of medical leave, unforeseen serious illness and foreseeable medical treatment. For the unforeseen illness, such as hepatitis, pneumonia, or the like, the employee has a right to take up to 12 weeks of unpaid medical leave. Any disruption to the employer's operation is irrelevant. The employee makes the judgment.

For foreseeable medical treatment, such as elective surgery or removal of wisdom teeth, the employee retains the right to take the medical leave, but the employee must make a reasonable effort to schedule the treatment at a time that does not unduly disrupt the employer's operation. If the employee's reasonable efforts fail, the worker can still take the time for the surgery. The decision is made by the employee under the Family and Medical Leave Act. It has worked and worked well. I will come back to that when we have more of a chance to debate this. We will go through family and medical leave act and the evaluations of it demonstrating that there have not been abuses. However, under S. 4 just the opposite is done. The employer makes the final judgment on when the comptime can be used.

The Ashcroft unduly disrupt language differs from the Family and Medical Leave Act standard in critical ways. First of all, the Ashcroft language gives no right to the employee to take comptime under any circumstances, even for unforeseen illness or other uncontrollable events. The employer can deny a worker's request to use the comptime if a child's babysitter calls in sick at the last moment, docking the employee's pay even if she has comptime in the bank. This does not help the working families.

Second, the Ashcroft language deletes the requirement that workers make only a reasonable effort to schedule time off so it will not unduly disrupt an employer's operation.

For example, a waitress makes a reasonable effort to schedule her child's immunization for the week after Christmas when the restaurant business is slow, but the doctor is on vacation that week. The waitress wants to use comptime to get the immunization the week after New Year's. The employer says no, citing that it will be unduly disruptive. The worker does not use comptime, and the child does not get immunized. This is not family friendly. This is an outrage.

Let's talk about who these hourly workers are. They are the workers at the lower rung of the economic ladder.

Sixty percent of them have only a high school education. Eighty percent of them make less than $28,000. A great percentage of them are single mothers with children who are depending on that overtime. Many of them are already having trouble making ends meet. They need every dollar they can earn to support their families.

The extraordinary comment which a witness from the NFIB made at the February 13, 1997 Labor Committee hearing proves that the real goal of the business advocates of this bill is to reduce the pay of these vulnerable workers:

> [Small businesses] can't afford to pay their employees overtime. This is something they can offer in exchange that gives them a benefit.

This statement is so harsh and blunt that even supporters of the bill have been embarrassed by it, and they are attempting to retract it.

That says it all, Madam President. When you take away all of the rhetoric, that says it all. They do not want to pay hard-working Americans who are at the lower rung of the economic ladder overtime. That is what this bill is about—not giving the employee the opportunity to make the choice, but giving it to the employer. The employer has the whip hand under the provisions of S. 4.

There is a dramatic difference between the flexible credit hour provisions applicable to Federal employees in title 5, United States Code, and in the flexible credit hour provisions of S. 4.

> The credit hours mean any hours within a flexible schedule which are in excess of the employee's basic workweek which the employee elects to work so as to vary the length of the workweek or workday.

With Federal employees, who makes the judgment? Is it the employee and the employer? It is the employee who makes it with regard to the Federal employees. But, that is not the case with S. 4's credit hour program. Under this provision, the final say as to when an employee can take the time off rests with the employer.

The heart of the section, page 13, lines 12 through 17, these lines provide: ''An employee shall be compensated for flexible hours at the employee's regular rate.'' That is, an employee that works 45 hours in a week can take 5 hours of flexible credit time at some point in the future.

This, too, is a pay cut. Current law would require the worker to get paid time-and-a-half for those 5 hours. But this bill would compensate a worker at the straight-time rate for those hours.

That is another section we will have an opportunity, Madam President, to get into in greater detail.

But the idea that this is giving to the working moms the kind of flexibility to meet responsibilities is a hoax.

What would do it is Senator MURRAY's amendment to the Family and Medical Leave Act to give up to 24 hours of leave per year to be used at the employee's discretion. This would allow employees to go to a teacher's conference, take their child to the dentist, or go to the Christmas play that their children are involved in.

But Senator MURRAY's amendment was defeated on a party-line vote in the committee. ''No way we're going to take that, Senator MURRAY. No way we're going to let them have 24 hours where the employee—the employee—is going to make the decision. No. We're not going to do that. No way.'' We are talking about only 24 hours a year. But the Republicans say no. We are not going to do that. That is not acceptable. We will not include that provision in this bill. We are not going to do that for those workers.

The Republicans are not even going to say to the employees of smaller businesses—those with 25 to 50 employees—that they too are entitled to the benefits of family and medical leave. This applies to 13 million Americans not currently covered by FMLA. They must continue to choose between the needs of their family and the demands of their employer. No, said the majority, we are not going to give the employees that kind of right. Senator DODD's amendment would lower the threshold of the FMLA to apply to employers with at least 25 employees. But the Repubicans said, ''No.'' Let us really do something today that can make a difference for these workers as it already has for more than 12 million Americans, mothers and fathers that have used the leave because they had a sick child.

Everyone in this body knows that if you have a parent or a loved one that cares for a child who is ill, that child recovers at about 40 to 50 percent faster than if the child is just isolated and trying to recover on his or her own. That is one of the principal reasons for family and medical leave—unpaid family medical leave.

But when we tried with Senator DODD to reduce the eligibility threshold, the Republicans said no way. And they said no to the Murray amendment for 24 hours to give the employee the opportunity to attend a school event.

We have to ask ourselves, Madam President, at the beginning of this debate, whose side are we on? Whose side are we on? Who are we going to say is really protecting the interests and the rights of workers? Is it those people who have stood up time and time again on plant closing legislation to protect workers, minimum wage, family and medical leave? Or are we going to believe that business groups and organizations that have opposed every one of those programs for workers are suddenly undergoing a conversion and are sincerely interested in employee well-being?

Madam President, we will have a chance at a later time to examine in detail the other provisions of this legislation. I would just hope as we celebrate this Mother's Day, we will tell the truth to America's working mothers. S. 4 is a cruel hoax. It will not provide you the time off you need when you need it.

Finally, I would just ask, Madam President, who are the ones that are really benefiting from the overtime? About 80 percent of those that receive overtime pay are employees that are making less than $28,000 a year, and trying to take care of their families. Most of them want to work overtime so they can earn the extra pay to look after their kids. Let us not lose sight of that.

Madam President, this is a pay cut bill. This is a pay cut bill.

Last year, we had 147,000 decisions made by the NLRB about violations of even paying overtime. Over $100 million in back wages awarded by the Labor Department to workers in 1996. You can imagine if we pass S. 4, what do you think they are going to do? You have half the garment shops in this country today who are not paying the minimum wage and not paying overtime. Industries with records like that cannot be trusted with the kind of power this bill would give them.

So, Madam President, I look forward to this debate, because I believe what we have seen in recent years is a growing disparity between the resources of those at the top level versus those struggling Americans who are the heart and soul of the country—the men and women that clean these buildings, clean the companies, are teachers' aides and are working in nursing homes and health assistance. They are barely able to make it with overtime. We cannot in good conscience take that overtime pay away from them.

I thank the Chair.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Missouri is recognized.

Mr. ASHCROFT. Thank you, Mr. President.

I am pleased we have had the opportunity to begin the debate on the Family Friendly Workplace Act. The Senator from Massachusetts has referred to this act as a hoax, and indicated that it would not be in the best interest of workers. Frankly, it is troublesome to me to find that kind of disconnect with what is happening to workers, because I have letters from people who are having a tough time making time for their families and making time for their jobs. These workers want us to address this important issue. Particularly, mothers—who are in the work force in increasingly high numbers—need to have flexibility so in order to meet the needs of their families, financially by being in the workplace, and emotionally by being able to spend time with their families.

There are a couple—as a matter of fact, there are a whole series of things that the Senator from Massachusetts stated which are substantially inaccuracies as it relates to the bill.

The suggestion, for instance there is no employee choice. This bill is predicated upon employee choice. There is

no ability of any employer to impose anything on any employee contained in this bill. The provisions of this bill are available only—only and exclusively—when the employee agrees. If the employer so much as suggests that the employee work overtime—the employee would be entitled to overtime compensation at one-and-one-half times the employees regular rate of pay. Any time the employer goes to an employee and asks for additional time beyond the 40-hour week it is automatically overtime.

The difference in this bill is that the employee would have the chance to say, ''You know, I would like to take time-and-a-half sometime instead of being paid overtime for this work because I'm having such a tough time spending enough time with my family.'' That is employee choice.

The Senator went through a long and rather arduous explanation about how that was not employee choice. The truth of the matter is, if the employee—at any time after the employee has opted for compensatory time—if the employee decides, ''well, I think I want the money instead, the second level of employee choice arises.'' That is, the choice to change his or her mind.

Employees are not just endowed with the choice originally to ask for compensatory time. If an agreement has been reached that compensatory time will be allowed, then a second option comes to the employee, the option to say, ''Well, I don't think I really wanted to take the time off after all. Give me the money.'' You still have the money. This suggestion that there are no employee choices in this bill is simply not borne out by the bill itself.

For instance, if the employer asks that the extra time be worked, if there is extra time that comes as a result of a request by the employer, or if the request is initiated by the employer, it is automatically overtime.

One interesting case that came up really stunned me. During the winter of 1996, the Washington, DC area had a big, heavy snowstorm. A woman named Arlyce Robinson spoke before the Labor and Human Resources and testified that she was called on a Friday morning and told not to come to work due to the heavy snowfall. Therefore, Arlyce, along with all of her coworkers missed 1 day of work and suffered a 20-percent decrease in her salary. She and a couple hundred other people at her plant wanted to have that money. They needed the money—their fuel bills were going up because of the severe winter. They wanted, during the following week, to add 1 hour and 40 minutes a day to their work schedule so they could make up for the Friday missed. The current laws make it illegal for the employer to allow them to work that extra hour and 40 minutes on each of the days the next week in order to make up for the time lost on Friday.

The Senator from Massachusetts is correct, these people are the poorest of the people that are working by the hour. They are suffering financial stress. If the employer is willing to let them work additional hours to make that up, what does the law say? The law says it is illegal, we cannot allow that to happen. Our bill would allow the employer to let that happen, allow the employer to say you can make up time or you can make up time in advance. You can bank flexible hours in order to ameliorate these stresses—these stresses that attend the work of the most needy of the workers.

The Senator from Massachusetts kept asking the rhetorical question, who are we for? I tell you who we are for; we are for the working people here. Guess who already has flextime? The guys in the boardroom already have flextime. The guys with the paneled offices already have flextime. They never have to worry if they need to take time off to watch their son or daughter get an award at the high school.

When Arlyce Robinson came to talk to us about this bill, she said she needed to have time off during the day occasionally to attend those responsibilities of her four grandchildren. She said, ''More and more, the extracurricular activities are in the daytime because it is safer for people to go to extracurricular activities in the daytime, safer for the kids if they are scheduled in the day,'' and she wanted to see one of her grandchildren play in sports or do other things.

The guys in the boardroom with the walnut-paneled walls can take the time off. The supervisors paid on salary can take the time off. The folks who work for the Federal Government have flextime already. We have flextime for far more people than those who do not. There are about 79 million people in this country who are eligible for flextime while the people at the bottom end of the ladder—people who need to be able to spend time with their kids—who are trying to make ends meet, families where both parents have to be in the work force in order to have enough money to make ends meet. This group who does not have access to flexible work arrangments includes a large number of the most stressed people in this culture—the single parents who must spend the time working, they are the ones who desperately need flexible schedules.

Whose side are we on? I tell you whose side we are on. We are not on the side of the guys who already have it. Sure, we are glad that Federal workers have flextime. If you interview the Federal workers, they tell you how well it works. Federal workers interviewed by the General Accounting Office—this is not a polling firm going out to get one result or another. The chairman of the committee, who has been so good in pushing this bill forward, knows the General Accounting Office is a governmental agency that just wants to get to the facts and the truth. They interviewed the hourly workers at the Federal Government who have basically the same components of this plan. What do they say? Mr. President, by a 10-to-1 ratio they say, ''This is great. We like this. We want this.'' That is whose side we are on.

The Senator from Massachusetts suggests that the 40-hour work week is abolished. I do not know how you can read this bill and come to the conclusion that the 40-hour week is abolished. Everything in this bill is voluntary. Anyone who does not want to agree—and it takes the agreement of both the employer and the employee—cannot be forced to working such schedules.

The single most popular program for Federal workers, the 2.9 million Federal workers in the country that enjoy this provision, is the ability to take a weekday off every other week so every other Friday or every other Monday is off.

That means if they need to take a child to a doctor or schedule things, if they want to go fishing, hunting, or take a day of vacation with their children, it is something they can do. It is something they can do on their own without taking a pay cut.

This does not empower employers to demand it. It empowers workers, if they can cooperate with their employers, to get it. No employer can mandate any provision in this bill. It is that simple. If the employer is not cooperating to give people time off the way they would otherwise want the time off, what is the choice of the worker? The worker can immediately say, ''Give me the money.'' This bill allows the worker to cash in any of the banked benefits or compensatory time benefits at any time.

In case someone is worried—we do not want anything that would not protect the worker. We have gone to great lengths, we have doubled the penalties for abuses under the bill. We have said that at any time the employee wants the money instead of the time, they can automatically call for it. We have said that at the end of the year if the time has not been taken, give them the money. In every respect, any time this is not working, the current law prevails, the money is paid at regular overtime rates, individuals fall back to the normal 40-hour week. This is a voluntary measure.

Some strange suggestion was made that because this was not exactly like family and medical leave, it did not have merit. I would like to ask those who would make that argument, like the Senator from Massachusetts, whether he believe that this abolishes family and medical leave? Every benefit that is available to people under family and medical leave will continue to be available to them. After this is enacted, after this is signed by the President, people will still have family and medical leave, so that all of the obligations available to them under that setting and in that situation still will be available to them. This is simply an additional way for people to accommodate the needs of their families.

I do not think we would be getting the kind of letters we are; I do not think we would have Working Women's magazine, Working Mother magazine say, ''Get this done.'' I do not think newspapers like the New York Times, the Chicago Tribune would be endorsing this proposal. I do not think we would have people asking us to do something if family and medical leave were all that people wanted. This bill does not repeal or adjust or otherwise diminish family and medical leave. It simply says there are flexibilities that workers need in addition to that.

There are differences between this and family and medical leave, and one of those differences is something that hard working Americans will really appreciate. The biggest single difference between this measure and family and medical leave is that family and medical leave has people taking time off without pay. I think most people would rather try to plan their schedules and develop the capacity to make up for things in advance so they did not have to take a pay cut every time they wanted to take some time off. I think that the people of the United States of America really want to be good moms and dads without taking a pay cut, because in a very strange way, whenever you take the pay cut, you impair your ability to be the kind of parent you want to be. Most people have both spouses working so they can meet the financial needs of their families. If meeting the needs of your family for time means you have less capacity to meet the need of your family for finances, it creates undue stress. This is a stress reduction matter. I am surprised that the Senator would indicate that somehow this competes with family and medical leave. This adds to the options of American workers.

Sure, they are different. There are different standards for this iteration or that iteration. The primary difference is that this does not require you to take a pay cut to take time off. Family and medical leave simply requires you to take a pay cut to take time off.

It is appropriate we will be getting this bill to the floor. We will have the full range of debate on it. It is important we be engaged on this matter. I think it is important we understand that workers need something more than what we already have. Workers are feeling this tension.

I look at today's Washington Times, and it contains an article that said ''Moms of Today Don't Think They Are Doing As Good As Our Own Moms, Poll Says.'' I think we all sense the stresses of modern day life. It recounts a study that says a substantial number of moms today just feel that ''We really have a lot of juggling to do and unfortunately * * * our children suffer because of what we have to do * * * to maintain a living.'' ''We are doing a worse job than our mothers did.'' Well, I think mothers are doing a valiant job, but people are feeling the pressure.

The study also found more than half the mothers who worked full time were burdened with time pressures and trying to balance motherhood with other aspects of their lives. ''Some of the pressures cited by mothers include trying to be in three places at once, making sure they get everything done without being stressed out and having enough time for themselves.''

Mr. President, I ask unanimous consent the article from the Washington Times regarding mothers be printed in the RECORD.

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

[From the Washington Times, May 9, 1997]

MOTHERS OF TODAY DON'T THINK THEY'RE DOING AS GOOD AS OWN MOMS, POLL SAYS

Saundra Watson is a successful professional who has raised a well-adjusted 18-year-old son.

Still, she is often racked by guilt because she's not there for him when he returns from school to ask how his day was, go over his homework with him and eat dinner with him.

''We really have a lot of juggling to do and unfortunately . . . our children suffer somewhat because of what we have to do . . . to maintain a living,'' said Mrs. Watson, 42, an accounting manager. ''We're doing a worse job than our mothers did.''

Mrs. Watson is not alone in thinking that way. According to a study released yesterday, just before Mother's Day weekend, 56 percent of the women surveyed think their mothers were better parents than they are.

But on a more cheerful note, most mothers said they are mostly or very satisfied with the job they're doing raising their children.

The study by the Pew Research Center questioned 1,101 women, 74 percent of them mothers. Of the total sample 42 percent were employed full time, 15 percent part time, 21 percent retired and 22 percent not employed outside the home. The study has a margin of error of plus or minus 3 percentage points.

The researchers found that the problems and challenges faced by 1990s moms are related to changes in the lives of women and the evolution of the American family.

Mrs. Watson agrees.

''I think that parenting has somewhat taken a back seat to our lives and that should not be,'' said Mrs. Watson. ''A lot of kids are somewhat having to raise themselves.''

According to the survey, a large proportion of the women favored more traditional family settings.

Only 17 percent said most divorced couples who split custody of their children can do a good job of parenting; and fewer than 30 percent said most single mothers, stepmothers and couples in which both parents work full time can do a good job.

The study also found that more than half the mothers who worked full time were burdened with time pressures and trying to balance motherhood with other aspects of their lives compared with 18 percent of mothers who work part time or not at all.

Some of the pressures cited by mothers include trying to be in three places at once, making sure they get everything done without being stressed out and having enough time for themselves.

But the survey found that disciplining children is a problem all mothers face whether or not they work outside the house.

Despite the guilt, the self-recrimination and the worry, Mrs. Watson says, being a mother ''is definitely worth it.''

Mr. ASHCROFT. This sensitivity is not just felt in polls. It is felt in the lives of real individuals. With this Mother's Day weekend in view, I will take you through the life of a mother who came to testify on this bill. Her job was incredible. People talk about overtime work. As far as I am concerned, there is not a mother in the United States of America who does not work overtime. I have observed only two mothers very closely, my own mother, and my wife, who is the mother of our three kids, and working overtime is an understatement. I am sure the chairman would agree. It is work all the time. I think it is important to provide some flexibility.

Let me give a little schedule out of the life of Christine Korzendorfer, an executive assistant in a TRW's northern Virginia office, is one of the individuals who came to talk about the need for flexible working arrangements. This is Christine's picture here.

She gets up at 5:30 in the morning and gets herself together by showering and dressing. About 6:30, she gets up her 2-year-old son, Ryan, to give him breakfast, yogurt and bananas.

Those were the days, I remember them, and I am sure the Senator from Vermont remembers them. It is one thing to coax a child to eat, but if the child decides he is not going to eat, it can ruin your whole day. You better be well protected or poorly dressed. You are at the child's mercy if he decides not to eat.

At 6:30 you put the yogurt and bananas together, feed the toddler, and you may have to bathe the toddler. I know Christine says she bathes the kid before he goes to bed at night, but sometimes a 2-year-old has to be bathed again in the morning. Then the 14-year-old in the household wakes up. So then from 7 to 7:15—after getting up at 5:30, a 6:30 feeding, getting up the 2-year-old and helping the 14-year-old get things together. At 7 or 7:15 in the morning, strap Ryan into the baby seat of the van and drive to the day care center. Of course, you have to leave your 14-year-old, at that point, with the right instructions and asking for the personal discipline on her part to get ready to go to junior high. Christine gets to the day care center and has to partly undress the kid she just dressed a short time ago. He is anxious about leaving his mom. Christine has to start distracting him, showing him something or another that might capture his attention, quiet him as much as possible before kissing him goodbye and sneaking out. And sometimes the sneak doesn't work. We have all been there, where the child clings. We have all had the scratches on the back of our necks or on our faces from a child who simply doesn't want to be left. Then, from 7:15 from 8 a.m. Christine drives to work. At work, she immediately is thrust into the day, sifting through, organizing.

For Christine, an easy workday is from 8 to 4. She loves her job. Her coworkers really are another family to her. She works hard to keep them

doing what they need to do, and she works hard to keep from being burned out. She eats lunch on the job, with ordered-in food from a fast-food chain. At 3:30, her daughter, Jennifer, the 14-year-old, gets home from school before Christine even leaves work. So she tries to get a call from her daughter. She would like to be home, but she cannot be, so she is sort of making up. The stress is there, but she is at least checking by phone. On the easy day, she drives home between 4 and 5 o'clock, picks up Ryan, straps him back into the seat. Sometimes—very often—she has to work overtime, but when she doesn't, she arrives home at 5 o'clock. Everybody wants a snack right off the bat. They are too impatient to wait for dinner. The snacks come first and then the dinner begins. Her husband plays with Ryan in the yard; dinner is at 6. Then Ryan wants to go back outside and play while mom is cleaning up the kitchen. Christine bathes Ryan, maybe, for a second time during the day, and everybody tries to go to bed in time to get up again at 5:30 in the morning.

All the errands are run on the weekends, which really makes it tough because, in that setting, the time we would normally have for repose, relaxation, and recovery is spent grocery shopping, clothes shopping, running around. The one thing that interrupts the schedule is when the junior high student needs the assistance of a parent with homework, and it often means that a couple extra hours are injected.

According to Christine, her daughter Jennifer had to have oral surgery a couple of weeks ago. Christine had to take unpaid leave on Wednesday, Thursday, and Friday afternoon to take care of Jennifer at home. And because Christine has a lot of overtime—we have said that her short days are the 8 to 4 days—and she would very much like to have been able to spend comptime or flextime for those 3 days. However, since those options are not available, Christine had to take a 3-day pay cut for her to be the kind of mother she wants to be. This is one very conscientious woman. I might add that Christine and her husband now are expecting their third child. So this pressure is not likely to be abated. During her testimony before the Labor and Human Resources Committee's Employment and Training Subcommittee hearing, Christine asked the members to hurry up and pass the legislation so she could bank some comptime to use at the end of her current pregnancy. Mr. President, if we hurry, we might just make it.

The point I want to make is that, as we approach this Sunday when we honor mothers who don't work just overtime, they work all the time, we have a responsibility to do what we can to give them at least the category of flexibility that the majority of workers in our culture enjoy. The boardroom enjoys flextime options; the managers enjoy flextime—the ones not paid by the hour, and most of them are not—Government workers enjoy flextime and comptime, and, frankly, it is time for the working mothers of America to enjoy a comptime option.

Harvard economist Juliet Schor has chronicled the crazy schedules that Americans are put through in a 1992 book called ''The Overworked American.'' She found that between 1969 and 1987, men worked an average of 98 more hours per year at the end of the period than they did at the beginning of the period. Here is the staggering statistic: during that same period—between 1969 and 1987—the average woman worked 305 more hours at the end of the period per year than she did at the beginning of the year.

Not only are we working more, but the demands that we have for our families are not less; they may be more. There are more threatening influences on our families, I believe, in today's culture than there have been in the past. The need for direct parental involvement is something I believe the Senator from Massachusetts and I can agree to. I think kids do respond to direct parental involvement. He cited the fact that children actually recover faster from illness when there is more time with parents. I can agree to that. We need to provide a way for parents to do that, and we should not ask them to take a pay cut in order to be able to spend more time with their children, whether it is recovering from an illness or whether it is something else. Again, 305 additional hours, on the average, women at work in 1987 than there was in 1969.

Working mothers are stressed. Millions of moms wake up at 6, or earlier, in the morning to hustle their kids out of bed, make breakfast and lunch before sending the kids to the bus or dropping them off at day care. After the hectic morning hours, they show up for work ready to meet the demands of the day. We enjoy a great standard of living, a high level of productivity in the United States of America. There are lots of reasons for it, but one of the primary reasons we have the standard of living we do is that women work in the marriage. When the Fair Labor Standards Act went into effect in the 1930's, only one out of six mothers of school-aged children was in the work force. But today, about 75 percent—or 9 out of 12—of the mothers of school-aged children are in the work force. There is a benefit to the culture in that. We have a high standard of living. As a nation, we are competitive and productive. To think that somehow we can ignore the needs of the people who are the source of that productivity and competitive standing is just to have our heads in the stand.

After 8 or 9 hours of work, women pick up the kids from some practice, or a babysitter, and go home to make dinner, sometimes with the assistance of the family, sometimes not. Often, each person in the family has a different shift, and that makes the schedule even more hectic. But there is a real challenge here. I think it is very important. The study indicates that, in addition to the 40-plus hours a week a working mom puts in on the job, the average mother adds about 25 to 45 additional hours at home. That is not just overtime, that is where we talk about the fact that women are working all the time.

You know the problems that can exist often in the middle of a school day: a school nurse calls to announce a child is ill and needs to be picked up. Under today's labor law, a mother who takes Friday afternoon off to take her flu-stricken son home can't make up that time on the following Monday. She must suffer a pay loss for those hours. We want to correct that. She can't go to a ''bank'' of pre-work time and say, I have 3 or 4 hours in reserve so that I won't have to have my pay disrupted; I can go and I don't have to choose between my paycheck and my child. No one wants to do that. No one would choose their paycheck. We don't want to put people under that stress. They could just go to an account that they would have for flexible working arrangements or compensatory time, and employers who understand the value of workers are eager to cooperate with workers to help them meet the needs of their families.

The Senator from Massachusetts made a number of remarks that, in my judgment, suggest that employers aren't eager to help employees resolve these difficulties. I think that may have been the case at some time in history. But there are many, many employers who are very eager to help their employees do well with both their families and on the job. As a matter of fact, Working Women magazine features the 100 best companies each year, and companies compete for this. They say, ''You should work for us because we have this kind of willingness to work with you, and we should be partners in an enterprise that isn't just a business enterprise, but the enterprise of helping you be successful.''

Well, I believe that our ability to add to the arsenal of things that can help people meet the needs of their families and the workplace is a tremendous responsibility, and we should take that responsibility seriously and we should address it. To suggest that to have flexible working arrangements means that we can't have or won't have the family and medical leave opportunity is simply wrong. To suggest that if these new arrangements aren't identical to family and medical leave, they are bad, is to ignore the fact that family and medical leave can meet one category of demand, and flexible working arrangements can meet another category of demand. And to ignore the fact that the category of need exists for flexible working arrangements is to ignore the thousands of workers that have contacted us, and to ignore the experience of people in the public sector and salaried workers and people in

the boardroom who have been using flexible work approaches for a long time.

I am very grateful to the chairman of the Labor Committee, the Senator from Vermont, and to the chairman of the subcommittee, the Senator from Ohio, for their excellent work in this respect. I look forward to the debate.

This is not a pay reduction bill. I kind of get the idea that those who oppose this bill know that it is not, because this is a way for people to take time off without taking the pay cut. I kind of get the idea that those who oppose this bill feel like a good offense must be their best defense because, frankly, to suggest that this is a pay cut bill is to misrepresent it in terms of the thing that makes it most strong, and that is this is the ability of people to meet the needs of their families, without sacrificing their pay in order to do so.

It is with that in mind that I look forward to the debate next week and to the ultimate passage of this measure by the U.S. Senate. It, indeed, would be the very single best Mother's Day gift that this Government could extend to the people of America.

I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent to proceed for 10 minutes.

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

Mr. HUTCHINSON. Mr. President, I want to commend the Senator from Missouri for his eloquent, compassionate statement on behalf of the families of America and on behalf of the Mothers of America. I appreciate his leadership on this bill.

EXPANDED PORTABILITY AND HEALTH INSURANCE COVERAGE ACT

Mr. HUTCHINSON. Mr. President, yesterday, I introduced legislation that I believe is desperately needed by millions of uninsured Americans who are employed by small businesses.

The problem of the uninsured—both children and adults—is largely a problem of small businesses lacking access to affordable health insurance.

When I first came to Congress in 1993 on the House side, health insurance coverage and accessibility was at the forefront of public debate. This year, it seems as if all of the attention is focused upon health insurance coverage for children—a very important topic indeed.

If we can provide access for millions of adults in this country, we can extend access to health care for millions of children. We know that there are more than 40 million uninsured Americans, and that 10 million of those 40 million Americans are children. It is these children who are the most vulnerable in our society. If we do not provide these children with quality health care in their early years, we will find the cost of providing health care for them as they grow older to be ever higher. Not providing quality health care for our children translates into higher health costs for all of us.

A closer examination reveals that 80 percent of these individuals—that is the 40 million who are uninsured—live in families with an employed worker who is likely to work for a small employer, or who is self-employed. That is, they are drawing a paycheck. And, yet, they don't have health insurance.

In fact, only 26 percent of the workers in companies of 10 employees or less receive health insurance through their employer, while nearly all workers in Fortune 500 companies have health insurance available to them. This, of course, is because many small employers simply cannot afford high health premiums and the high administrative costs associated with health insurance today.

So, if you work for a small business with 10 employees or less, the odds are three to one that you don't have health insurance.

If we can solve this problem so that millions of Americans who are working for small businesses can obtain health insurance, we will have taken a huge step toward providing health insurance for all Americans.

According to a February General Accounting Office study, while many employers remain committed to providing employee and family coverage, the percentage of people with private coverage is declining in America. At the very time that we want to expand health insurance for millions of children in this country, at the very time that we have a goal of providing universal health coverage to all Americans, we are finding that the percentage of people with health coverage is declining. One of the primary reasons for this decline is eroding financial support. Each year between the late 1980's and 1994, increases in employers' cost to provide health insurance to their employees and their employees' families outpaced inflation, with cost growth of 18 percent in one single year.

With the surge in health insurance premium costs, many employers have reevaluated their commitment to provide health coverage to employees and their families. It is understandable. With health care inflation, increasing at as much as 18 percent a year in certain instances, it is little wonder that employers are reevaluating whether they are going to be able to afford to provide health coverage to their employees and to their employees' families. Some employers—particularly smaller employers—have dropped their health care coverage altogether. Many employers that have chosen to continue to offer benefits, have been forced to raise employees' premiums, creating more out of pocket expenses for their employees—which is essentially a pay cut.

The percentage of Americans with private health insurance dropped from 75 percent in 1989 to 71 percent in 1995. During the same time period, private health insurance coverage for children under the age of 18 decreased from 73 percent to 66 percent. If private coverage levels had not decreased, it is estimated that about 5 million more children and 5 million more adults would have private health insurance.

To my colleagues, I say that we are actually losing ground in our efforts to provide health insurance for all Americans.

Small employers also cannot afford costly State mandated benefit requirements, which studies show can add up to 30 percent of health care costs. According to a December 1996 study by Blue Cross-Blue Shield, the number of State mandated benefit requirements has soared over the past 20 years. For example, the State of Florida had enacted only two insurance related mandates in 1976. In just 20 years, the number of State insurance mandates in the State of Florida has increased to 36. In my home State of Arkansas, the number has more than quintupled over the same 20-year period. State mandates are increasing exponentially all over the Nation.

It is important to realize that while the number of people with private insurance has declined, the number of people with Medicaid coverage has increased. Unless the decline in private coverage abates, taxpayers may face increased costs for health care as we see more and more people enroll in the Medicaid system.

The Expanded Portability and Health Insurance Coverage Act, which I introduced yesterday, will help alleviate the problem of the uninsured by removing barriers that prevent small businesses from providing health insurance to their employees. Most small businesses want to provide these benefits, but they find that there are innumerable, costly barriers that prevent them from doing so. This legislation will give associations and franchise networks the opportunity to form multistate purchasing groups under a single set of national rules, through the Employment Retirement Income Security Act, ERISA. The EPHIC bill will make health insurance more affordable for small employers in several important ways.

First, it will lower administrative costs. Second, it will provide greater bargaining power to smaller employers to negotiate better agreements with health plans and providers. Finally, it will eliminate the need for small businesses to comply with costly State-mandated benefit requirements which, as I mentioned, studies indicate amount to 30 percent in additional cost.

To put this in this perspective, just last week, a constituent came into my office and told me the following story. He is an employer with about 150 employees in Little Rock, AR. He shopped

around for health insurance for his employees, and generously agreed to pay 90 percent of their health insurance premiums. Just last year, he was faced with a 25-percent increase in his health care costs—a 25-percent increase. Now, his only choices are to drastically decrease the amount of benefits provided to his employees, or raise the premiums for his employees and the portion they pay, or, as so many small businesses are doing today, drop coverage altogether.

The EPHIC bill will help millions of employers who, like my constituent in Little Rock, AR, really want to provide health benefits to their employees.

While expanding insurance coverage to American workers and their families, the EPHIC bill also contains important consumer safeguards that would apply to multigroup plans that self-insure. They include mandatory stop-loss insurance, reserve requirements, solvency indemnification standards, and strict fiduciary responsibilities, and nondiscrimination requirements.

The EPHIC bill is supported by a broad coalition of over 100 organizations, and has bipartisan support in both the House of Representatives and the Senate. There are over 100 cosponsors of this bill in the House of Representatives.

I am very pleased that Senator LOTT, Senator HOLLINGS, Senator BROWNBACK, Senator ROBERTS, and Senator LANDRIEU have joined as original cosponsors of this very, very important legislation.

I urge the rest of my colleagues to join in support of this legislation as well.

Thank you, Mr. President. I yield the floor.

Mr. HOLLINGS. Mr. President, last Congress we were able to enact some important reforms to greatly improve access to health care for millions of Americans. The Kennedy-Kassenbaum Health Insurance Portability and Accountability Act improved the insurance marketplace so workers with preexisting medical conditions or who were at risk of losing health insurance when they changed jobs are more likely to have coverage.

We were successful because we applied certain principles learned in the experience with President Clinton's Health Care Security Act. In the Senate, we worked in a bipartisan manner to fix a targeted number of our Nation's problems in a way that does not completely overhaul our current health care system. Because we did not fix the whole system, there is still work to be done. Today, Senator HUTCHINSON and I are proposing the next step in an incremental approach. We hope that the Senate can continue to work in a bipartisan way to achieve additional reforms to improve our citizens' access to what many say is the finest health care system in the world—if you have a ticket to get in.

The Expanded Portability and Health Insurance Coverage Act that we introduced yesterday focuses on improving the health insurance market place so that workers in small businesses and their families can enjoy the health benefits and freedom from fear of a catastrophic illness as employees of large businesses.

Many of us are greatly concerned about the 40 million or so Americans who currently have no health insurance, 10 million of them children. Looking closely at the problem, you see that over 80 percent of those uninsured live in a family with an employed worker who is likely to work for a small employer or be self-employed. Only 26 percent of workers in companies of 10 or less employees get health insurance through their employer, while virtually all workers in Fortune 500 companies do so. This leads to the inevitable conclusion that, in order to get a handle on the problem of the uninsured, we have to address the health insurance marketplace for small employers.

A recent study by the National Federation of Independent Businesses, entitled ''Small Business Problems and Priorities,'' ranked the cost of health insurance as the No. 1 problem that small businesses face today. The great majority of small business owners want to provide coverage for their workers and families but they do not have affordable coverage options currently available to them.

Our bill seeks to address this problem by allowing small businesses to form multi-state purchasing groups under a single set of national rules. This is done through the Employee Retirement Income Security Act. Such a change in law will make health insurance more affordable for small businesses in several important ways:

First, it will lower the administrative costs of health care coverage for small employers,

Second, it will give greater bargaining power to small employers so they can negotiate better deals with the health plans and providers, and

Third, it will eliminate the need for small businesses to have to comply with some costly benefits mandated in some States.

Administrative costs account for nearly 30 percent of health insurance premiums, so lowering administrative costs will result in decreased premiums. A study by the Congressional Research Service and the Ways and Means Committee of the House of Representatives shows that the administrative costs of insurance for small employers are up to 30 percent higher than for large employers due to the fact that it costs insurers and health plans more to market to these small groups. The per-person cost of processing claims and the general management of benefits is also much higher. Costs are dramatically lower for larger groups. Allowing small employers to form large groups will result in lower administrative costs.

The bill, in permitting the formation of multi-state purchasing groups under ERISA, will give small employers much greater purchasing power than they have under current law. It will be far easier and safer for the small businesses to self-insure through a purchasing group. Enabling small employers to do this will give the groups the opportunity to get better value for each health care dollar spent. They will be able to act like large employers and directly contract with health plans and providers. In negotiating with health plans and providers like larger companies, they will be able to actively negotiate lower prices in exchange for a large group of users. This will make health insurance more affordable.

That mandated benefits significantly add to the cost of providing health insurance was documented in an August 1996 GAO Report, ''Health Insurance Regulation, Varying State Requirements Affect the Cost of Insurance.'' Also, a study by the NFIB Education Foundation shows that State-mandated benefits can add up to 30 percent to the cost of health insurance premiums. Essentially the bill levels the playing field so that small employers can operate health plans under the same set of rules as large employers. Allowing small businesses to operate under a single set of national rules will eliminate the need for such groups to have to comply with each State's list of rules regarding benefit packages, claims and solvency. Instead, the groups will need to follow one set of rules under the ERISA. The rules are changed so that consumer protections and safeguards will apply to these multi-state purchasing groups. For example, only a legitimate association that is certified by the U.S. Department of Labor could become a purchasing group. They are subject to strict standards concerning sponsor eligibility, nondiscrimination, fiduciary, solvency, reporting, disclosure and plan termination standards. States would be permitted to enforce these Federal standards.

While it is difficult to predict exactly how much coverage will increase through this legislation, at a hearing held by the House Education and Workforce Committee last year, the National Business Coalition on Health and the National Association of Manufacturers predicted about 20 million uninsured adults and children could be covered as a result of this legislation. The Employee Benefit Research Institute estimates that 55 percent of uninsured children have a parent who works full time for the entire year. So a great majority of the uninsured children are likely to benefit from this bill as well. And, the beauty of this legislation is that it enables millions of currently uninsured people to have health care through the private sector, so no new entitlements involving huge costs to the Government are involved.

The Expanded Portability and Health Insurance Coverage Act gives us an opportunity to enact essential reform to strengthen our current health care system. It is an important step forward in

the effort to find solutions to our Nation's health care problems and I encourage my colleagues to support this legislation.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Vermont.

Mr. LEAHY. Mr. President, I would like to take 10 minutes under the procedure that we now have, and I do not expect that I will require more time than that. If I do, I will take a few minutes off the bill on this side.

The PRESIDING OFFICER. The Senator has that right.

Mr. LEAHY. I thank the Chair.

JACK BARRY, A VERMONT TREASURE

Mr. LEAHY. Mr. President, in Vermont, you have to wait until May to see signs of life, signs of spring. But this May has been unseasonably cold, and got a little colder earlier this week when Vermont lost Jack Barry—one of the true, enduring treasures of the most special State in the Union.

Jack Barry left us on Sunday, May 4, at the age of 70, after a long struggle with cancer. He was in his third year as a senator, he was my first press secretary when I came to Washington as a 34-year-old Senator. But most of all he was an extraordinary and beloved broadcaster on radio and television whose ubiquitous presence on the Vermont airwaves has made thousands of Vermonters feel as though Jack Barry has been a member of the family.

In fact, he really was a member of thousands of Vermont families, and more welcome in their homes than just about anybody else.

Jack achieved legendary status among Vermont broadcasters. As an interviewer, he had an unparalleled ability to get to the essence of a person and an issue.

Jack's life in radio and television makes any review of his achievements read like a broadcasting directory. As you might expect, Jack had an on-air personality and voice to die for, and he was the same off the air, as fresh and genuine as the Green Mountains that he loved.

He hosted call-in shows where civility and common sense were the standard, he moderated and produced several public affairs programs where he was the most prepared person there. And he was a popular master of ceremonies for a wide range of nonprofit and public interest causes. He was Vermont's Sportscaster of the Year in 1972 and the Vermont Association of Broadcasters gave him the Distinguished Broadcasting Award in 1981 and, to make sure that everyone knew, they installed him into their Hall of Fame in 1995. He was the Rutland Herald's Vermonter of the Year in 1991. He lent his considerable talents to many community organizations including St. Michael's College—his alma mater, and mine—the Vermont Special Olympics, United Way, and the Vermont Cancer Society. He was past chairman of the Vermont Heart Association and was serving on the national board of the American Heart Association. For the last 3 years he served in the Vermont Senate, where, as Senate President pro tempore Peter Shumlin puts it, Jack ''was like a kid in a candy shop.''

He loved people. He truly loved people—all people—just as he truly loved politics. And he did not shrink from controversy to act on his convictions. He embraced controversy, if need be, because he never gave up his convictions, as when he forcefully argued against the popular rush to criminalize the rare instances of flag burning. And our State agreed with him.

I want to put into the RECORD at the end of my remarks a selection of the many news accounts, columns, and editorials this week that recite so many more of his achievements. But first I want to recount some of the personal recollections about Jack from his friends and colleagues that have come my way since Sunday.

George Goldring, who works at WVMT, recalls the days when he and Jack broadcasted University of Vermont football—Jack, for WVMT, and George, for WJOY.

He fondly remembers one night after a game in Pennsylvania, when they were sitting around a hotel room with a couple of other Vermont broadcasters. Nobody went to bed. The night dissolved into morning as Jack regaled them with story after story and joke after joke, keeping everyone in stitches all night long.

Mr. President, having been one of those fortunate enough to have sat in on one of these evenings—you do not want the night to end. It is the best of Irish storytelling.

George says that Jack was a professional's professional in front of a microphone. He was never at a loss for words.

John Goodrow of my staff and Jack both worked at WJOY in Burlington in different eras. Last November, the station threw a party to mark its 50th anniversary, and through the evening all the former on-air personalities were introduced. But when Jack Barry was introduced, the applause was the loudest and the longest, the most fervent, the most heartfelt.

John's father, Goody Goodrow, recalls getting to know Jack while Goody was a student at St. Michael's College after serving in the Navy in the Second World War. He was one of the many St. Mike's students who would phone in music requests to Jack's radio show. Goody himself was a musician who once played piano in Artie Shaw's military band, and he made a living in the Burlington area as a musician—in fact, as a young student, I danced some of those times he played—including stints, after those years at St. Mike's, playing the piano on Jack's radio shows on WJOY.

Joel Najman engineered Jack's show at WJOY for years, and he now works at WDEV. He tells about Jack's natural curiosity about the world. He was a sponge for information and ideas. Joel said he had time to read just one newspaper before Jack's morning show, but before airtime, Jack already had read four or five newspapers, and from personal experience I know he committed them virtually to memory.

Ken Horseman was an executive producer at Vermont ETV—public television in Vermont—and also produced Jack's radio show for a time. And Ken's fondest memories of Jack center on the old Vermont ETV auction which Ken produced and Jack hosted. Jack would hold forth through 10 hours of live television, and he would do this for 10 straight days. He would prime the pump for the station's coffers, and people all over the State and in nearby Canada and everywhere else would tune in to see Jack Barry.

Jerry Lewis has nothing on Jack Barry as a telethon maestro. More than 3,000 Vermonters volunteered during the auction over those 10 days. To them and to the viewing audience, Jack was the auction's symbol. I was fortunate enough to have had a chance to be on some of those auctions as a volunteer, as was, I think, the whole Vermont congressional delegation at one time or another, because Jack would just grab everybody. You could be the person who runs the gas station; you could be the Governor of the State. Jack Barry would say: ''Now here is the time you are going to auction,'' and you would.

He thrived on the unpredictability of live television. He was steady in the midst of chaos, as Ken remembers.

Mike Donoghue of the Burlington Free Press grew up in Vermont listening to Jack on the radio. Like all of us, he remembers his signature line at the end of every radio spot: ''Don't forget to tell 'em Barry brought ya.'' Of course, that is exactly what people did.

Jack brought us the warmth of his smile. He nourished our sense of community and purpose in Vermont. And he brought us the gift of his friendship.

Last September, Marcelle and I attended Jack's surprise 70th birthday party at his son-in-law's camp in Jonesville, VT.

Mr. President, if there is any way that I would remember Jack, it was at this party. It was vintage. He was surrounded by the family he adored and who adored him even more. Politicians and political junkies were everywhere, from both parties, and, of course, Jack was at center stage holding forth and carrying the day. I took photograph after photograph, although in one way I did not need to because the memories are as clear as the photographs are. Everybody came in, and it would be like they were the one person there with Jack. He would hug them and they would hug him. And the children were around. It was chaotic and it was fun. It was very, very, very Irish. It is that sunny day in Jonesville that sticks most in my mind when I think of Jack.

But I also think of Monday of this week when Marcelle and I went to Jack's home and visited with his wife, Bunny, a dear friend, the woman he loved so much, and with other family members, and the stories about Jack's humor and generosity and humanity rose easily and quickly to the surface as they always have when talking about Jack. One minute Marcelle and I were crying; the next minute we were laughing with everybody else there. Kathy, Maureen, and Bridget were there, Bunny's daughter Brigid and others, Tim and Wright, and we talked with Bridget and Kathy and Maureen about the time when Jack Barry was first down here as press secretary, and Marcelle was taking the kids on a ride in the car coming back from somewhere and two cars stopped in front of us—and I mean this is 20 years ago, Mr. President. Some of the people were getting out of the two cars in front of Marcelle, and they were getting into a fight and Marcelle was telling the children, ''Get down! Get down!'' And they were saying, ''We want to see! We want to see!'' And it was typical of what any one of Jack's kids would want: ''But I want to see what's going on!''

I think of all the times I would call him for advice, in good times and in some very sad times. Jack was always there. We might not have talked to each other for weeks and we would pick up the conversation as though it ended minutes before. I remember calling him and asking him for a joke because I was going to be speaking somewhere, and to start off he would say, ''Well, there were these two Irish guys,'' and we would both be laughing, and I hadn't even heard the joke. We would start laughing right away because we knew how funny it would be.

I recall a Christmas when Marcelle was on duty at the hospital and I was calling friends, and I called up Jack, after he had taken up his new duties in the Vermont Statehouse, and I said, ''Hi, Senator.'' He said, ''Hi, Senator.'' And we were going on calling each other Senator for a couple minutes until we were both laughing so hard we sort of lost it.

We go back a long time, Mr. President. His father and mother and my father and mother were friends. Jack and I knew each other forever it seems. I think of the days when he was down here, when we first moved down a few days before the swearing-in. It was New Year's Eve. We had rented a townhouse. And the moving van came that day. We were unloading boxes, and Jack shows up, and a couple other Vermonters were here with me, and we decided we would have a New Year's Eve party. We invited the two moving van people. We sat around on crates and boxes and opened them up trying to find a plate, a glass or silverware, ordering in pizza and soda and beer and what not. Jack put us all at ease. He started telling stories. Midnight came and midnight went, and that party went on and on.

How much I wish it could still go on today. I think of people that Jack helped during his years here in Washington, people who were cursed with the affliction that some have of drinking, and Jack would work with AA. He would be the person they would call when they really needed help and he would go. And after that time I heard from so many Members of Congress and others who would come to me and tell me, ''Jack Barry really saved my life.''

I remember him interviewing Cabinet Members down here for Vermont ETV and them telling me afterward that he was the most prepared interviewer they ever had.

So I have lost a dear, dear friend. Marcelle and I have spent a lot of time talking this week about how much he meant to us. We also know that Vermont has lost one of its real treasures. So Marcelle and I join all Vermonters in extending wishes of comfort and appreciation to Bunny and to all the family. I will put, as I said, items in the RECORD, but one especially from Bridget Barry Caswell—his daughter who we know and love and are so proud of, a great journalist in her own right and one who learned so much from her father—the eulogy she gave this week in his memory at St. Michael's College.

I will say this to the family, as my Great-Aunt Kate, who came here from Ireland, would say of a good Irish person when they would leave this vale of tears: ''He went straight up.'' Jack Barry went straight up, and I cannot help but think of the Irish jokes that are going through the heavens tonight.

Mr. President, in yielding the floor, I ask unanimous consent that these other items be printed in the RECORD.

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

FOR YOU, DAD

(By Bridget Barry Caswell)

To borrow one of my father's favorite words . . . he would be just tickled to see all of you here today, to celebrate his life and his final passage into peace. He'd probably look around and say, ''Fantastic! I didn't know I had so many friends.'' But he certainly did . . . and then some.

My Dad was truly one of a kind, as you know. He was enthusiastic, he was warm . . . he was a true humanitarian and he was the most optimistic person I know.

I am so proud to be a part of my Dad. We are all so proud to say we are of him . . . we are a product of Jack Barry.

He was a passionate man. He was passionate about public service and his career . . . a news junkie to the bone. And he was passionate about learning and his family.

My father's life was dedicated to public service . . . he was absolutely loyal to everything he cared about and fought for. We will probably never know all of the people he influenced or aided in one way or another . . . either through his thousands of programs on issues affecting everyday Vermonters . . . or the endless speaking engagements he said yes to year after year. He couldn't say no and he was able to use his public persona in so many good ways. And he didn't do it for his own gratification . . . that didn't matter to him . . . for he said yes whether it was a request for a 500-person gala or a request to play auctioneer at an elementary school fundraiser. I can remember as a child, my father was always out . . . lending his name to one cause or another. I don't think I realized at the time all of the good he was doing. I'd like to share with you one example of my father's dedication and loyalty to an organization. Shortly after I was born—30 something years ago—I was diagnosed with a serious heart defect. It was eventually repaired through surgery, but that event in my father's life marked the beginning of a lifetime of service to the Vermont Heart Association . . . my family dove into volunteer work immediately and my father's never ended. He served on the board as member and eventually chairman. He spoke at endless Heart Association events, and at the time of his death was serving on the national board of the American Heart Association. He considered that a great honor . . . and his work finally came full circle when he became the beneficiary of Heart Association research.

My Dad was also passionate about learning . . . he was a life-long learner, always on a quest to improve his mind. And it showed. He was a voracious reader. He read seven newspapers every day . . . and devoured every news magazine possible. On top of that, he always, and I mean always, had a novel or two going. He would go on vacation to Florida for two weeks and finish off a half-dozen books . . . and I mean books like this. He loved to share them too . . . a few of you probably still have a few of his out there!! I know I do! But it didn't stop there. Whenever my nieces and nephew, who live out of state, would come to visit, they always had their own special time with my father, their grandfather. He would take them out . . . not to a movie or a fun park. He took them to the Oasis for breakfast and then they went shopping . . . for books. Every time they visited, that was their ''tradition'' with my Dad. He instilled in them a love of reading and to this day, it is an area in school where they all excel. He was very proud of that.

And finally, as I said earlier, my father was passionate about his family. You probably got a little tired of hearing about us all the time . . . he talked about us incessantly on the air. His listeners knew of every milestone in our lives. But that made us feel special. And *he* made us feel special in the little things he did . . . a personal note on our ''big'' birthdays . . . the Sweet 16th, the 21st, the quarter-of-a-century, and the 30th. And as some of you may have read, at our family dinners—which meant anywhere from 10 to 22 people at the table —my father led us with a toast before each meal, and to him that meant a time to note our accomplishments, large and small. He didn't forget anyone . . . and he welcomed each and every one of us to share in the meal, usually gourmet and always cooked and served to perfection.

My father loved to cook . . . as my aunt said the other day, if you needed a good recipe, you called Jack. If you needed a good joke, you called Jack. And if you needed a good book, you called Jack.

But he wasn't alone in his love for a good book, a good joke or a good recipe. My Dad and Bunny were a team . . . true soulmates and best friends . . . and they wore their love on their sleeves. My Dad was passionate about Bunny . . . on the air he often referred to her as ''that beautiful thing I'm married to.'' And at home . . . it usually went something like this, ''Hey Bare. You can carve the meat now'' and he'd say, ''Anything you say, Baby.'' Even to the end, they exchanged love names. Bunny will probably never forgive me for telling you this, but even during the last difficult days of my father's life, when he continued to fight so valiantly, she would walk into his hospital room—after

catching maybe an hour or two of sleep—and she'd say ''Jackie-Poo, I'm here.'' She made all of us smile during those dark days last week and my sisters and I will be forever grateful for the love and care she gave to my Dad during his illness.

Boy we loved him . . . he was truly an exceptional human being. In just a moment we'd like to invite you to sing with us one of my father's favorite songs, ''When Irish Eyes Are Smiling.'' My Dad always had a smile in his eyes . . . and we all know that he was certainly a proud Irishman.

In closing, I'd like to share with you a poem that was sent to my father in February by his old buddy, John Zampieri. The two of them were battling their own health problems and they often exchanged notes sending words of encouragement. Just two weeks ago, I sent out for my Dad his last note to ''Zamp,'' as he called him. It was a photo on election night . . . and they looked fabulous. Anyway, just yesterday, we found this poem that John sent to my father a few months ago. It was the first we'd seen of it . . . and we found it most appropriate in light of my Dad's incredible optimism, his courage and his pledge to never give up his fight. It's called ''Don't Quit.''

DON'T QUIT

When things go wrong, as they sometimes will
And the road you're trudging seems all uphill
When the funds are low and the debts are high
And you want to smile but you have to sigh
When care is pressing you down a bit—
Rest if you must but don't you quit

Life is queer with its twists and turns,
As every one of us sometimes learns
And many a fellow has turned about
When he might have won if he'd stuck it out
And he learned too late when the night came down
How close he was to the golden crown

Success is failure turned inside out,
The silver tint of the clouds of doubt
And you never can tell how close you are
You may be near when it seems so far
So stick to the fight when you're hardest hit
It's when things seem worst that you mustn't quit

That's All Folks . . . ''Don't forget to remind 'em that Barry brought you.''

BARRY BROUGHT ME

(By Peter Freyne)

[From the Column ''Inside Track'' Seven Days, Burlington, VT, May 7, 1997]

They're burying Jack Barry today. It'll be a good turnout. Jack always loved a crowd. Just given him a microphone and turn him loose, and the kid from Waterbury Center, Vermont, would crank up those marvelous Irish pipes with the lilt and the blarney and the gift of the gab.

As far as the airwaves go, this was Jack Barry's town. He loved it and he lived it—oh did he live it! From the days of ''It's Your Nickel'' to ''Open Mike'' to ''The Jack Barry Show,'' to ''Vermont Report'' and ''Vermont This Week'' on Vermont ETV, Jack was the man who could turn your average story into a marvelous tale. Before talk radio became king in the 1980s, he was already sitting in the throne. ''Be sure and tell'em Barry brought you,'' was his trademark refrain.

Jack wasn't one of those wishy-washy types who'd try to please everyone. He had values and principles and opinions, and he laid it on the line. He also had a fiery passion for politics. For decades on the local airwaves he defended a women's right to choose, and boldly called for an end to the war in Vietnam, the war in Vietnam, the war that he personally checked out in a 1968 visit. Once he saw firsthand what a ''bright shining lie'' that war was, Jack wasn't afraid to change his position.

Jack was the best sort of friend a guy could have, the kind who was there for you not just when you were on top of the world, but when the world had beaten you down. I know. When I hit bottom, Jack Barry was there for me.

He loved the ponies—oh, did he love the ponies—and he loved Saratoga in August. And, coincidentally, there was a horse in the Kentucky Derby the day before he passed away, by the name of Jack Flash. But most of all he loved his Bunny, the Murphy girl he married and laughed with through the best years of his life.

Well, Jack Barry's crossed the finish line now—in a flash. No need to wait for the stewards to develop the photo. It wasn't even close. Jack Barry won . . . going away.

[From the Rutland Herald, May 6, 1997]

JACK BARRY, A MAN OF THE AIRWAVES

(By Christopher Graff)

MONTPELIER—Jack Barry was radio's biggest cheerleader.

Sure, he loved public television. And he was passionate about politics. But radio was his true love.

''Radio was everything,'' Barry once said, reminiscing about the glory days before the dawn of television. ''Radio was drama. Radio was sports. Radio was a window on the world.''

''Radio, pre-television, was everything,'' he said. ''And it was a central part of everyone's lives.''

And Jack Barry, for many decades, was a central part of Vermonters' lives.

Barry died Sunday at the age of 70. He was in his third year as a state senator, a position that allowed him a seat at center stage of the political world he loved. But it was as a radio and television host that Barry became a household name.

* * * * *

''I just always had this radio bug,'' he later said.

In 1948 he went to WJOY in Burlington, then owned by The Burlington Free Press, where he helped air the 11 p.m. news live from the Free Press newsroom and then stayed to play poker with the editors while the paper ran off the presses.

In 1954 he and his pal Vin D'Acuti provided competition for WJOY by launching WDOT. They did it all themselves, working 18-hour days. Barry raced around to fires and car accidents and plane crashes in a Ford station wagon. He could—and did—broadcast live anywhere, anytime.

He entered the world of talk shows, the forum in which he would excel, becoming the daily visitor into the homes of Vermonters.

* * * * *

Barry later entered television. There was a time he did a morning show on WVMT radio in Colchester 6 a.m. to 9 a.m., then a television show on WVNY–TV from 10 to 11 and then back to WVMT for his ''Open Mike'' show from noon to 2 p.m.

In the evenings he was off to do play-by-play sports broadcasts—baseball, basketball, football, hockey or boxing.

He started volunteering at Vermont ETV in 1970 and went on the payroll in 1973. He took a brief time out for his first round in politics, serving two years as press secretary for Sen. Patrick Leahy, D-Vt.

He was back in 1976, juggling his morning radio shows and his evening television appearances right up to his retirement from Vermont ETV in 1991. The radio continued for a bit until elective politics beckoned and he became a state senator.

Last year his life's passions came together briefly when the Senate considered a proposal to cut ETV's state funding from $762,500 to $1.

Barry, although ill, traveled to the State House to make an impassioned plea for ETV. He talked about his experiences, his interviews, the reaction from viewers. ''There are moments at ETV that transcend anything I can recall,'' he told his colleagues, who restored half of the money.

One of his greatest pleasures in a wide world of broadcasting was when he found himself on the other side of the microphone.

Vermont ETV, on Barry's final day on the job, set up a surprise interview of Barry by his daughter, Bridget Barry Caswell, herself a television reporter.

''I am very proud you have come into this field,'' Barry told his daughter on the air. ''It's a honorable profession and a very good one. Without the Fourth Estate, we'd all be in big trouble.

''I hope your career is long and pleasant and you get to achieve the things that give you as much satisfaction as my career has given to me.''

[From the Burlington (VT) Free Press, May 6, 1997]

A MAN OF JOY

Jack Barry found what many Vermonters spend a lifetime seeking; a family he treasured, public service work he loved, and an optimism that sustained him to the end.

Barry, who died Sunday of liver cancer at 70, will be missed.

Sen. Jack Barry, D-Chittenden, was a decent man. For decades, his loyalty was to his many listeners on Burlington's radio stations and Vermont ETV. In the end, it was the residents of Chittenden County who came first.

As a radio and television interviewer, Barry quizzed politicians, journalists and entertainers alike. He was polite, yet thorough. Barry's balance and fairness kept loyal listeners tuning in.

He brought the same balance to his state Senate job, refusing to be sucked into partisan Statehouse games.

* * * * *

And Barry's interviewing skills will also be missed. In committee meetings, he quickly drove to the heart of issues, politely steering witnesses in the right direction.

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Through it all, he smiled, Barry smiled during broadcast work, floor speeches and committee discussions. In fact, he hid the severity of his illness behind a grin of pure joy during his Senate tenure.

''He just loved it,'' said fellow Sen. Richard Mazza, one of Barry's closest friends. Mazza's right.

Goodbye, friend.

[From the Vermont Times, May 7, 1997]

EDITORIAL

This week, Vermont lost one of its richest gems and tireless spirits. For most of us, State Senator Jack Barry's beaming smile and clear, deep voice were as recognizable as the profile of Mount Mansfield.

Jack Barry's stature in Vermont, especially in his home turf of Chittenden County, was like that of Walter Cronkite. As a Democrat, he steadfastly believed in speaking up for the people. He did this by keeping people focused on the heart of the matter at hand, and not drifting into political bickering.

* * * * *

For decades, Vermonters have had someone in their corner when a public official or some other potentate had something to say

to us Vermonters. For there behind the microphone, or on camera, was Jack Barry—asking the questions to which we all wanted answers.

Jack Barry's style as a journalist and a professional broadcaster was one which we should all strive to live up to: He was polite and pesky, thoughtful and thorough. That's probably why he was loved and respected by so many people.

To the man with the silver voice and the silver hair, thank you. Thank you Jack Barry.

TOBACCO TAXES

Mr. KENNEDY. Mr. President, last Friday's Wall Street Journal published the results of an April 1997 poll it conducted with NBC News. One of the questions in the survey deserves special attention.

The poll asked whether the American people support increasing the cigarette taxes by 43 cents a pack, and returning much of the revenues to the States to provide health care for the Nation's uninsured children. An overwhelming 72 percent of the respondents favored this proposal, which is contained in the legislation that Senator HATCH and I have introduced last month.

The detailed breakdown of the responses shows that the plan has broad support among people of all ages, incomes, ethnicities, educational backgrounds, party affiliations, and geographical regions. Support is at least 2 to 1 in all 36 groups, and it is 3 to 1 or even 4 to 1 in 17 of the groups. North, south, east, west—the American people support the Hatch-Kennedy bill.

Mr. President, I ask unanimous consent that the detailed breakdown of the Wall Street Journal-NBC poll be printed in the RECORD.

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

WALL STREET JOURNAL/NBC NEWS POLL, APRIL 26–28, 1997

Question: Two Senators, a Republican and a Democrat, have proposed increasing cigarette taxes by 43 cents a pack, and giving much of the money raised to help states provide health insurance for uninsured children. Based on this description, do you favor or oppose this plan?

[In percent]

	Favor	Oppose	Not sure
All Adults	72	24	4
Men	67	30	3
Women	76	20	4
Northeast	73	20	7
Midwest	73	26	1
South	69	28	3
West	74	23	3
Whites	70	26	4
Blacks	80	16	4
18 to 34	73	25	2
Age 35 to 49	74	23	3
Age 50 to 64	66	30	4
Age 65 and Over	72	21	7
Under $20,000 Income	74	23	3
$20,000–$30,000	76	21	3
$30,000–$50,000	70	28	2
Over $50,000	70	26	4
Urban	76	21	3
Suburb/Towns	70	26	4
Rural	70	28	2
Registered Voters	73	23	4
Non-Registered Adults	65	32	3
Democrats	79	18	3
Republicans	67	29	4
Independents	69	27	4
Clinton Voters	80	17	3

[In percent]

	Favor	Oppose	Not sure
Dole Voters	64	31	5
Liberals	79	19	2
Moderates	79	19	2
Conservatives	64	31	5
Professionals/Managers	76	21	3
White Collar Workers	77	20	3
Blue Collar Workers	62	35	3
High School or Less	66	30	4
Some College	75	22	3
College Graduates	75	21	4

Mr. KENNEDY. I thank the Chair.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, May 8, 1997, the Federal debt stood at $5,330,417,059,281.37. (Five trillion, three hundred thirty billion, four hundred seventeen million, fifty-nine thousand, two hundred eighty-one dollars and thirty-seven cents)

One year ago, May 8, 1996, the Federal debt stood at $5,094,597,000,000. (Five trillion, ninety-four billion, five hundred ninety-seven million)

Five years ago, May 8, 1992, the Federal debt stood at $3,881,282,000,000. (Three trillion, eight hundred eighty-one billion, two hundred eighty-two million)

Ten years ago, May 8, 1987, the Federal debt stood at $2,270,169,000,000. (Two trillion, two hundred seventy billion, one hundred sixty-nine million)

Twenty-five years ago, May 8, 1972, the Federal debt stood at $426,287,000,000 (Four hundred twenty-six billion, two hundred eighty-seven million) which reflects a debt increase of nearly $5 trillion—$4,904,130,059,281.37 (Four trillion, nine hundred four billion, one hundred thirty million, fifty-nine thousand, two hundred eighty-one dollars and thirty-seven cents) during the past 25 years.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for not to exceed 20 minutes.

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

Mr. BYRD. I thank the Chair.

MOTHER'S DAY

Mr. BYRD. Mr. President, this coming Sunday, May 11, is Mother's Day. It used to be that Members of the House and Senate would call attention to special days, days of special significance such as Mother's Day, Father's Day, Memorial Day, Columbus Day, Independence Day, and so on. I do not hear much of that being done anymore, but I like to stay with tradition. I believe that is the tried and true way. The Bible says, ''Remove not the ancient landmark which thy fathers have set.''

Mother's Day came about through the efforts of a dedicated mother and daughter from Grafton, WV. Since 1914, the United States has set aside the second Sunday in May to honor mothers. Anna Maria Reeves Jarvis, a remarkable woman who championed the cause of sanitation and family health throughout her entire life and whose establishment of Mother's Day Work Clubs kept bound the fragile ties of families and communities throughout the Civil War, was a heroine to her daughter, Anna M. Jarvis. Due to Anna M. Jarvis' efforts, she also serves as the source of a beautiful sentiment for all of us today. In honoring her mother's hope that a post-Civil War ''Mothers' Friendship Day'' might someday become an annual event commemorating the service that mothers render to humanity in every field, Anna M. Jarvis has provided each of us with an opportunity to remember and to delight in the love and support which our own mothers have offered to us.

My own dear angel mother died when I was little less than a year old. She was a victim of the virulent Spanish influenza pandemic that swept the globe and swept the Nation in 1918, killing an estimated 20 million people around the world; 500,000 in this country alone. Her name was Ada Kirby Sale. In the one photograph which I have of her, gazing back at me is a blue-eyed, fair-complexioned, pretty young woman with a serious, yet sweet, expression on her face and a large bow of ribbon in her hair. How I wish that I had known her, even for one day! Even in her own distress, she thought of me, her youngest child, when she asked her sister-in-law and brother-in-law to raise me if she, my mother, did not recover from the flu. In those days they were stricken on one day and died the next. So, she asked my aunt and her husband to raise me if she, my mother, did not recover, while my father looked after my four older siblings. I had three brothers and one sister, and my father had 10 sisters and two brothers, so my father gave to various sisters my three brothers, and to Titus Dalton Byrd and my aunt, I was given. And my father kept my sister. I have always carried with me that remembrance of my mother's love for me, because she gave me two foster parents for the hard work of raising a child.

I, therefore, was reared by my Aunt Vlurma and her husband, Titus Dalton Byrd. My name was not Byrd at that time, my name was Sale. My ancestor came from England in the year 1657, and was an indentured worker 7 years to pay for the trip across the waters. He ended up down along the Rappahannock River, in Virginia. So I am his ninth generation descendant. His name was James Sale.

My foster mother and my natural mother were as different in appearance as two women can be. My aunt Vlurma was stocky, stockily built, olive-complexioned, and a laconic woman with dark-brown eyes. She was very religious. She did not make a big whoop-de-do about it. She was not of the religious right or the religious left. She just believed in the old-time religion.

She was religious, straightforward in her dealings with people, and a good shot with a pistol. She was very good to me, though she never displayed much affection. I have no recollection of ever receiving a kiss from her. But I have many recollections of hearing her prayers as they wafted through the stillness of the night from the other room. Many times I have seen her on her knees, praying. It used to be, when I would leave Raleigh County, West Virginia, to return to Washington on a Sunday afternoon, having been back in my congressional district, she would say, ''You be a good boy, Robert. I always pray for you.''

So, she was a major influence in my life, and I thank her to this day for accepting responsibility for me out of affection and kinship with my mother, and for instilling in me strong values—strong values, a sense of duty, a sturdy work ethic, and an unshakable—unshakable faith in the Creator.

How proud man, vain man has become. How arrogant, who has the audacity to say there is no God! I read, just a few days ago, about a poll that was taken among scientists—of all people, who should believe and who should realize that there is a Creator. And I noted that only 40 percent of those scientists, according to the poll, believed in a Creator. That was amazing. It was the same percentage as resulted from a similar poll among scientists in 1916. I took the occasion a few days ago to read from Darwin's ''Origin of Species,'' and to read where Darwin made reference to a Creator, made reference to God; and Darwin asked the question: Is it possible that the Creator may be so superior in intellect to the intellect of man as the human eye is superior to the man-made camera? Here was a scientist who did not deny the existence of a Creator.

I ask doctors—when I go to the office of a physician, I say, ''Doctor, do you believe that there is a Creator?'' And I have yet to come across a doctor who has not answered without hesitation, ''I do. I believe in a Creator.'' I had one doctor less than a week ago talk with me in his office. I asked him the same question. And I sat, open-mouthed and open-eyed, listening to him talk about the audacity of men who would say there is no God.

Raising a child is hard work. Even though the endeavor is leavened with joy, lightened with laugher, and sweetened with children's kisses, raising a child is a demanding job. Every mother who takes on the challenge and raises a responsible, caring individual, merits applause from all of us.

Emerson said, ''Men are what their mothers made them.'' The mother figure is certainly the strongest influence over the character and development of a child in its early years. Motherhood is the most important of life's assignments. There is none other that will equal that. And the responsibility of motherhood is a particularly challenging endeavor, especially in today's world, where parenting responsibilities often have to be juggled with work responsibilities and housekeeping chores.

I often stop to marvel at the many young mothers who work in my own office and in the various Senate offices and throughout the Government and the Nation. Poised, cool, and professional at work, one might never suspect that, after work, they must still dash to the day-care center, race home, feed husbands and children, spend quality time with the family, buy groceries, do the laundry, clean the house, and be back at the office the next morning to begin the cycle all over again. So, I take my hat off to all working mothers as we honor mothers this weekend. They maintain a heroic pace and the Nation owes them a debt that can never be paid.

But, I also salute those women in our society who stick to the more traditional role of keeper of the home and the hearth, for theirs is a difficult job as well, and it is a job for which they receive no pay and little recognition in exchange for their priceless contribution to society.

Anne Morrow Lindbergh said: ''By and large, mothers and housewives are the only workers who do not have regular time off. They are the great vacationless class.''

Sometimes it seems to me that the traditional stay-at-home mom is not as much appreciated today. I have always believed that a great deal of credit should go to those women who make the decision to work in the home. Theirs is the oldest profession in the history of the world: The home maker, the housewife. Managing a home and raising children are serious responsibilities, which, if well carried out, can make a significant contribution to the stability and well-being of our own country.

I recall the story of a great painter, a great artist, Benjamin West, who went to his mother and showed her the little drawings of birds that he had made with pencil and crayon on pieces of paper. And then she took him and sat him gently on her knee and kissed him on the cheek and said, ''You will grow up to be a great painter.'' And Benjamin West attributed his greatness in that art as having originated with a mother's kiss.

My own treasured wife, Erma, with whom I have been blessed to share the past 60 years—as of 2 weeks and 6 days from today—has devoted her life to caring for me and our household, our children and our grandchildren. With her capable hand in charge on the home front, I have had the luxury to devote myself to the duties of the Senate, free from any domestic worries. And it's a great luxury. I could not have put in the countless hours required by my office without her extreme patience and forbearance, understanding and good humor and support. Erma is the epitome of traditional family values, and my pride in the accomplishments of my daughters and their children is a clear reflection of the values and lessons that they learned from their mother and grandmother.

While I was out campaigning in the early years, while I was out knocking on doors, driving over the hills and up the hollows and down the creeks campaigning, she was at home, my wife, with those two young daughters. It is one of the great sacrifices that I have made in public life, one that I can never retrieve—the time that I would like to have spent but didn't spend with my two daughters. But she, my wife, was there, at home and at the hearth with them.

Family values and family structure have traditionally served as the strong backbone of the Nation, and we ought to stop and think about that, not just on Mother's Day, but every day. This strong backbone of our Nation has suffered from osteoporosis in recent years, but it is currently enjoying a resurgence of strength and appreciation because of a collective realization that most of society's ills are not a result of the success or failure of any Government program, but rather have their roots, as well as their solutions, in the most basic building blocks of our culture, like the quality of the home and the cohesion of the family.

Society is a collection of individuals, each of which is shaped, first and foremost, in large part, by his or her own mother. The values that we all cherish, and on which society depends—like caring for others, respect for the law, tolerance, comity, perseverance, loyalty, dedication, patriotism, faith in God—are learned earliest and best from the examples set by our mothers. The woman who raised me didn't hold any doctorates, master's degree, baccalaureate degrees. I don't know that she ever went to school a day in her life, but she taught me how to live. And with that kind of teaching, one may stray from time to time throughout the years of one's life, but they will always come back—they will always come back.

When I think of her, and I can say much about the man who was her husband, also—I will save that for another day—when I think of her stalwart faith in a supreme, omnipotent, omniscient, omnipresent God, I think of something that made this a great country, and the same thing made the ancient Romans a great people. Theirs were pagan gods, but they believed in their gods. They venerated their ancestors. They honored their parents. The Bible says, ''Honor thy father and thy mother.'' When I think of the woman who took me to raise—I never knew any other mother—I think of one who was as unshakable in her faith as are the mountains of West Virginia, and she ingrained that faith in me.

Churches and schools are important places of learning, but it is the constant encouragement and attitude of our mothers that instill in children the proper respect for church and school in

the first place. We learn to pray at our mother's knee, and to read while sitting on her lap.

In my view, we desperately need a serious bolstering of our national regard for the position of the family in our national life. One day we ought to take the people who do the TV programming that spews filth and violence and sex into the homes of America and shake them with legislation—and the day will come, I believe—that will teach those people that if they will not clean up their act, somebody else will do it for them.

We need more Anna Maria Reeves Jarvises and more daughters like Anna M. Jarvis, who could so effectively mobilize a nation in honor of her own heroic mother and all mothers, and we should honor the role of mothers, not only this weekend, but every day.

So this weekend, especially, let us recognize the role of motherhood, with all of the sentimentality and sweet remembrance that a day set aside for honoring unselfish love should invoke. Let us also realize that proper mothering is a tough job, with the future of our Nation riding, to a great extent, on the success of that endeavor, and let that realization guide us as we contemplate policies for an ailing society sorely in need of a strong dose of moral direction and support.

ROCK ME TO SLEEP

Backward, turn backward, O time, in your flight,
Make me a child again just for tonight!
Mother, come back from the echoless shore,
Take me again to your heart as of yore;
Kiss from my forehead the furrows of care,
Smooth the few silver threads out of my hair;
Over my slumbers your loving watch keep;—
Rock me to sleep, Mother—rock me to sleep!

Over my heart, in the days that are flown,
No love like mother-love ever has shone;
No other worship abides and endures—
Faithful, unselfish, and patient like yours:
None like a mother can charm away pain
From the sick soul and the world-weary brain.
Slumber's soft calms o'er my heavy lids creep;—
Rock me to sleep, Mother—rock me to sleep!

Tired of the hollow, the base, the untrue,
Mother, O Mother, my heart calls for you!
Many a summer the grass has grown green,
Blossomed and faded, our faces between:
Yet, with strong yearning and passionate pain,
Long I tonight for your presence again.
Come from the silence so long and so deep;—
Rock me to sleep, Mother—rock me to sleep!

Mr. President, I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, it is always a real treat to be on the Senate floor when my friend and colleague and neighbor from West Virginia speaks. That was a very moving and eloquent statement about Mother's Day, but, of course, also about his own natural mother and also about the mother who raised him.

FAMILY FRIENDLY WORKPLACE ACT

Mr. DEWINE. Mr. President, we have been this morning, now this afternoon, talking about the issue of the Family Friendly Workplace Act. I would like to spend just a few more minutes talking about this issue.

We are proud, once again, to bring before the Senate this piece of legislation that we believe will help bring the American workplace into the 21st century. The Family Friendly Workplace Act will make our Nation's working environments more flexible, more productive and more hospitable to the changing needs of the American family.

Last week, in my opening comments about this bill, I described what we discovered in the hearings, and I use the term ''discover'' rather loosely because, really, I think we all knew what we saw in those hearings, what we heard in the Senate Labor and Human Resources Committee. The testimony was very clear that the American workplace today is a dramatically different place than it was when the underlying bill was enacted 60 years ago.

The facts are that the stereotypical roles of management and labor and of male and female workers really no longer apply. The testimony in front of our committee was that individual workers are too often faced with a brutal squeeze today, a squeeze between their duties at work, their obligations, and what they want to do with their families. This worker squeeze is so great that I believe it calls for immediate action. And this bill is that action.

The static and outdated Fair Labor Standards Act that was enacted over 60 years ago must be modified, must be changed. It must be changed to allow American workers today the flexibility that they demand, the flexibility that they want.

The facts are fairly clear. When the underlying legislation, the underlying bill was enacted in 1938, less than 16 percent of married women worked outside the home. Today, more than 60 percent of married women work outside the home. And 75 percent of mothers with school-aged children today work outside the home. And according to a survey conducted by the U.S. Department of Labor, Women's Bureau, the top concern—top concern—of working women is flexible scheduling in the workplace, flexible scheduling which will allow them to balance their responsibilities at work with the needs of their children and the needs of their families.

The chart that is behind me depicts the pattern of change the American workplace has undergone over the last 25 years. ''The Changing Labor Force Trends of Families, 1940–1995.''

Look at the complete contrast between the family structure today and the family structure as it existed in 1940—1940—only 2 years after the enactment of the Fair Labor Standards Act.

In 1940, Mr. President, 67 percent of all families had a working husband and a wife who stayed at home, what we considered in those days, the typical family. At the same time, only 9 percent of families had two working spouses. And in 1940 only 5 percent of the families were actually headed by women.

Clearly, this is no longer the case.

By 1995, only 17 percent of families had a working husband and a wife who stayed at home. And 43 percent of American families had two working spouses. And 12 percent were actually families headed by women.

Society, Mr. President, has changed. But the workplace, at least the laws governing the workplace, has not kept pace. I believe that Americans are crying out for relief. They are demanding of this Congress that we change the law, that we change the law to reflect the way people really live today.

Take for example, the Morris family. Clayton Morris—father, husband—is a public employee. As a public employee he has the option of choosing compensatory time over traditional monetary overtime pay. He gets a choice which way he wants it. He is free to spend important extra time with his 2½-year-old son Domenic, while his wife Ann, a sales assistant for a Cleveland area business form company, cannot. She is prohibited by law from having that option.

This is what Ann has said:

He [referring to her husband Clayton] has the ability if he works overtime to store [up] those hours . . . [he] can use the stored comp time to be at home where he is needed. [However, when] I need to be able to leave work, I end up having to take sick time or vacation time to do that. [That's what I have to do.] It would be really nice if I had a flexible schedule [also].

Mr. President, seemingly countless studies and surveys have pointed out time and time again that Americans overwhelmingly need, desire, want, and support a more flexible workplace schedule and the changes the Family Friendly Workplace Act would bring about.

Let me take the opportunity now to highlight what this bill will do, S. 4, and explain briefly the different provisions of the bill.

The first option of the bill we refer to as comptime. This allows workers to voluntarily—voluntarily—choose to take their overtime pay as time off instead of taking their overtime pay in money. They get the time off as opposed to taking the money. But it is the worker's choice.

Under this bill, compensation in the form of compensatory time off is paid out at the same rate as an employee's normal rate of overtime pay. That is, one-half hour of compensatory time off for every hour of overtime worked.

Mr. President, under this option employers and employees must agree to provide and receive, respectively, compensatory time in lieu of monetary overtime pay. It is an agreement, a voluntary agreement entered into by both

the employer and the employee, an agreement that does not take place under this bill or situation that does not take place unless both sides voluntarily say, ''That's what I want to do.''

Union employees do this through the collective bargaining process. Nonunion employees must do so by agreement prior to the performance of the overtime worked. The employee must enter this agreement—this is from the bill—''knowingly and voluntarily.'' A nonunion employee's decision to participate in a compensatory time off program must be in writing or must be otherwise verifiable and kept by the employer, according to the Fair Labor Standards Act's recordkeeping provision.

An employer may withdraw from his decision to provide a compensatory time off program by providing 30-day written notice to the participating employees. On the other hand, nonunion employees may withdraw by providing written notice to their employer. The terms of a union employee's withdrawal would be reflected in the collective bargaining agreement.

Mr. President, upon an employer's discontinuance of this compensatory time off policy, or on the occasion of an employee's withdrawal, the resignation or termination, an employee is then entitled to the cash equivalent of any unused comptime hours. An employee under this bill may accrue up to 240 hours of compensatory time during a 12-month period. If after the 12-month period an employee has not used his accrued time, the employer has 31 days, under the bill, to remit the cash equivalent of those hours.

An employee must be allowed to use any accrued comptime within a reasonable period, a reasonable period of time after the request is made provided that it does not duly disrupt the workplace.

Under a compensatory time-off program, an employee enjoys the preexisting protections of the Fair Labor Standards Act. These are not impacted. The underlying bill is still there. And the underlying protections are still there.

These protections include prohibitions against violation of section 7, the FLSA discrimination provision, as well as S. 4's anticoercion provision. No employee may be coerced, intimidated, or threatened to accept or deny participation in any of the bill's flexible workplace options.

To be absolutely perfectly clear, let me spell out what the penalties under this bill will be.

First, S. 4, as an amendment to section 7(r), will enjoy the already established penalties provided in the Fair Labor Standards Act. This will obviously include the new amending provision in S. 4.

The penalties are:

First, the availability of criminal penalties in the event of a willful violation;

Next, civil penalties in the event of repeated or willful violations;

They will include the remittance of unpaid overtime compensation and liquidated damages;

It will also include appropriate legal or equitable relief and liquidating damages for any retaliation by the employer against an employee who complains of or testifies about an employer's conduct, as well as attorney fees and costs to the employee who sues for retaliation.

Additionally, the Secretary of Labor may take action to acquire the employee's unpaid overtime compensation and liquidated damages.

As stated, in addition to the penalties already provided by the Fair Labor Standards Act for a violation of section 7(r), S. 4 provides additional penalties for direct and indirect intimidation, threats, and coercion. Furthermore, S. 4 dictates penalties for any violation of this anticoercion language.

Further, this bill provides for unpaid overtime compensation and liquidated damages or injunctive relief should the Secretary be required to bring a cause of action against the employer.

Mr. President, behind me is a picture, headlined ''Akron Beacon Journal,'' and ''A Juggling Act.'' It is a picture of a real family, the Morris family of Ohio, and a description that I think, in the story, tells the importance of this bill. I think this family demonstrates why we need to have this bill. Here is what it says:

> Ann Morris of Akron has to use vacation or sick days when two-year-old Domenic is sick, while her husband Clayton has the option of using comp time.

That is what this bill is about, Mr. President. This bill is about some equity and equality in the workplace. Does it make any sense to have a law today, as we do, that says to an hourly worker, who doesn't work for the Government, the Federal Government is going to prohibit you and your employer from entering into agreements that are flexible and allow you to spend more time with your family? That is what current law says today.

Current law discriminates against the person who works by the hour, and it says that in a business or in a shop, if there is a worker who works by the hour and right next to him or her is a worker who is paid salary, the person who is paid salary may have comp time or flextime, but the person who works by the hour is denied that. Does that make any sense?

In the case of this family, the discrimination exists right in that family. The husband has these benefits, has these rights; yet, the Federal law says that the wife, the mother, can't have them. What this bill does is change that and eliminates that discrimination. It says to all American workers that whether you work for the Federal Government or don't, whether you work by the hour or are salaried, as long as the employer and employee both agree, voluntarily, you can do many different things in regard to flextime and comptime and making your life easier, making it better, accommodating the workplace rules to the way people have to live today.

Mr. President, I began a few minutes ago, a discussion of the four principal parts of this bill. I talked about the comptime section. I now want to move to the second section of biweekly work schedules.

Mr. President, let me turn to the biweekly work schedules. The second option this bill provides is the biweekly work schedules. Under this option, an employee may choose to work 80 hours over 2 weeks, in any combination that that employee works out with the employer. For example, a worker may choose to work 9 hour days but, every other Friday, get the whole Friday off. Maybe that worker wants to spend time with his or her children. Maybe they want to go hunting or fishing, or maybe they don't want to do anything. They have the right to make that agreement and have that long weekend. Biweekly work schedule programs are simply another way to ensure workplace flexibility. Biweekly work schedules enable employees to craft schedules that coordinate their work obligations to go along with their personal obligations.

Mr. President, here is how it would work in practice. If an employer chooses to offer a biweekly schedule option, and if the employee elects to participate—it is purely voluntary—prior to each 2-week work period, the employer and employee will arrange a schedule for the 2-week period. Regardless of how the hours are divided, the employee will be paid overtime for working over 80 hours during the 2-week period. Again, the decision is to be made together, mutually, voluntarily.

Additionally, employees would be entitled to overtime for all hours worked that are outside that predetermined biweekly work schedule. For example, if an employee agrees to work 45 hours during the first week, 35 hours during the second week, any hours worked above 45 in the first week would, of course, be overtime, and any hours worked over 35 during the second week would also be overtime, because that is what they had agreed on. Simply, Mr. President, if an employee is required to work any additional hours above the agreed-to schedule, he gets overtime.

Let me turn to the third provision of this bill, flexible credit hours. The third option that this bill provides that is not provided under current law, Mr. President, is flexible credit hours. Under this option, an employee may choose to work additional hours. That is more than 40 hours, more than 40 hours a workweek in order to use these extra hours to shorten another week at a later date.

Biweekly schedules and flexible credit hours provide flexibility to employees who may not traditionally work a great deal of overtime. The flexible credit hour program would give more employees a greater ability to balance work with family. A flexible credit

hour program would allow an employee to bank—''to bank''—up to 50 hours over his or her regularly scheduled hours. The employee under this bill may use those banked hours at any future date to reduce the workday or a workweek.

Mr. President, when used, the flexible credit hours represent time off from work at the employee's regular rate of pay. An employee must be allowed to use accrued credit hours within a reasonable period of time following his or her request, so long as doing so will not unduly disrupt the workplace.

As is true with comptime and biweekly programs, an employer has the initial decision of whether to offer the flexible credit hour program at all. Then participation in a flexible credit hour program is, of course, voluntary on the employer's part and on the employee's part. An interested employee must elect to participate. If he or she does not, then the status quo under current law would be in effect.

Mr. President, union employees can do this in accordance with their collective bargaining agreements. Nonunion employees must submit a written or otherwise verifiable statement acknowledging his or her participation in the program. The anticoercion remedy sanctions provision which we talked about before are applicable to the comptime and biweekly schedules and are also applicable to this flexible credit program as well.

Mr. President, let me turn now to the fourth major provision of the bill clarifying Federal law.

I have talked about the three chief options provided by the bill.

Let me also point out in the interest of completeness that S. 4 also makes important clarifications in the regulations delineating the salary basis test. The bill makes it clear that the fact that a particular employee is subject to a deduction in pay for absence of less than a full workday or less than a full workweek may not be considered in determining whether that employee enjoys exempt status. Only actual reductions in pay may be considered.

Mr. President, for more than five decades the ''subject to'' language generated little or no controversy. However, in recent years courts have begun to reinterpret the salary basis test. Seizing on the phrase ''subject to'' in the regulations, large groups of employees have won multimillion-dollar judgments. These awards have been given in spite of the fact that many of the plaintiff employees have never actually experienced a pay reduction of any kind and have never expected to receive overtime pay in addition to their executive, administrative, or professional salaries.

Mr. President, included in this bill—in part to stop the large number of cases that are being brought against State and local governments—it is true that the Department of Labor attempted to solve this problem through regulations as they applied to State and local employees in 1992. This legislation in no way preempts those regulations.

The legislation also clarifies that employers may give bonuses and may give overtime payments to salaried employees without destroying their exemption from FLSA.

In summary, Mr. President, let me talk again briefly about the four provisions.

Comptime, first of all, allows workers to voluntarily choose to take their overtime pay as time off instead of as overtime pay.

Biweekly schedules, the second provision, allows workers to choose to work their 80 hours for 2 weeks in any combination that they so elect and if they agree with their employer.

Flexible credit hours, the third provision, allows workers to choose to work additional hours and to bank these hours for use as time off at some point in the future.

All of these flexible workplace options are designed to expand the choices available to working families. They are, Mr. President, completely voluntary. No employee can be forced to participate in a flexible workplace option. No employer can be forced to offer one. If any employer directly or indirectly coerces employees to participate in a particular option, the employer can be punished under the Fair Labor Standards Act, be forced to pay back wages, and maybe even face imprisonment.

Mr. President, that is what the bill would accomplish.

This bill would accomplish a real change for the betterment of the lives of working families, and the American people absolutely agree with this. A national poll conducted in September 1995 shows that the American work force endorses flexible work options. When asked, Mr. President, about a proposal to allow hourly employees the choice of time and a half in wages or time off with pay, 75 percent of the workers agree with that proposal; 65 percent said they favored more flexible work schedules.

Mr. President, according to a poll recently taken, 88 percent of all workers want more flexibility, either through scheduling flexibility or choice of compensatory time in lieu of traditional overtime pay. In that same poll, 75 percent of the workers favored changes in the law that would permit hourly workers such a choice. The evidence is overwhelming about what the American workers want.

I think these poll results square with what most of us know, frankly, intuitively. As both the economy and the American family and life grow more and more complex, the men and women in America's work force want greater flexibility to be able to cope with all of the changes that we have in life today. I think that this consensus presents us, this Senate, with a remarkable opportunity.

I look forward to working with my colleagues as we work on what should be a bipartisan approach to this bill.

Mr. President, this bill is about equity. It is about equality. It is about families such as this that are pictured behind us. Families want options. They want flexibility. This is what this bill gives them.

EXTENSION OF MORNING BUSINESS

The PRESIDING OFFICER. Time for morning business has expired.

Mr. DEWINE. Mr. President, I ask unanimous consent for 10 additional minutes. I advise my colleagues, I do not believe I will use 10 minutes, but I ask for that in a unanimous consent at this time.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object, I say to my friend from Ohio, I am in a bit of a time crunch. I need 5 minutes. I do not know what your schedule is like.

Mr. DEWINE. My colleague can proceed and I will come back at an appropriate time to finish my remarks.

Mr. DODD. I thank the Senator.

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

The Senator from Connecticut is recognized.

Mr. DODD. Thank you, Mr. President.

Mr. President, I would urge my colleague not to travel too far. I was about to talk about a bill we are working on together.

Let me begin by thanking my colleague from Ohio. I will be only a few minutes here. I will try to be brief.

COMMENDING SENATOR BYRD

Mr. DODD. Mr. President, I join my colleague in commending our colleague from West Virginia. For those of us who were here on the floor of the Senate, we had the privilege once again to listen to our distinguished colleague, the senior Senator from West Virginia, eloquently describe the great institution of motherhood and its great contribution made to this great Nation.

I recommend everyone in this country, if they did not hear the Senator from West Virginia, that they might read the CONGRESSIONAL RECORD and enjoy the benefit of his remarks.

BETTER PHARMACEUTICALS FOR CHILDREN ACT

Mr. DODD. Mr. President, I rise here this morning to comment on a piece of legislation that my colleague from Ohio, Senator DEWINE, and I introduced actually a few days ago, but because of the pressing nature of the business on the floor of the Senate, did not get a chance to actually discuss it here.

I would like to describe what we have introduced and urge our colleagues to

join us in this effort and urge the administration to join us as well.

The legislation we introduced is called the Better Pharmaceuticals for Children Act. It is a piece of legislation that we think has great value.

According to the American Academy of Pediatrics, only one-fifth, or 20 percent, of all drugs on the market in the United States have been tested for their safety and effectiveness in children. Children are not simply smaller versions of adults. Their bodies actually metabolize drugs quite differently as they grow older.

The lack of information about how drugs work in children can place pediatricians in an untenable position. They can either prescribe powerful drugs for their young patients that have only been tested in adults or they can deny them access to life-saving therapies.

This dilemma is dramatically illustrated in the case of children with AIDS. The hopes of tens of thousands of adult AIDS patients were raised last year by the promising benefits of protease inhibiters. However, the families of very young children have much less to be hopeful about.

None of these drugs is yet approved for newborns and infants. This is despite the fact that the earliest days of a child's life may be the most promising time to reverse the effects of HIV. As unbelievable as it may seem, physicians are forced to treat these children without the benefit and guidance of research.

Even in adults, getting the proper dosage of these powerful drugs is tricky indeed. Too large a dose can cause severe side effects; too small a dose can make the HIV virus mutate into a far more dangerous, drug-resistant strain. In children, the effects are compounded. A full-strength dose can kill a toddler.

Other examples of this problem, Mr. President, are also quite disturbing. Despite the fact that asthma is one of the most common chronic illnesses in children, and the most common cause of children's admissions to hospitals all across this country, there is only one asthma drug that has been tested for children under 5 years of age.

In fact, my colleague from Ohio personally and eloquently related a situation with one of his own children who has asthma that I am sure he will comment on at some appropriate time. It is alarming that with asthma we have the single most common reason for admission to the hospital for children and yet we have no drugs tested to treat children under the age of 5.

As other examples, despite the fact that sedatives are used to help treat sick and injured children, not a single sedative has been specifically tested for safety and efficacy in children under the age of 2. In addition, virtually every medication currently used to treat stomach and intestinal diseases in children has only been tested in adults.

While this so-called off label prescribing is neither illegal or improper, it forces doctors to practice hand-me-down medicine for pediatric cases, which is unacceptable, to put it mildly.

I think it is about time, Mr. President, we took the guesswork out of children's medicine. The Better Pharmaceuticals for Children's Act is a simple solution to this problem. It provides a fair and reasonable market incentive for drug companies to make the extra effort needed to test their products for use by children. It grants an additional 6 months of market exclusivity for drugs which have undergone pediatric studies at the request of the Secretary of Health and Human Services.

I want to briefly point to something most parents are all too familiar with—the disclaimers that appear on the labels of so many of the pharmaceutical products that are needed and used by children: ''Not recommended for use in children, as no clinical studies have been performed to determine risks, benefits, and dosages.'' Another says, ''Safety and effectiveness in children younger than the age of 2 has not been established.'' Or, ''Safety and effectiveness in children younger than age 12 have not been established.'' And, ''Safety and efficacy in children younger than age 18 have not been established.''

We have labels on the food that children eat; we have labels now for the programs that children watch on television. I think we would all agree that it is about time we have labels that parents and physicians can rely on when they give children medicine.

The bill that Senator DEWINE and I have introduced is a sensible way to keep our children healthier. That is why it has enjoyed broad bipartisan support both in and outside of the Congress.

In fact, the bill is endorsed by the American Academy of Pediatrics, the Pediatric AIDS Foundation, the National Association of Children's Hospitals, and PHRMA, the trade association of the pharmaceutical industry. Senators MIKULSKI and KENNEDY have signed on as cosponsors, and I know that Representative GREENWOOD will soon be introducing this bill in the other body.

Mr. President, this is commonsense legislation. I call on our colleagues to join Senator DEWINE and myself in this effort. We hope we can get passage quickly. I urge my colleagues to support this bill.

HAPPY BIRTHDAY, KATHARINE HEPBURN

Mr. DODD. I join together with my colleague from Connecticut, Senator LIEBERMAN, in recognizing the birthday of an individual with whom we are all familiar. Our constituent in Connecticut, Katharine Hepburn, will turn 90 on Monday. She probably will not be happy to have her Senator reveal her age on television.

Katharine Hepburn is a national treasure. We take pride in the fact that she is a native of Connecticut, of Hartford, and today lives in Old Saybrook. She is world renown and has made a great contribution to the arts. At the Bushnell Memorial in Hartford, where there is a ''wall of fame,'' she scribbled next to her name, ''Local girl.'' We cannot say that about everyone on that wall. She has a career spanning seven decades and is the only person in the history of film in this country who has received 12 Academy Award nominations. She won four awards, for ''Morning Glory'' in 1933, ''Guess Who's Coming to Dinner,'' ''Lion in Winter,'' and ''On Golden Pond.''

She won three Oscars after she turned age 60. For people in this country who wonder whether you can have a productive life after the age of 60, certainly Katharine Hepburn offers vivid proof that productive years lie ahead.

On behalf of all of us in Connecticut, Mr. President, and my colleagues here, we wish Miss Hepburn a very, very happy birthday.

IN MEMORY OF ANN PETRY

Mr. DODD. Ironically, in the same town of Old Saybrook, CT, we have a sadder piece of news about a wonderful constituent of my State. Ann Petry, an African-American writer whose life is described in an article by David Streitfeld last Saturday in the Washington Post, has died. She was well into her nineties at the time of her death and was truly a remarkable person.

Mr. President, I ask unanimous consent to have that article printed in the RECORD.

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

[From the Washington Post, May 3, 1997]

ANN PETRY'S STORIED LIFE—AUTHOR LEFT INDELIBLE MARK

(By David Streitfeld)

Ann Petry lived in Connecticut in a 200-year-old sea captain's house that smelled of old wood and homemade bread. Her husband, the taciturn but adoring George, was her constant companion; their one child, Liz, had ended a promising law career because she wanted to live near her parents, because she liked them.

It seemed a pretty idyllic way to finish a life. Petry, who died Monday in a convalescent home at the age of 88, was well known enough to need an unlisted phone number but not so famous that people were constantly on her doorstep. She knew her books would be remembered, and that—along with her family and friends and the warm spring mornings out in her garden—provided pleasure. I think she died without regrets, which has to be unusual.

Petry's family was firmly rooted in Old Saybrook; her father had opened a pharmacy there in 1902, and Ann was trained to follow him. As much as possible for a black woman in the first half of this century, she escaped the effects of racism.

It was a life in sharp contrast to that of her most famous heroine, Lutie Johnson in ''The Street.'' Lutie is a single mother in Harlem in the 1940s who has the misfortune to be good-looking. White or black, the men

want only one thing. Lutie tries to protect her 8-year-old son and her virtue, an impossible task:

''Streets like the one she lived on were no accident. They were the North's lynch mobs, she thought bitterly; the method the big cities used to keep Negroes in their place. And she began thinking of Pop unable to get a job; of Jim slowly disintegrating because he, too, couldn't get a job, and of the subsequent wreck of their marriage; of Bub left to his own devices after school. From the time she was born, she had been hemmed into an ever-narrowing space, until now she was very nearly walled in and the wall had been built up brick by brick by eager white hands.''

''The Street'' was based on the nine years Petry spent in Harlem, working primarily as a journalist. ''I can only guess at what she went through when she moved to New York and saw all those disenfranchised people, totally lacking power in a way that she and our family never did,'' her daughter once told me. ''Her way of dealing with the problem was to write this book.''

''The Street'' was well reviewed when it appeared in 1946, enough to become a best-seller, and it went on to become a classic. It will always have a place in literary history because it was the first book by a black woman to sell more than 1 million copies, but the real reason it will survive is because it's good, a triumph of realism.

Sadly, the book is also a measure of how far we have fallen.

In 1992, when the original publisher, Houghton Mifflin, bought back the rights and reissued ''The Street,'' it got a front-page review in the Los Angeles Times Book Review. Petry's Harlem, Michael Dorris wrote, ''hard as it was, now seems in some respects almost nostalgically benign. The streets of New York, as she describes them in the mid-1940's were indisputably mean to the downtrodden, but in those days it was still possible for a Lutie Johnson to walk 12 blocks safely, at midnight, or to ride the last subway alone. It was a place where the worst thing a child might bring to public school was a penknife, a place where neighbors tried to watch out for one another, where violent death was a rare and awful occurrence.''

After ''The Street,'' Petry wrote in quick succession two other novels for adults, ''Country Place,'' a story about a Connecticut town that featured no black characters, and ''The Narrows'' about a doomed interracial love affair. During the '50s, she wrote several fiction and nonfiction books for young people. While ''The Narrows,'' particularly, has its supporters, her fame primarily rests on ''The Street.''

One of the problems with interviewers is that they ask pesky questions like ''When are you going to publish a new book?'' Five years ago, Petry answered that she was working on things, but I didn't really believe it and I don't think she expected me to believe it. She had said what she had to say, and saw no need to obscure it with inferior work. It's a lesson many other novelists could learn.

Petry had little tolerance for fools or academics, two categories she regarded as essentially synonymous. From a 1989 interview with a scholar who wrote ''the first post-structuralist study to reveal a hidden text'' in Petry's novels:

Q. Richard Wright mentions in ''How Bigger Was Born'' that he experienced ''mental censorship'' when writing ''Native Son,'' that he worries about what blacks and whites would say about Bigger and whether Bigger would perpetuate stereotypes. How much mental censorship did you experience when you were writing ''The Street''?

A. None.

Q. Were there ever concerns on your part or on the part of your editor about ''The Street'' being overshadowed by or having to measure up to ''Native Son''?

A. No.

When I interviewed Petry in 1992, she said that I should stop by the next time I was in the area. This is the sort of thing interview subjects often say; what they really mean is that they hope you're not going to write something nasty. They don't actually expect or want you to come visit.

Petry, though, did. So a few times when I was in that corner of Connecticut I called her up and dropped in for a couple of minutes. I last saw her about two years ago. She was a little more stooped but seemed as if she would live forever. George, who survives her, puttered around and didn't say much as usual. I walked down the block to the old family drugstore, where I looked out the window that Petry's father would look out Sunday mornings to catch a glimpse of his wife coming back from church.

''Come here,'' he would tell Ann. ''Look at your mother. Isn't she beautiful?''

Tuesday, I noticed a teenage girl on the Metro reading a beat-up paperback of Petry's biography of Harriet Tubman. Although I didn't know it, Petry had died the day before. Like any good writer, her work survives.

Mr. DODD. Ann Petry's father was a pharmacist who opened up a pharmacy in 1902 in Old Saybrook, CT. Although she learned the pharmacy trade from her father, her contribution, of course, was in literature.

Her famous novel, ''The Street,'' written in the 1940's, was a remarkable piece of journalism that is still read today by younger generations. She followed that novel with two others that received wide recognition, ''The Narrows,'' and ''A Country Place,'' about a Connecticut town that many thought could be Old Saybrook. She wrote a number of short stories and articles. Ann Petry was truly a very remarkable person.

She did not have much use for fools and academicians, she once said, and she said she was usually speaking about one and the same person when talking of fools and academicians. I do not know that I agree, but she was a person of curt opinion, straightforward talk, and was well admired and loved in the town of Old Saybrook. Her contributions to literature have brightened the lives of many, many people.

We express our sorrow for the loss of Ann Petry.

Mr. DORGAN. Mr. President, my colleague from Ohio has indicated I should proceed to seek 10 minutes of time, at which point he intends to resume his discussion. I appreciate his courtesy.

I ask unanimous consent to proceed for 10 minutes.

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

DISASTER SUPPLEMENTAL APPROPRIATIONS BILL

Mr. DORGAN. Mr. President, yesterday we completed a disaster supplemental appropriations bill that addresses some of the needs of the serious disaster that occurred in my State of North Dakota and the three-State region of South Dakota, North Dakota, and Minnesota. I am pleased to say at the end of the day Senator STEVENS, Senator BYRD, and so many others, on a bipartisan basis, in this Chamber were willing to add sufficient resources so that people who lost their homes, people who lost their businesses, who feel helpless and hopeless, will now have some hope that there will be recovery in our region of the country.

Mr. President, 25,000 people in Grand Forks, ND, woke up this morning, not in their own bed, not in their own home, some in a shelter, many with friends, some in other towns, because much of that town is still evacuated. In East Grand Forks, across the river, 9,000 people have left the town. The entire community was evacuated, and the mayor indicates nearly none of them are back.

The blizzards, the floods, and the fires were the worst we have ever seen. The need for the rest of the country to extend a helping hand, to say we want you to recover and rebuild and get back on your feet, is welcome news. I appreciate very much the resources, some $500 million of community development block grant funds, that resulted, finally, in this legislation enacted yesterday by the U.S. Senate.

I thank all my colleagues for that help, on behalf of all North Dakotans.

THE BUDGET

Mr. DORGAN. On another subject, Mr. President, I want to encourage those who are negotiating on a budget deal. I happen to think there is great merit in reaching a bipartisan agreement on a balanced budget deal, and when I use the term ''deal,'' I am talking about the negotiations between the principals about how to get to a balanced budget.

I am inclined, based on what I know, to support it. I have observed and asked those involved in the negotiations to consider that the Social Security surpluses are still not dealt with appropriately, and they need to do more in order to make certain that we have not claimed to have balanced the budget, when, in fact, we have done so by using Social Security surpluses. That will not complete the job. I hope those who are negotiating that will not stop short of the goal. We need a balanced budget and we need to preserve the Social Security surpluses above that to save for the baby boom generation when it retires.

AMERICA'S JUSTICE SYSTEM

Mr. DORGAN. Finally, Mr. President, on a subject I came to the floor to speak about for a couple of minutes, I have been to the floor of the Senate repeatedly to talk about our justice system. Our judicial system, in many respects, is a remarkable and interesting system. In some respects, it is broken.

I have talked on this floor of case after case of violent crimes, committed

by violent criminals, who we knew were violent, but yet were turned out of prison, and in many cases turned them out of prison or jail early because they earned good time for early release.

Parole, probation, early release for good time means that the young boy I have spoken about on the floor of the Senate, Jonathan Hall, murdered, stabbed over 50 times, by a man who had kidnapped and murdered twice before and was out early on good time, living in young Jonathan Hall's neighborhood, killed that young boy and threw him down a pond. The young boy, when they found him, had dirt and grass between his fingers, because he obviously had not been dead, despite being stabbed 50 times, and tried to climb out of the pond before he died.

Why was he dead? Because someone was let out of jail early to live in that neighborhood and kill young Jonathan.

Bettina Pruckmayr, a young woman who came to Washington, excited about a wonderful future, stabbed many, many times by someone at an ATM machine, someone who had been in jail and let out of jail early, who should never have been let out on the streets. I will come again to talk about that.

It is disgraceful that the average sentence served for committing murder in this country is 7½ years. The average sentence served in jail or prison is 7½ years—that is a broken system.

There is more to the broken system that I want to mention today. That is the trial that is now going on in Denver, CO, about the Oklahoma City bombing case. I will not talk about the merits or what I think about the case, but I want to talk about something that is haywire in the public defender system.

The 6th amendment to the Constitution offers a right to every American to a fair trial. Therefore, an indigent defendant has a right to a public defender. We have an alleged murderer on trial in Denver who drove a truck up in front of a courthouse and killed many, many people. No one will forget the memory of the fireman holding that young child from the day care center in his arms, dead as a result of some murderous coward who decided to kill innocent people with a truck bomb.

Now, what happens when someone who is indigent is arrested and goes on trial for committing a crime of that type? Let me tell you what happens.

The public defender system in this country today offers that defendant, on trial now in Denver, 14 attorneys. Yes, Mr. McVeigh has 14 lawyers working for him, paid for by us, and 6 investigators on top of the 14 lawyers. We are also paying 25 expert witnesses, and we paid for 9 foreign trips by his lawyers and his investigators to Israel, trips to Italy, Great Britain, Syria, Jordan, Hong Kong, the Philippines, and all these trips were paid for by the American taxpayer under the public defender system, which offers someone who allegedly committed murder by a truck bomb at the Oklahoma City courthouse offers him 14 lawyers, 6 investigators, 25 witnesses, and 9 foreign trips to 8 foreign countries. It is estimated to cost $10 million of taxpayers' money for a defense.

I support the sixth amendment. I support public defenders being offered to indigent people accused of crimes. But, Mr. President, the Administrative Office of the Courts estimates that there is a 68-percent jump in the cost of court-appointed attorneys in Federal capital cases. In 1 year alone, there is a 68-percent jump in the cost. The Administrative Office of the Courts will overrun 1997 appropriations for these expenditures. The appropriation was $308 million. It will overrun by $25 million.

Now, I am not a lawyer. I suppose some will say, well, you need to understand this. I do not understand this. The sixth amendment guarantees the right to a fair trial. I believe it guarantees the right for an indigent defendant to be given a defense, and for that defense to be paid for by the American taxpayer. I do not believe any twisted interpretation of that should persuade us, the American taxpayer, to pay for 14 lawyers, 6 investigators, 25 expert witnesses, and trips to foreign countries in a case like the Oklahoma City bombing case.

Now, I don't know what the answer is. But I know this is broken. I am hoping, as I sift through this with some of my colleagues, that we can find a way, yes, to preserve the rights under the sixth amendment to every defendant, but to stop this sort of nonsense. The records, incidentally, in this case are sealed, so we don't know exactly what has been spent. It has been estimated that from $3 million to $10 million, in early April, was spent in this circumstance. But when I see this sort of thing happening, I get angry again about a judicial system that seems broken. I am tired of people being let out of jail early to kill again. We have over 3,000 people in prison in this country right now who were in for having committed a murder and, while they were out early, have committed another capital crime. At least 3,000 families ought to feel that someone is an accomplice when they let out a known violent criminal early only to commit murder again.

That system is broken, and one more evidence of a broken system is the lack, somehow, of restraint in a circumstance where we take a public defender requirement under the sixth amendment and decide this is a pot of money that has no bottom, hire as many lawyers as you want, and somebody will say, yes, dig as deep as you like and some will say, yes, because the old taxpayer pays for that. There ought to be a limit, and we ought to start talking about it when we see this kind of twisted logic resulting in this kind of waste. I think it is time for Congress to act.

Do I know the specific answer? No, I don't. But I think we need to define, decide, and discuss limits in this area, so we tell those folks involved in the public defender system that there is a limit. No, there is not a limit on sixth amendment rights, but there is a limit on the use of taxpayer funds to hire 6, 8, 10, 12, or 14 lawyers. It is time that we use a little common sense. I hope when we come around on the appropriations side—and I am on the Appropriations Committee—and look at appropriating again in this account, we can start thinking about how this money ought to be used. Is there a sensible limit? I sure hope to be one of those who helps to find that out in the future.

I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Connecticut.

HAPPY BIRTHDAY KATHARINE HEPBURN

Mr. LIEBERMAN. Mr. President, I thank my friend and colleague from Ohio, who has quite graciously allowed me to go forward for a few moments to join my colleague from Connecticut in kind of a statement of pride and gratitude, to commemorate and recognize the birthday this Monday of a beloved constituent but really one of the great motion picture actresses of all time, Katharine Hepburn.

As Senator DODD said, we have known Katharine Hepburn in Connecticut not only as one of our own, but as somebody who, quite appropriately, has preserved her privacy. We try our best to do that, and I suppose it is inconsistent to publicly acknowledge that this great lady is approaching her 90th birthday, on May 12. But in this case, we respectfully and humbly break the privacy and want to publicly honor her for the extraordinary career that she has had.

She grew up in a small Connecticut town and has always consider herself—and still does—the ''local girl,'' as she puts it. She is the only four-time winner of the Academy Award for best actress, as I say, for the great roles she has played, 3 of which were won after the age of 60. Katharine Hepburn is, in the words of my colleague—and it is interesting that we both chose the same phrase, working independently—a national treasure.

For nearly 70 years of a brilliant acting career, she has captured the essence of not just what it means to be a great woman and a great person, but the American spirit both on and off the silver screen. In her leading roles and in her life, Katharine Hepburn has stood as a symbol of dignity and of independence, someone who, in the best American/New England traditions, has proudly lived life on her own terms, and with it, great results came.

Katharine Hepburn once said of her home in Connecticut, ''I think I'm lucky because people with careers are

attracted to the big city and lose track of where they come from. This''—speaking of our State and her beloved town—''is where I come from. I have roots, a sense of belonging somewhere.''

As much as we are honored that Katharine Hepburn has said she belongs in Connecticut, we are very proud to say that we belong to her and she to us. People around the Old Saybrook section of the State will tell you how thrilled they are to have seen her taking those dips into Long Island Sound, not only in the summer but occasionally in winter, and how grateful they are for the way in which, in her quiet way, she has become involved in the kinds of concerns that local communities have, such as buying a ladder truck for the fire department. She reaches an extraordinary age this Monday and can look back on a remarkable career.

Katharine Hepburn's artistic brilliance, her outlook on life, her spirit, have served as a beacon of light and of truth for people in America and, really, throughout the world. I am delighted to join with my colleague, and I am sure everyone else in our State and everyone here in the Senate, in thanking her for what she has meant to us as an artist, in expanding our own sense of reality, our own horizons, our own appreciation of life. She reaches a substantial age on Monday, but the truth is that Katharine Hepburn, through the miracle of the movies, is ageless and immortal, forever beautiful, forever graceful, forever magnificently intelligent, forever brilliant, forever spirited, forever Katharine Hepburn. Happy 90th birthday.

I thank the Chair and yield the floor.

HAITI

Mr. DEWINE. Mr. President, I would like at this point to turn to a topic that I began the discussion about this morning. That is the topic of Haiti.

I said this morning, Mr. President, that the situation in Haiti is at another critical point. President Clinton will meet tomorrow with the President of Haiti, President Preval. In that discussion, what will take place, I think, is very, very important.

I talked earlier today about my recent trip to Haiti, which was the fourth trip that I have taken to Haiti in the last 2 years.

I talked about what I considered to be some of the imperatives, some of the things that absolutely have to take place if this fledgling democracy in Haiti is to survive.

They have to have privatization. They have a schedule now for privatization. It is laid out with a timetable. Everyone who I talked to in Haiti, all Government officials, assured me that they would follow this timetable. But, as I expressed to them, no one, frankly, in this country is going to take that seriously until we actually see privatization take place.

So it is important that, as we approach the date of the first privatization in July, it actually takes place. It is important because that democracy cannot survive just on elections. People have to have hope. People will only have hope if there is food to feed their children and if there is hope and opportunity for their future and the future of their children. That will only occur if some of the state-controlled industries that have really strangled the economy in Haiti for so long can be freed up, if they can be privatized, and if the economy can then begin to grow.

Privatization is also important because by privatizing these industries, that will send a sign to the international community that the leadership in Haiti, from President Preval down, is in fact serious about doing the things to create a market-oriented economy that will in fact allow Haiti's economy to begin to grow.

That is No. 1.

No. 2 is Haiti must make progress in regard to these high-profile political murders. Based on my own investigation when I went to Haiti, I believe they have the capability of doing this. I believe that some of these cases can in fact be solved—the case for example, of Reverend Leroy. I believe that case can be solved. But it can only be solved if there is political leadership. It can only be solved if there is leadership from the top, from President Preval down saying it is a priority that we bring these people who committed this act to justice.

I would like to turn now, Mr. President, to a third area; that is, the agricultural situation in Haiti.

Seventy percent of Haiti's people live in rural areas. That is about 4 million out of a total population of 7 million. Eighty percent, it is estimated, of these rural Haitians farm on hillsides. But Haiti's agriculture clearly is troubled, to say the least. Haiti loses about 36 million metric tons of topsoil every year to erosion. That is enough to cover, they tell me, about 15,000 acres. About half a million people in the northwest part of Haiti are facing today a very serious drought.

Mr. President, 30 years or so ago Haiti produced most of its own food. Today it imports two-thirds of its food. Haiti is having trouble feeding itself, and a number of causes have been assigned to that. I will mention just a few.

The environment in Haiti is certainly fragile. Seventy percent is hillside land. Intensive cropping of 60 percent of the land-surface businesses have been decapitalized—less capital. Effective loss of capital has been magnified by the 1991–1994 embargo. Land plots are sometimes too small. There is a lack of land security under the land tenure system, and, as a result of the country's weak infrastructure, farmers are many times isolated from their markets.

The USAID has instituted two programs to address these programs. The Agriculturally Sustainable Systems for Environmental Transformation, or ASSET, as it is called, is a $45 million program to improve hillside farming to help poor urban neighborhoods, improve water supply and waste management, and strengthen the Haitian Government's agricultural food security and environmental policy.

Mr. President, the Program for the Recovery of the Economy in Transition, or PRET, is an $8 million program aimed at strengthening the Haitian private sector's role in national economic and business policymaking, providing innovative sources of credit, and helping key industries export the domestic market potential.

Mr. President, under ASSET's coffee project, USAID has helped over 20,000 coffee farmers produce a premium coffee that is now marketed under the trademark of ''Haitian Blue.'' Since 1990, farmers have exported almost 200,000 pounds of this coffee. USAID has implemented a program of tree planting to reverse the impact of almost 30 million trees being cut each year. USAID plans to expand the ASSET program to assist the Haitian Government in establishing an agricultural data collection system, disseminate technology, and provide environmental management.

There is currently not a single—this is amazing—not a single source of information on agricultural production in Haiti, no central collection of this data, even though agricultural production affects the lives of approximately 70 percent of the people who live in Haiti.

The USAID Agribusiness Loan Guarantee Fund provides incentives for financial institutions to extend credit to midsized agribusinesses. By financing these businesses such lending institutions also help small farmers from whom the middlemen buy their goods. In the first 18 months of its operation, the fund had resulted in 1,300 permanent jobs and 10,000 seasonal jobs.

While our program has shown some success, I think it is important to point out to my colleagues in the Senate that United States assistance in the agricultural area still only reaches approximately 1 out of 7 Haitian farmers. Clearly the goal of our policy is and always must be self-sufficiency for Haiti.

The outlines of the bipartisan United States policy toward Haiti I think are clear. The United States should help Haiti become self-sufficient in food. We should help them build a system of law and order. After all, United States law enforcement is the best in the world and the Haitians can benefit greatly from our expertise. We should help the Haitians attract the kind of private investment that is the cornerstone of long-term economic growth.

I cannot stress enough that our good intentions cannot succeed, will not succeed in and of themselves. No matter how much we want to help Haiti, there is a limit to what we can do.

There is a limit to what we will do. Ultimately, the democracy that is slowly growing in Haiti can only be preserved by Haitians themselves. Haiti has to have the will, Haiti has to have the perseverance to carry through with the real reforms that we have talked about today. And that is what I believe President Clinton must underscore in the conversation that he will have tomorrow with Haitian President Preval. Our message to President Preval and to the Haitian people must be very simply this: We can help you, we will help you, but the destiny of your country really lies in your own hands.

CHARLES D. ''CHUCK'' SHIPLEY

Mr. DEWINE. Mr. President, this afternoon I honor the memory of a truly great figure in the history of Ohio, Charles D. ''Chuck'' Shipley, who died on April 5 of this year at the young age of 54.

Chuck Shipley leaves Ohio a better place than he found it. Chuck dedicated his whole life to public service, to improving the lives of his fellow Ohioans. He first spent 16 years in the Ohio State Highway Patrol. Chuck was later director of the Ohio Department of Public Safety and served under Gov. George Voinovich in that position from 1991 to 1997. He served as the director of the department of public safety for the entire 4 years that I served as Lieutenant Governor of the State of Ohio. While he served in that capacity, he was in charge of several agencies including the highway patrol, and he was in charge in general of highway safety for the 11 million people who live in our great State.

Chuck and I both had experiences in law enforcement that dramatically shaped our attitudes toward highway safety. I had been a local county prosecutor and in that capacity I dealt with the shattered lives of families who had lost loved ones who had been killed in auto fatalities, sometimes by drunk drivers.

When I was in the State senate, a little 7-year-old boy in my home county, a little boy by the name of Justin Beason was struck and killed by a driver who had been driving and drinking. Little Justin was killed as he was getting off his school bus. In response to this tragedy, with the help of Mothers Against Drunk Drivers, we succeeded in 1983 in writing a tough new drunk driving law in the State of Ohio.

While I was working on safety issues as a prosecutor and as a State senator, Chuck Shipley was on the front lines as a highway patrolman. He saw much more often than I ever did the devastation that is brought by highway fatalities. It was Chuck who was often the one to notify the parents of a child who had been killed in a highway accident.

Chuck told me about that experience, and as he told me about it I could see it had left an unbelievable impression on him. He told me it was the toughest thing he ever had to do in his life, and tragically he had to do that more than once. That kind of experience, as Chuck told me, leaves a deep impression on a person. It certainly left an impact on Chuck.

Chuck Shipley became a committed, dedicated fighter in the cause of highway safety. When I was Lieutenant Governor and he was director of the public safety department, I was, frankly, very grateful time and time again for the passion that Chuck brought to his work. It was contagious. His energy and enthusiasm helped him change attitudes. It helped him win converts who had worked to make Ohio safer.

Chuck and I spent a great deal of time together traveling the State, many times on holidays because that is when you always try to put the emphasis on highway safety—Memorial Day, Labor Day, or some other holiday. We spent a lot of time talking and a lot of time traveling the State to promote antidrunk-driver campaigns or designated-driver campaigns and just overall highway safety. Chuck helped us implement, among other things, administrative license suspensions, to help crack down on drunk drivers, and he took many, many other actions in his official capacity to save lives in Ohio. He was a worker, a hard worker in a good cause, and Chuck got results. I can truly say something about Chuck Shipley that any of us would be incredibly proud to have said about ourselves: There are people alive today who would not be alive but for Chuck Shipley.

I join all Ohioans in being grateful for the life he dedicated to our State but even more I am grateful for our friendship. He was a wonderful human being, a person who would not get upset even in the most difficult circumstance. I do not ever recall, all the hours I spent with Chuck, him ever getting upset. He always had a smile. He was always calm. He always went about his business. I am very proud to have known Chuck Shipley, and I want to express my condolences to Chuck's family, express to all of them my greatest sympathy for the loss of Chuck, to his wife Jana, their children David and Carli, and their family. Their loss is great, and so is Ohio's.

BETTER PHARMACEUTICALS FOR CHILDREN ACT

Mr. DEWINE. Mr. President, I turn at this point to a matter that was brought up a little while ago by my distinguished colleague from Connecticut, Senator CHRIS DODD. He spoke very eloquently about the piece of legislation that he and I are introducing, a piece of legislation that we believe will dramatically improve health care available to America's children.

We as a nation need to do a better job making sure our children get the pharmaceuticals that are appropriate for them. This is a matter I have been concerned about for some time, and it is a matter that as the father of eight children is near and dear to my heart.

We are introducing the Better Pharmaceuticals for Children Act. This legislation will provide an incentive in the form of 6 months of market exclusivity to encourage pharmaceutical companies to conduct the necessary clinical trials for FDA approval of their products for children. These studies would take away the guesswork that too many physicians and parents go through in trying to treat their sick children. These studies would do away with this guesswork by giving an incentive to the drug companies, by giving them a 6-months extension on their patent exclusivity so as to give them the incentive to do the trials and do the studies that would give parents and give physicians better information.

This is not a new product. Let me give several examples to show my colleagues what the problem is. The first example goes back to 1960. There was a drug called chloramphenicol that was approved for use in adults to control bacterial infections. This drug was widely used with adults and it was successful, but when it was used on children the results were devastating. It shut down their liver. Many children got sick and, tragically, a number of them died. This came to be known as the gray baby syndrome.

Let me give another example of the problem that our bill attempts to address. There was a little 4-year old leukemia patient named Stewart Baxter who had to scream through a spinal tap, had to go through immense pain because the doctors were advised they could not give him an anesthetic. The anesthetic was thought to be harmful to young patients. However, later they found that was not true. A few weeks later he was allowed to undergo the same procedure—this time, however, under the anesthetic. Better information earlier would have prevented that child's agony and would have made it possible for the parents not to have had to undergo that trauma as well in watching their child go through that pain.

Let me give you another example. Dr. Ralph Kaufman, representing the American Academy of Pediatrics, testified in the House of Representatives about a 1-month-old infant that he treated. He was treating it for a life-threatening infection, the kind of infection that was resistant to all available antibiotics except one. That one antibiotic was not labeled for children. They had not done the testing. And it certainly was not labeled for a 1-month-old infant. But Dr. Kaufman took the chance, combining his knowledge with the physiology of the 1-month-old child with how the instructions said the antibiotic should be used for adults. In this case Dr. Kaufman said the gamble paid off. But sometimes the outcome is not so favorable. Physicians have to gamble, due to a lack of information. Sometimes physicians do not take the chance and they lose the availability of a very useful drug. Other times they do take the

chance and maybe the results are not what they had expected. By passing this bill, we will change that. As a result, children can be treated for diseases with greater safety and with greater confidence.

The problem this bill addresses is a very serious one. About 80 percent of the drugs on the market today have not been approved by the FDA for use in at least one pediatric age group—80 percent. As a consequence, the drugs do not carry labeling information explaining how they should be taken by children. This is because clinical trials are expensive. It is a dollars-and-cents issue, and often there is little market incentive for pharmaceutical companies to conduct these tests. The result is that drugs are usually prescribed for children on the basis of adult trials and the pediatrician's own experience. Children are not just small adults, and therefore this is a somewhat risky business. Physicians deserve better information and children deserve, as well as their parents, better information.

I had experience in my own family. Senator DODD alluded to this a moment ago. He just heard me talk about it. When you have children, you have a lot of medical experiences. But a number of years ago, my daughter Becky, who was very young, had developed asthma. As is the experience, sadly, of many parents who have children with asthma, we ended up spending many evenings and sometimes the middle of the night in emergency rooms when Becky would have an attack.

Finally, the physician who was treating Becky said: Look, we need to do something about this. I don't think we should allow this to continue. There is something that is on the market today. We have information about its use by adults. I think we should go ahead and try it and I think we should see if it will work with Becky.

He prescribed to her an inhaler that looks similar to the one that I am carrying right now, and gave it to Becky. She was able to use that. I was able to help her, and it lessened the trips to the emergency room for asthma attacks. She was able to get through childhood without anymore serious, horrible trauma, going to the emergency rooms because of asthma attacks.

So I think this is an experience that many people have had. It is important, I think, to make the change in the law to give the drug companies the incentive so they can go out and do these tests. There are many drugs that are in this category, including those used to treat AIDS, as well as, as I mentioned, those to ease asthma attacks, drugs to alleviate pain, drugs even to treat other illnesses. Too often, physicians and parents are forced to guess about dosages or possible side effects. They should not have to play this kind of Russian roulette with their sick children.

This problem has been around for a long time. In the last session of Congress this bill was passed by the Labor Committee, but unfortunately it did not reach the floor.

We have had extensive discussions with the Food and Drug Administration, pediatric community, pharmaceutical companies, and makers of generic drugs. I am confident that we have come up with a practical way to remedy this problem. This bill is supported by health providers, including the American Academy of Pediatrics, the National Association of Children's Hospitals, and the Pediatric AIDS Foundation.

I intend and hope to work with the FDA to solve this problem and find the best approaches, both legislatively as well as administratively. I look forward to continuing our dialog with the FDA. But I am not going to and Senator DODD is not going to wait around for a proposal that they might make. This is our proposal. It is a legislative proposal. I believe it will do the job. I look forward to moving this bill through the Senate.

Mr. President, we all want to see better labeling for drugs used to treat our sick children. Today, I believe, with this bill, we are taking the first step to resolve a very serious national health problem. Senator DODD and I are serious about seeing this legislation pass both Houses of Congress this session. This project is a very high priority and we will do all we can to make it happen. I encourage my colleagues to cosponsor the legislation and encourage their help and assistance when the bill reaches the floor.

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. JEFFORDS, from the Committee on Labor and Human Resources:

Report to accompany the bill (S. 717) to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes (Rept. No. 105–17).

EXECUTIVE REPORT OF COMMITTEES

The following executive report of committee was submitted:

Mr. HELMS, from the Committee on Foreign Relations:

Treaty Doc. 105–5 Flank Document Agreement to the CFE Treaty (Exec. Rept. No. 105–1):

TREATY DOC. NO. 105–5

The Committee on Foreign Relations to which was referred the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990, adopted at Vienna on May 31, 1996 (''The Flank Document'')—The Flank Document is Annex A of the Final Document of the First CFE Review Conference, having considered the same, reports favorably thereon with 14 conditions and recommends that the Senate give its advice and consent to ratification thereof subject to the 14 conditions as set forth in this report and the accompanying resolution of ratification.

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO CONDITIONS.

The Senate advises and consents to the ratification of the CFE Flank Document (as defined in section 3 of this resolution), subject to the conditions in section 2.

SEC. 2. CONDITIONS.

The Senate's advice and consent to the ratification of the CFE Flank Document is subject to the following fourteen conditions, which shall be binding upon the President:

(1) POLICY OF THE UNITED STATES.—Nothing in the CFE Flank Document shall be construed as altering the policy of the United States to achieve the immediate and complete withdrawal of any armed forces and military equipment under the control of the Russian Federation that are deployed on the territories of the independent states of the former Soviet Union (as defined in section 3 of the FREEDOM Support Act) without the full and complete agreement of those states.

(2) VIOLATIONS OF STATE SOVEREIGNTY.—

(A) FINDING.—The Senate finds that armed forces and military equipment under the control of the Russian Federation are currently deployed on the territories of States Parties without the full and complete agreement of those States Parties.

(B) INITIATION OF DISCUSSIONS.—The Secretary of State should, as a priority matter, initiate discussions with the relevant States Parties with the objective of securing the immediate withdrawal of all armed forces and military equipment under the control of the Russian Federation deployed on the territory of any State Party without the full and complete agreement of that State Party.

(C) STATEMENT OF POLICY.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate that the United States and the governments of Belgium, Canada, Denmark, France, Germany, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey, and the United Kingdom have issued a joint statement affirming that—

(i) the CFE Flank Document does not give any State Party the right to station (under Article IV, paragraph 5 of the Treaty) or temporarily deploy (under Article V, paragraphs 1 (B) and (C) of the Treaty) conventional armaments and equipment limited by the Treaty on the territory of other States Parties to the Treaty without the freely expressed consent of the receiving State Party;

(ii) the CFE Flank Document does not alter or abridge the right of any State Party under the Treaty to utilize fully its declared maximum levels for conventional armaments and equipment limited by the Treaty notified pursuant to Article VII of the Treaty; and

(iii) the CFE Flank Document does not alter in any way the requirement for the freely expressed consent of all States Parties concerned in the exercise of any reallocations envisioned under Article IV, paragraph 3 of the CFE Flank Document.

(3) FACILITATION OF NEGOTIATIONS.—

(A) UNITED STATES ACTION.—

(i) IN GENERAL.—The United States, in entering into any negotiation described in clause (ii) involving the government of Moldova, Ukraine, Azerbaijan, or Georgia, including the support of United States intermediaries in the negotiation, will limit its diplomatic activities to—

(I) achieving the equal and unreserved application by all States Parties of the principles of the Helsinki Final Act, including, in particular, the principle that ''States will

respect each other's sovereign equality and individuality as well as all the rights inherent in and encompassed by its sovereignty, including in particular, the right of every State to juridical equality, to territorial integrity, and to freedom and political independence.'';

(II) ensuring that Moldova, Ukraine, Azerbaijan, and Georgia retain the right under the Treaty to reject, or accept conditionally, any request by another State Party to temporarily deploy conventional armaments and equipment limited by the Treaty on its territory; and

(III) ensuring the right of Moldova, Ukraine, Azerbaijan, and Georgia to reject, or to accept conditionally, any request by another State Party to reallocate the current quotas of Moldova, Ukraine, Azerbaijan, and Georgia, as the case may be, applicable to conventional armaments and equipment limited by the Treaty and as established under the Tashkent Agreement.

(ii) NEGOTIATIONS COVERED.—A negotiation described in this clause is any negotiation conducted pursuant to paragraph (2) or (3) of Section IV of the CFE Flank Document or pursuant to any side statement or agreement related to the CFE Flank Document concluded between the United States and the Russian Federation.

(B) OTHER AGREEMENTS.—Nothing in the CFE Flank Document shall be construed as providing additional rights to any State Party to temporarily deploy forces or to reallocate quotas for conventional armaments and equipment limited by the Treaty beyond the rights accorded to all States Parties under the original Treaty and as established under the Tashkent Agreement.

(4) NONCOMPLIANCE.—

(A) IN GENERAL.—If the President determines that persuasive information exists that a State Party is in violation of the Treaty or the CFE Flank Document in a manner which threatens the national security interests of the United States, then the President shall—

(i) consult with the Senate and promptly submit to the Senate a report detailing the effect of such actions;

(ii) seek on an urgent basis an inspection of the relevant State Party in accordance with the provisions of the Treaty or the CFE Flank Document with the objective of demonstrating to the international community the act of noncompliance;

(iii) seek, or encourage, on an urgent basis, a meeting at the highest diplomatic level with the relevant State Party with the objective of bringing the noncompliant State Party into compliance;

(iv) implement prohibitions and sanctions against the relevant State Party as required by law;

(v) if noncompliance has been determined, seek on an urgent basis the multilateral imposition of sanctions against the noncompliant State Party for the purposes of bringing the noncompliant State Party into compliance; and

(vi) in the event that noncompliance persists for a period longer than one year after the date of the determination made pursuant to subparagraph (A), promptly consult with the Senate for the purposes of obtaining a resolution of support for continued adherence to the Treaty, notwithstanding the changed circumstances affecting the object and purpose of the Treaty.

(B) AUTHORITY OF DIRECTOR OF CENTRAL INTELLIGENCE.—Nothing in this section may be construed to impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(5)).

(C) PRESIDENTIAL DETERMINATIONS.—If the President determines that an action otherwise required under subparagraph (A) would impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure, the President shall report that determination, together with a detailed written explanation of the basis for that determination, to the chairmen of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives not later than 15 days after making such determination.

(5) MONITORING AND VERIFICATION OF COMPLIANCE.—

(A) DECLARATION.—The Senate declares that—

(i) the Treaty is in the interests of the United States only if all parties to the Treaty are in strict compliance with the terms of the Treaty as submitted to the Senate for its advice and consent to ratification, such compliance being measured by performance and not by efforts, intentions, or commitments to comply; and

(ii) the Senate expects all parties to the Treaty, including the Russian Federation, to be in strict compliance with their obligations under the terms of the Treaty, as submitted to the Senate for its advice and consent to ratification.

(B) BRIEFINGS ON COMPLIANCE.—Given its concern about ongoing violations of the Treaty by the Russian Federation and other States Parties, the Senate expects the executive branch of Government to offer briefings not less than four times a year to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives on compliance issues related to the Treaty. Each such briefing shall include a description of all United States efforts in bilateral and multilateral diplomatic channels and forums to resolve compliance issues relating to the Treaty, including a complete description of—

(i) any compliance issues the United States plans to raise at meetings of the Joint Consultative Group under the Treaty;

(ii) any compliance issues raised at meetings of the Joint Consultative Group under the Treaty; and

(iii) any determination by the President that a State Party is in noncompliance with or is otherwise acting in a manner inconsistent with the object or purpose of the Treaty, within 30 days of such a determination.

(C) ANNUAL REPORTS ON COMPLIANCE.—Beginning January 1, 1998, and annually thereafter, the President shall submit to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a full and complete classified and unclassified report setting forth—

(i) a certification of those States Parties that are determined to be in compliance with the Treaty, on a country-by-country basis;

(ii) for those countries not certified pursuant to clause (i), an identification and assessment of all compliance issues arising with regard to the adherence of the country to its obligations under the Treaty;

(iii) for those countries not certified pursuant to clause (i), the steps the United States has taken, either unilaterally or in conjunction with another State Party—

(I) to initiate inspections of the noncompliant State Party with the objective of demonstrating to the international community the act of noncompliance;

(II) to call attention publicly to the activity in question; and

(III) to seek on an urgent basis a meeting at the highest diplomatic level with the noncompliant State Party with the objective of bringing the noncompliant State Party into compliance;

(iv) a determination of the military significance of and broader security risks arising from any compliance issue identified pursuant to clause (ii); and

(v) a detailed assessment of the responses of the noncompliant State Party in question to actions undertaken by the United States described in clause (iii).

(D) ANNUAL REPORT ON WITHDRAWAL OF RUSSIAN ARMED FORCES AND MILITARY EQUIPMENT.—Beginning January 1, 1998, and annually thereafter, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives on the results of discussions undertaken pursuant to subparagraph (B) of paragraph (2), plans for future such discussions, and measures agreed to secure the immediate withdrawal of all armed forces and military equipment in question.

(E) ANNUAL REPORT ON UNCONTROLLED TREATY-LIMITED EQUIPMENT.—Beginning January 1, 1998, and annually thereafter, the Director of Central Intelligence shall submit to the Committees on Foreign Relations, Armed Services, and the Select Committee on Intelligence of the Senate and to the Speaker of the House of Representatives a full and complete classified and unclassified report regarding—

(i) the status of uncontrolled conventional armaments and equipment limited by the Treaty, on a region-by-region basis within the Treaty's area of application;

(ii) the status of uncontrolled conventional armaments and equipment subject to the Treaty, on a region-by-region basis within the Treaty's area of application; and

(iii) any information made available to the United States Government concerning the transfer of conventional armaments and equipment subject to the Treaty within the Treaty's area of application made by any country to any subnational group, including any secessionist movement or any terrorist or paramilitary organization.

(F) COMPLIANCE REPORT ON ARMENIA.—Not later than August 1, 1997, the President shall submit to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a full and complete classified and unclassified report regarding—

(i) whether Armenia was in compliance with the Treaty in allowing the transfer of conventional armaments and equipment limited by the Treaty through Armenian territory to the secessionist movement in Azerbaijan; and

(ii) if Armenia is found not to have been in compliance under clause (i), what actions, if any, the President has taken to implement sanctions as required by chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.; relating to assistance to the independent states of the former Soviet Union) or other provisions of law.

(G) REPORT ON DESTRUCTION OF EQUIPMENT EAST OF THE URALS.—Not later than January 1, 1998, the President shall submit to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a full and complete classified and unclassified report regarding—

(i) whether the Russian Federation is fully implementing on schedule all agreements requiring the destruction of conventional armaments and equipment subject to the treaty but for the withdrawal of such armaments and equipment by the Soviet Union from the Treaty's area of application prior to the Soviet Union's deposit of its instrument of ratification of the Treaty; and

(ii) whether any of the armaments and equipment described under clause (i) have been redeployed, reintroduced, or transferred

into the Treaty's area of application and, if so, the location of such armaments and equipment.

(H) DEFINITIONS.—

(i) UNCONTROLLED CONVENTIONAL ARMAMENTS AND EQUIPMENT LIMITED BY THE TREATY.—The term ''uncontrolled conventional armaments and equipment limited by the Treaty'' means all conventional armaments and equipment limited by the Treaty not under the control of a State Party that would be subject to the numerical limitations set forth in the Treaty if such armaments and equipment were directly under the control of a State Party.

(ii) UNCONTROLLED CONVENTIONAL ARMAMENTS AND EQUIPMENT SUBJECT TO THE TREATY.—The term ''uncontrolled conventional armaments and equipment subject to the Treaty'' means all conventional armaments and equipment described in Article II(1)(Q) of the Treaty not under the control of a State Party that would be subject to information exchange in accordance with the Protocol on Information Exchange if such armaments and equipment were directly under the control of a State Party.

(6) APPLICATION AND EFFECTIVENESS OF SENATE ADVICE AND CONSENT.—

(A) IN GENERAL.—The advice and consent of the Senate in this resolution shall apply only to the CFE Flank Document and the documents described in subparagraph (D).

(B) PRESIDENTIAL CERTIFICATION.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate that, in the course of diplomatic negotiations to secure accession to, or ratification of, the CFE Flank Document by any other State Party, the United States will vigorously reject any effort by a State Party to—

(i) modify, amend, or alter a United States right or obligation under the Treaty or the CFE Flank Document, unless such modification, amendment, or alteration is solely an extension of the period of provisional application of the CFE Flank Document or a change of a minor administrative or technical nature;

(ii) secure the adoption of a new United States obligation under, or in relation to, the Treaty or the CFE Flank Document, unless such obligation is solely of a minor administrative or technical nature; or

(iii) secure the provision of assurances, or endorsement of a course of action or a diplomatic position, inconsistent with the principles and policies established under conditions (1), (2), and (3) of this resolution.

(C) SUBSTANTIVE MODIFICATIONS.—Any subsequent agreement to modify, amend, or alter the CFE Flank Document shall require the complete resubmission of the CFE Flank Document, together with any modification, amendment, or alteration made thereto, to the Senate for advice and consent to ratification, if such modification, amendment, or alteration is not solely of a minor administrative or technical nature.

(D) STATUS OF OTHER DOCUMENTS.—

(i) IN GENERAL.—The following documents are of the same force and effect as the provisions of the CFE Flank Document:

(I) Understanding on Details of the CFE Flank Document of 31 May 1996 in Order to Facilitate its Implementation.

(II) Exchange of letters between the United States Chief Delegate to the CFE Joint Consultative Group and the Head of Delegation of the Russian Federation to the Joint Consultative Group, dated July 25, 1996.

(ii) STATUS OF INCONSISTENT ACTIONS.—The United States shall regard all actions inconsistent with obligations under those documents as equivalent under international law to actions inconsistent with the CFE Flank Document or the Treaty, or both, as the case may be.

(7) MODIFICATIONS OF THE CFE FLANK ZONE.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that any subsequent agreement to modify, revise, amend, or alter the boundaries of the CFE flank zone, as delineated by the map entitled ''Revised CFE Flank Zone'' submitted by the President to the Senate on April 3, 1997, shall require the submission of such agreement to the Senate for its advice and consent to ratification, if such changes are not solely of a minor administrative or technical nature.

(8) TREATY INTERPRETATION.—

(A) PRINCIPLES OF TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in condition (1) in the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988.

(B) CONSTRUCTION OF SENATE RESOLUTION OF RATIFICATION.—Nothing in condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, shall be construed as authorizing the President to obtain legislative approval for modifications or amendments to treaties through majority approval of both Houses.

(C) DEFINITION.—As used in this paragraph, the term ''INF Treaty'' refers to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the related memorandum of understanding and protocols, done at Washington on December 8, 1987.

(9) SENATE PREROGATIVES ON MULTILATERALIZATION OF THE ABM TREATY.—

(A) FINDINGS.—The Senate makes the following findings:

(i) Section 232 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) states that ''the United States shall not be bound by any international agreement entered into by the President that would substantively modify the ABM Treaty unless the agreement is entered pursuant to the treaty making power of the President under the Constitution''.

(ii) The conference report accompanying the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201) states ''. . . the accord on ABM Treaty succession, tentatively agreed to by the administration, would constitute a substantive change to the ABM Treaty, which may only be entered into pursuant to the treaty making power of the President under the Constitution''.

(B) CERTIFICATION REQUIRED.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate that he will submit for Senate advice and consent to ratification any international agreement—

(i) that would add one or more countries as States Parties to the ABM Treaty, or otherwise convert the ABM Treaty from a bilateral treaty to a multilateral treaty; or

(ii) that would change the geographic scope or coverage of the ABM Treaty, or otherwise modify the meaning of the term ''national territory'' as used in Article VI and Article IX of the ABM Treaty.

(C) ABM TREATY DEFINED.—For the purposes of this resolution, the term ''ABM Treaty'' means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

(10) ACCESSION TO THE CFE TREATY.—The Senate urges the President to support a request to become a State Party to the Treaty by—

(A) any state within the territory of the Treaty's area of application as of the date of signature of the Treaty, including Lithuania, Estonia, and Latvia; and

(B) the Republic of Slovenia.

(11) TEMPORARY DEPLOYMENTS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate that the United States has informed all other States Parties to the Treaty that the United States—

(A) will continue to interpret the term ''temporary deployment'', as used in the Treaty, to mean a deployment of severely limited duration measured in days or weeks or, at most, several months, but not years;

(B) will pursue measures designed to ensure that any State Party seeking to utilize the temporary deployments provision of the Treaty will be required to furnish the Joint Consultative Group established by the Treaty with a statement of the purpose and intended duration of the deployment, together with a description of the object of verification and the location of origin and destination of the relevant conventional armaments and equipment limited by the Treaty; and

(C) will vigorously reject any effort by a State Party to use the right of temporary deployment under the Treaty—

(i) to justify military deployments on a permanent basis; or

(ii) to justify military deployments without the full and complete agreement of the State Party upon whose territory the armed forces or military equipment of another State Party are to be deployed.

(12) MILITARY ACTS OF INTIMIDATION.—It is the policy of the United States to treat with the utmost seriousness all acts of intimidation carried out against any State Party by any other State Party using any conventional armament or equipment limited by the Treaty.

(13) SUPPLEMENTARY INSPECTIONS.—The Senate understands that additional supplementary declared site inspections may be conducted in the Russian Federation in accordance with Section V of the CFE Flank Document at any object of verification under paragraph 3(A) or paragraph 3(B) of Section V of the CFE Flank Document, without regard to whether a declared site passive quota inspection pursuant to paragraph 10(D) of Section II of the Protocol on Inspection has been specifically conducted at such object of verification in the course of the same year.

(14) DESIGNATED PERMANENT STORAGE SITES.—

(A) FINDING.—The Senate finds that removal of the constraints of the Treaty on designated permanent storage sites pursuant to paragraph 1 of Section IV of the CFE Flank Document could introduce into active military units within the Treaty's area of application as many as 7,000 additional battle tanks, 3,400 armored combat vehicles, and 6,000 pieces of artillery, which would constitute a significant change in the conventional capabilities of States Parties within the Treaty's area of application.

(B) SPECIFIC REPORT.—Prior to the agreement or acceptance by the United States of any proposal to alter the constraints of the Treaty on designated permanent storage sites, but not later than January 1, 1998, the President shall submit to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a full and complete classified and unclassified report setting forth—

(i) a detailed explanation of how additional Treaty-limited equipment will be allocated among States Parties;

(ii) a detailed assessment of the location and uses to which the Russian Federation

will put additional Treaty-limited equipment; and

(iii) a detailed and comprehensive justification of the means by which introduction of additional battle tanks, armored combat vehicles, and pieces of artillery into the Treaty's area of application furthers United States national security interests.

SEC. 3. DEFINITIONS.

As used in this resolution:

(1) AREA OF APPLICATION.—The term ''area of application'' has the same meaning as set forth in subparagraph (B) of paragraph 1 of Article II of the Treaty.

(2) CFE FLANK DOCUMENT.—The term ''CFE Flank Document'' means the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990, adopted at Vienna on May 31, 1996 (Treaty Doc. 105–5).

(3) CONVENTIONAL ARMAMENTS AND EQUIPMENT LIMITED BY THE TREATY; TREATY-LIMITED EQUIPMENT.—The terms ''conventional armaments and equipment limited by the Treaty'' and ''Treaty-limited equipment'' have the meaning set forth in subparagraph (J) of paragraph 1 of Article II of the Treaty.

(4) FLANK REGION.—The term ''flank region'' means that portion of the Treaty's area of application defined as the flank zone by the map depicting the territory of the former Soviet Union within the Treaty's area of application that was provided by the former Soviet Union upon the date of signature of the Treaty.

(5) FULL AND COMPLETE AGREEMENT.—The term ''full and complete agreement'' means agreement achieved through free negotiations between the respective States Parties with full respect for the sovereignty of the State Party upon whose territory the armed forces or military equipment under the control of another State Party is deployed.

(6) FREE NEGOTIATIONS.—The term ''free negotiations'' means negotiations with a party that are free from coercion or intimidation.

(7) HELSINKI FINAL ACT.—The term ''Helsinki Final Act'' refers to the Final Act of the Helsinki Conference on Security and Cooperation in Europe of August 1, 1975.

(8) PROTOCOL ON INFORMATION EXCHANGE.—The term ''Protocol on Information Exchange'' means the Protocol on Notification and Exchange of Information of the CFE Treaty, together with the Annex on the Format for the Exchange of Information of the CFE Treaty.

(9) STATE PARTY.—Except as otherwise expressly provided, the term ''State Party'' means any nation that is a party to the Treaty.

(10) TASHKENT AGREEMENT.—The term ''Tashkent Agreement'' means the agreement between Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova, Russia, and Ukraine establishing themselves as successor states to the Soviet Union under the CFE Treaty, concluded at Tashkent on May 15, 1992.

(11) TREATY.—The term ''Treaty'' means the Treaty on Conventional Armed Forces in Europe, done at Paris on November 19, 1990.

(12) UNITED STATES INSTRUMENT OF RATIFICATION.—The term ''United States instrument of ratification'' means the instrument of ratification of the United States of the CFE Flank Document.

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. D'AMATO:

S. 733. A bill to amend the Clean Air Act to expand the coverage of the single transport region established to control interstate pollution and to apply control measures throughout the region, and for other purposes; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. D'AMATO:

S. 733. A bill to amend the Clean Air Act to expand the coverage of the single transport region established to control interstate pollution and to apply control measures throughout the region, and for other purposes; to the Committee on Environment and Public Works.

THE ACID DEPOSITION AND OZONE CONTROL ACT OF 1997

Mr. D'AMATO. Mr. President, I rise today to introduce legislation to address a scourge that has long afflicted the State of New York and many parts of the Northeast. That scourge is acid rain.

Ending the scourge of acid rain will not be easy. In fact, it is likely that additional congressional efforts will be necessary to fully address this issue and I intend to continue to work on such efforts. However, I believe that it is necessary to introduce this legislation at this time to make the Senate aware that serious measures must be taken to solve the acid rain problem that continues to impact New York and the Northeast. I look forward to working with my colleagues to develop the most sensible and cost-effective approach to eliminate the damages of acid rain.

Over the past 15 years, Congress and the Federal Government have attempted to address this problem. Unfortunately, efforts to date have not yielded the success in may State that New Yorkers had wished. Lakes, streams, and trees in the Adirondacks are still dying due to sulfur dioxide and nitrogen oxide emissions that are transported from upwind sources. The health of New Yorkers and New York's environment continue to be affected by fuel burning activities in other regions of our Nation. That must change. This bill will see that significant reductions in sulfur dioxide and nitrogen oxides are achieved so that New Yorkers and also others in the Northeast will be able to enjoy a cleaner environment.

Acid rain forms when sulfur dioxide [SO_2] and nitrogen oxides [NO_x]—created from the burning of fossil fuels—react with water vapor in the atmosphere to create dilute amounts of sulfuric and nitric acid. These acids then fall to Earth either through precipitation or as gases and dry particles—dry deposition. Congress first passed legislation to address acid rain in the 1982 Clean Air Act amendments. It soon became clear, though, that the provisions would not effectively curb acid rain. The New York State Legislature in 1984 recognized this problem and enacted programs leading to specific reductions of in-State acid rain sources. The success of those efforts have produced a 40-percent reduction to date of in-State emissions of sulfur dioxide and nitrogen oxides.

New York's efforts notwithstanding, only a small amount of the acid rain that impacts New York State actually originates in New York State. To truly protect New York's environment, it was necessary for facilities in other parts of our Nation to reduce their emissions. Partly as a result of New York's efforts, Congress included title IV in the 1990 Clean Air Act amendments to require a 50-percent decrease nationwide in sulfur dioxide emissions by the year 2000. Because of the requirements of title IV, significant reductions in sulfur dioxide have occurred already. Nevertheless, these reductions are not enough to fully protect the Adirondacks, nor will they reverse the damage that has been done. To do this, further decreases in sulfur dioxide emissions will be necessary.

Even with all the many efforts to date and those that need to be achieved in the future, reductions in sulfur dioxide alone will not be sufficient to protect New York's environment from continued acid deposition. Other pollutants, mainly nitrogen oxides [NO_x], have also been shown to play a significant role in the acidification of our waters and forests. Without further controls of nitrogen oxides, the EPA estimates that the number of acidic lakes in the Adirondacks will increase to 43 percent by the year 2040. Such an increase will see approximately 1,300 lakes out of the 3,000 in the Adirondacks become chronically acidic. This is not the kind of legacy that we should pass along to future generations.

Even with the controls that the Clean Air Act of 1990 imposed, more must be done if the Adirondacks are to be spared further acidification. This legislation will require the Environmental Protection Agency [EPA] to promulgate regulations to reduce utility emissions of sulfur dioxide and nitrogen oxides by two-thirds from 1990 levels. This legislation targets those areas of the Nation that are the primary contributors of these pollutants. Such reductions will produce dramatic decreases in acid deposition in New York and throughout the Northeast, as well as decreases in the level of fine particulates, ozone and haze.

The bill would also expand the membership of the existing Ozone Transport Commission from the current 12 States to include additional States that have been shown to contribute to the long-range transport of ozone and acid rain. The Ozone Transport Commission is authorized under the Clean Air Act to make recommendations for pollution controls to be enacted by member States. The EPA can either approve or disapprove any recommendations. However, the EPA would have to provide equivalent alternatives in those cases

where it disapproves the recommendations.

Once enacted, this bill would require those States that contribute to acid rain pollution to implement control measures like those currently in place in New York and the Northeast. These include activities like scrubbers on smokestacks, low NO_x burners, and the use of low-sulfur coal, although the bill would not mandate which technology to use.

For some time now, New York has played by the rules and has gone the extra mile to reduce the emissions that cause acid rain within her borders. While I recognize that the reductions associated with title IV of the Clean Air Act will move us in the right direction, no amount of effort on the part of New York or other similarly afflicted States in the Northeast can be effective if other parts of our Nation do not do their fair share. Enough is enough. I only ask for equity from our neighbors so that New York may be able to enjoy a cleaner environment and the resulting health benefits. It can be done.

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. 733

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 ''Acid Deposition and Ozone Control Act of 1997''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1)(A) reducing atmospheric nitrogen oxide will reduce acidic deposition, and the serious adverse effects of acidic deposition on public health, natural resources, building structures, and ecosystems; and

(B) acidic deposition has been demonstrated to result in increased morbidity in fish and severe damage to water bodies and forest lands;

(2)(A) reducing atmospheric nitrogen oxide will provide further benefits by decreasing ambient levels of tropospheric ozone, fine particulate matter, and regional haze associated with poor visibility; and

(B) such conditions have been demonstrated to result in severe threats to public health, including lung irritation, increased incidence of asthma and bronchitis, and increased human morbidity;

(3)(A) nitrogen deposition into affected watersheds can result in excessive nutrient enrichment leading to algal blooms and increased biological oxygen demand; and

(B) such conditions can lead to increased morbidity in marine life and severe degradation of economic and recreational opportunities;

(4) additional reductions in sulfur dioxide beyond levels currently required by the Clean Air Act (42 U.S.C. 7401 et seq.) will result in decreases in acidic deposition, regional haze, and ambient levels of fine particulates;

(5) the allowance trading program established in the Clean Air Act for the reduction of emissions of sulfur dioxide has been highly effective at creating cost-effective control measures;

(6) the technology exists to inexpensively reduce sulfur dioxide emissions beyond the levels currently required by the Clean Air Act;

(7) the ozone transport region established by the Clean Air Act to reduce long-range transport of ozone does not currently include all the States necessary to achieve the intended reduction; and

(8) this Act shall support the Environmental Protection Agency's stated objective of controlling ground level ozone through regional controls, as developed by the Ozone Transport Assessment Group and referred to in the January 10, 1997, advanced notice of proposed rulemaking for State implementation plans under section 110(k)(5) of the Clean Air Act (42 U.S.C. 7410(k)(5)).

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize the scientific evidence that emissions of nitrogen oxide present a substantial threat to public health and the environment;

(2) to require reductions in the emission of nitrogen oxide;

(3) to recognize that the means exist to cost-effectively reduce emissions of sulfur dioxide beyond the levels currently required by the Clean Air Act;

(4) to require reductions in the emission of sulfur dioxide;

(5) to recognize that tropospheric ozone is a regional problem;

(6) to recognize that the single ozone transport region created by the Clean Air Act does not currently include all the States necessary to adequately address the problem of ozone; and

(7) to amend the Clean Air Act to expand the membership in the ozone transport region by using the best currently available science to include those States that contribute to ozone levels in noncompliance areas within the current single ozone transport region.

SEC. 3. CONTROL OF INTERSTATE OZONE AIR POLLUTION.

(a) ADDITIONAL STATES.—Section 184(a) of the Clean Air Act (42 U.S.C. 7511c(a)) is amended after the first sentence by inserting the following: ''The Administrator, using the best available science and models developed by the Ozone Transport Assessment Group, shall add any State to the single ozone transport region that contributed 4 parts per billion or more to ozone via aerial transport to the ozone level of any noncompliant area in the single ozone transport region for any 1 of the second through tenth worst ozone days that occurred during the previous 10 years.''.

(b) CONTROL MEASURES.—Not later than 18 months after the date of enactment of this Act, any control measure adopted under section 184(a) of the Clean Air Act (42 U.S.C. 7511c(a)) before the date of enactment of this Act shall apply to any State added to the single ozone transport region under the second sentence of section 184(a) of the Clean Air Act (42 U.S.C. 7511c(a)) after the date of enactment of this Act.

SEC. 4. ADDITIONAL NITROGEN OXIDE EMISSIONS REDUCTIONS.

Section 184 of the Clean Air Act (42 U.S.C. 7511c) is amended by adding at the end the following:

''(e) ADDITIONAL EMISSIONS REDUCTIONS.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of this subsection, the Administrator shall promulgate regulations requiring reductions in the emissions of nitrogen oxide and sulfur dioxide in any State added to the single ozone transport region under the second sentence of subsection (a) to ⅓ of the 1990 levels by the year 2003.

''(2) AFFECTED UNITS.—The regulations shall apply to affected units, as defined under section 402.

''(3) ALLOWANCE PROGRAM.—The Administrator may establish an allowance trading program to carry out this subsection.

''(4) EFFECT ON OTHER LAW.—This subsection shall not affect any law (including regulations) that requires a greater reduction in emissions of nitrogen oxide or sulfur dioxide than is required by this subsection.''.

ADDITIONAL COSPONSORS

S. 8

At the request of Mr. SMITH, the names of the Senator from Indiana [Mr. COATS], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Missouri [Mr. BOND], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Oklahoma [Mr. INHOFE], the Senator from Wyoming [Mr. THOMAS], and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 8, a bill to reauthorize and amend the Comprehensive Environmental Response, Liability, and Compensation Act of 1980, and for other purposes.

S. 25

At the request of Mr. FEINGOLD, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 25, a bill to reform the financing of Federal elections.

S. 293

At the request of Mr. HATCH, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 293, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for clinical testing expenses for certain drugs for rare diseases or conditions.

S. 422

At the request of Mr. DOMENICI, the names of the Senator from Arkansas [Mr. HUTCHINSON] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 422, a bill to define the circumstances under which DNA samples may be collected, stored, and analyzed, and genetic information may be collected, stored, analyzed, and disclosed, to define the rights of individuals and persons with respect to genetic information, to define the responsibilities of persons with respect to genetic information, to protect individuals and families from genetic discrimination, to establish uniform rules that protect individual genetic privacy, and to establish effective mechanisms to enforce the rights and responsibilities established under this Act.

S. 623

At the request of Mr. INOUYE, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 623, a bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs.

S. 713

At the request of Mr. DODD, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator

from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 713, a bill to amend the Federal Food, Drug, and Cosmetic Act to allow for additional deferred effective dates for approval of applications under the new drugs provisions, and for other purposes.

TAX FREEDOM DAY

• Mr. GORTON. Mr. President, today is National Tax Freedom Day—the day when families around the country finally start working for themselves and not for the Government. For families in my home State of Washington, however, Tax Freedom Day does not come until May 14. In Washington State, families must work 5 additional days before the income they earn can go to meet their own needs and not the Government's.

The residents of Washington State will bear the Nation's fifth highest tax burden in 1997 with each man, woman, and child of the State owing $6,572 in Federal taxes. Add this with State and local taxes and each Washington citizen will owe $9,881 or almost 37 percent of the average, annual income to support the Government .

It is no wonder today's families are feeling squeezed. It is no wonder more and more families must rely on dual incomes and parents must work longer and longer hours. Families are paying more in taxes today than ever. They are now spending more just on taxes then they do on food, clothing, shelter, and transportation combined.

This is not fairness. It is robbery.

Clearly, it is time for Congress to seriously reexamine our current tax system. As Betty Dursh from Spokane, WA, stated in her recent letter to me:

> It is past time to reform the Tax Code. We are now in our fifth year, hear this, our fifth year, of working almost half the year before the taxes are paid. That is unconscionable! It is wrong!

Yes, Ms. Dursh, it is wrong and it is far past the time for Congress to begin the work of reforming our tax system.

The budget agreement announced by the President and Congress 1 week ago today gives me hope—hope that we can finally begin to put our fiscal house in order and provide some tax relief for the American people. If our efforts are successful this summer and we are able to begin the job of reforming some of our most oppressive taxes it will be a good step. But it will only be the first, small step in the direction of the real reform we need—reform that will, at last, provide us with a tax system that respects the right of American's to keep their earnings and investments. This will require much more than one or two changes to the volumes of provisions in the Tax Code, however. It will require a complete examination and, eventually, overhaul of the entire system.

I want to leave my colleagues with one final thought—the words of a 52-year-old woman from Marysville, WA who lost both her husband and her job this past year and who is unable to sell her home to make ends meet because she would be required to give the Government 40 percent of the proceeds of the sale in capital gains tax. Ms. Linda Blasengame has this message for all of us here in Congress:

> I have lost so much and have always fought back but I can't imagine the pain of having to lose my dignity too. Please, look inside your heart and help me and so many others that are in my shoes. . . . I don't need a handout, I need your help.

Congress must heed the cries for help from people like Ms. Blasengame and we must respond to the outrage of people like Ms. Dursh. The American people are slowly losing patience with our bandaid approaches. Americans overwhelming want a fairer and simpler tax system. They deserve this and they are relying on us to work toward this end.•

MURRAY KEMPTON

• Mr. MOYNIHAN. Mr. President, on Monday of last week, Murray Kempton died. With his passing, we mark the end of a legend in New York, and in American journalism. Kempton was the kindest man and toughest reporter we have known in our time. A certain incandescent sweetness now departs. Yet his memory and, yes, his legacy remain.

The Daily News' columnist Sidney Zion captured Kempton's unique ability and thus legacy when Zion wrote: ''Kempton used his power to condemn, but loved his right to absolve. And when he absolved the sinner, he owned the territory.''

This was Kempton's singular power. With characteristic flair, Kempton would challenge corruption with voracity. Then instead of reveling in victory, would show compassion for the humans beneath the deeds and absolve the sins of some of the greatest losers in New York's history. Carmine DeSapio, Alger Hiss, Carmine Persico, Roy Cohn. Such was the power of the words which Kempton wielded.

When the reformers in the City had finally overcome DeSapio, one of the great Tammany bosses, Kempton wrote, as only he could: ''The age of Pericles had begun because we were rid of Carmine DeSapio. One had to walk carefully to avoid being stabbed by the lilies bursting in the pavements. I wish the reformers luck—with less Christian sincerity than Carmine DeSapio does. I will be a long time forgiving them on this one.'' Kempton felt sympathy and respect even for the rogue. He stood up for the loser whether it was Carmine DeSapio, a deposed dictator, or a shunned local New Yorker.

J. Edgar Hoover once called Mr. Kempton a snake and a rat. From one who was once referred to by Mr. Hoover as a skunk, I take pride in knowing that my work was seen in the same light as Kempton's. But I fear no one else has what the Washington Post called, ''[Kempton's] skeptical sympathy'' required to continue his work.

The Age of Kempton is over. Budding writers would do well to re-read and emulate his work; public figures continue to thank and rue the day Kempton chose them to be subject of his column; and for we who knew him, only sorrow bursts through the cracks in our hearts today.

I ask that the following articles about Murray Kempton be printed in the RECORD at the conclusion of my remarks.

[From the New York Post, May 9, 1997]

KEMPTON'S FUNERAL IS A LESSON IN SIMPLICITY

(By Christopher Francescani)

Even in death, Murray Kempton's disarming humility ruled the day.

There were no eulogies at the legendary columnist's simple Upper West Side funeral yesterday, although hundreds of the city's greatest literary, political and newspaper voices were on hand.

There were no limousines, although Kempton was considered royalty among the city's press corps.

And there were no gaudy floral tributes, only small bursts of potted cherry blossoms, Casablanca lilies and white azaleas perched unassumingly on the altar.

But the Pulitzer Prize-winning columnist, who sounded off for decades on every aspect of the city he loved, was remembered—and remembered well.

''The funeral was pure Murray,'' Post columnist Jack Newfield said. ''His manner, his grace, his kindliness, his humility beyond self-effacement. He was the benchmark.''

Kempton, 79, whose gentle elegance and amusing eccentricities won him the respect of virtually all of his ''fellow workers,'' died Monday at a Manhattan nursing home.

In a note written in 1989, entitled, ''My Funeral,'' he'd requested a brief ceremony with no eulogies. His body was cremated earlier this week.

''He chose a simple ceremony in the classic Anglican manner, which focuses on God's love and the equality of all persons in the face of death,'' said the Rev. Gaylord Hitchcock of the Church of St. Ignatius of Antioch.

''His [funeral] runs against the grain of most American funerals, where the Mass turns into a celebration of the person.''

Kempton, known among his colleagues as much for his intricate sentence structure as for riding his three-speed bicycle to news events—jazz humming through his headphones—spent most of his 55-year career at the New York Post and Newsday.

The Baltimore-born scribe, who once ran copy for H.L. Mencken, won a Pulitzer for commentary in 1985.

The pews of the tiny Gothic-style church where Kempton worshiped for decades were filled to capacity 30 minutes before the ceremony began.

William F. Buckley Jr. and Mayor Giuliani pressed their way through the crowd. Writer Nora Ephron sat pensively in a rear pew as the church bell rang out 79 times, once for each year of Kempton's life.

Columnist Jimmy Breslin, Post editor Ken Chandler, Daily News editor Pete Hamill, writers Kurt Vonnegut, Phillip Roth and Calvin Trillin, and cartoonist Jules Feiffer were there—as were former Mayor David Dinkins, Manhattan Borough President Ruth Messinger and hosts of other dignitaries.

Off to the side of the altar, a choir clad in black sung hymns softly in Latin.

Some of Kempton's favorite passages from the Bible took the place of speeches.

Instead, eulogies were whispered between pews and among the crowd of mourners outside the chapel.

''He was the last great gentleman poet,'' said Post columinist Liz Smith.

Writer David Halberstam said,

''I'll miss meeting him on the street, and having the choice of talking about the Knicks, the mayor, the Clintons, anything. He was great fun on every subject.''

''He was the soul of kindness,'' said WCBS Radio reporter Irene Cornell.

New York Post managing editor Marc Kalech edited Kempton's copy in the late 1970s, when the columnist worked at The Post.

''Editing Kempton was like editing Shakespeare,'' Kalech said. ''You'd read it, you'd struggle to understand it, and then you wouldn't touch it.''

But perhaps the greatest tribute to one of New York's greatest columnists came from someone who never met Kempton.

''I'm just a reader,'' explained Ray Belsky, a retired health-care consultant who sat alone in the back of the church.

''He touched me with his integrity. There was a courtliness about everything he wrote. Even when he wrote about common men, and common problems, he gave them the dignity they deserved.

''I never met him. I just admired him and I read him . . . every day.''

[From the Daily News, May 8, 1997]

MURRAY KEMPTON WAS NO PAPER SAINT

(By Sidney Zion)

I left the courtroom for the newsroom 35 years ago by parodying Murray Kempton, and if I were true to his newly minted ghost, I'd slip this fact into a fog bank somewhere around midstream in this piece.

But every journalist who got a nod from Kempton became his memorialist before I could get a word in edgewise, given the tyranny of column calendars. He died Monday, and here it is Thursday, so I play my credentials on top.

In December 1962 the New York newspapers were in the throes of their longest strike. Victor Navasky, today the publisher of The Nation, decided to put out a parody of the New York Post, and he asked me to do Kempton. I was an assistant U.S. attorney in New Jersey, but Navasky knew I was a Kempton buff.

I wrote the column, and the next thing I knew I was being pursued by the Post. I took a leave of absence from the Justice Department and never got back to court.

Murray was bemused. He thought I was more than a little crazy for this move, but I insist that it establishes me as his true short biographer. Who else changed his profession, his life, because of Kempton?

And I say that he wouldn't like the canonization that greeted his death. Nothing bothered him more than good intentions, so I feel free to patronize those who sentimentalized him as the patron saint of the losers of the world.

The losers' dressing room was indeed his locker, but only because there were winners. He used his power to condemn, but loved his right to absolve. And when he absolved the sinner, he owned the territory.

Carmine DeSapio, Alger Hiss, Carmine Persico, Roy Cohn—all cases in point.

Every phone call I received upon Kempton's death from old pals mentioned first his great column on DeSapio the day the Village reformers destroyed the Tammany boss.

Kempton had been in the forefront on the reform movement, but when DeSapio was beaten, he wrote: ''The Age of Pericles had begun because we were rid of Carmine DeSapio. One had to walk carefully to avoid being stabbed by the lilies bursting in the pavements. I wish the reformers luck—with less Christian sincerity than Carmine DeSapio does. I will be a long time forgiving them this one.''

This column drove the Village reformers crazy. But it was classic, and Kempton repeated the theme until his death. Let anyone else praise DeSapio, and Murray would have at him. He knew why DeSapio was a dignified loser, but if you said so, watch out.

The same with Hiss, and then some. Murray knew Hiss was guilty because like Hiss, Kempton was a shabby-genteel Gentile out of Baltimore—and a former Communist. (Everybody I knew, Jew or Gentile, assumed Murray was a Jew—who knew his first name was James?—and he wrote for the then-liberal-Jewish New York Post.)

But Kempton had no time for the right-wing attackers of Hiss. Hiss was his, and the rest were know-nothings.

None of this came to me until the day Murray ran into me on Broadway and said he had attacked my book on Cohn. Always the gentleman, Kempton said: ''Don't worry, I put it in a paper that nobody will read.''

I said, ''But you were at every party for Roy, and with a better table than I had.''

Murray cringed, and in that cringe I recognized that only he could absolve the sinner. I had crossed over the line and had to be punished.

He was the best there was in his time, don't get me wrong. But he was the best because he was sly, he knew everything about everybody, and only when he didn't want you to know it he ran into fog banks, each one chartered by Kempton out of Henry James.

And he was always ''cosmic,'' despite his denials. Murray Kempton knew the cosmos and played it every time, whether with Adlai Stevenson or John Gotti. They bury him today. He smiles at the Maker, and vice versa.

[From Newsday, May 6, 1997]

''ONE OF A KIND''—MURRAY KEMPTON DIES; ''KINDEST MAN, TOUGHEST REPORTER''

(By Fred Bruning)

Murray Kempton, the erudite, pipe-smoking scribe whose penetrating intellect made complicated issues seem simple and whose audacious sentences made the English language more joyously complex, died yesterday at the Kateri Residence, a skilled nursing facility in Manhattan. Kempton was 79.

A son, Arthur Kempton, 48, said his father died at 4:40 a.m., apparently of heart failure.

In January, Kempton, a columnist at Newsday since 1981, was diagnosed with pancreatic cancer, his son said. Kempton recently underwent surgery and was being treated by physicians at the Memorial Sloan-Kettering Cancer Center in Manhattan.

Kempton's death prompted expressions of sympathy from a multitude of admirers—President Bill Clinton among them.

''Hillary and I were deeply saddened today to learn of the death of Murray Kempton,'' Clinton said in a statement. ''Murray's reporting during his illustrious 45 years in journalism was marked by courage, honesty and compassion. He represented the very finest of his profession and we will all miss him.''

Kempton covered the campaign of Republican challenger Robert Dole last year. Yesterday, Dole mourned Kempton. ''Murray is a longtime friend,'' Dole said. ''I enjoyed his presence on the campaign plane. He will be greatly missed by friends and family and his objective voice will be missed in the world of journalism.''

Sen. Daniel Patrick Moynihan (D-N.Y.) said of Kempton: ''He was the kindest man and toughest reporter we have known in our time. A certain incandescent sweetness now departs.''

Newsday publisher Raymond Jansen said Kempton's absence from the paper represented a major loss. ''We certainly are going to be poorer for his not appearing in our pages any longer,'' Jansen said. ''He was unique. That term so many times applies to people who really aren't, but in this case he was truly one of a kind.''

Jansen said Times Mirror of Los Angeles, Newsday's parent company, was to have presented Kempton with its Special Distinction Award tomorrow in recognition of achievements ''epitomizing the very top of his field.''

For colleagues at Newsday, and for thousands of devoted readers in New York and elsewhere, it will be difficult to imagine a world without the wry, unyielding Murray Kempton to help sort out the daunting issues of the day.

His last columns, published in January, were typically eclectic—the pieces dealt with Presidential politics, bad cops and corporate greed—and resonated with trumpet blasts of the brash but sophisticated voice that Kempton had cultivated over a half-century.

Writing about a woman who was suing the manufacturer of artificial breast implants, Kempton said: ''Her case, whether won or lost, will likely pass unremarked, because we are already satiated with reminders that American corporations are fixedly future-blind in engagements with the welfare of their customers and for that matter of themselves.''

The paragraph was vintage Kempton—insightful, challenging, artfully obtuse. In characteristic fashion, Kempton was gleefully standing newspaper convention on its head by taking the longest, not the shortest, path between two points. Aware that his prose was viewed by some as unorthodox and difficult, Kempton joked that he likely never would be successfully sued for libel because no judge or jury would be able to untangle his sentences.

Kempton could afford to be self-effacing. He knew that many considered him a master of contemporary letters, a reporter who took the journalistic form about as far as it could go, a rare breed who found a way to survive as much on his powers of analysis and abstraction as the assorted facts scribbled in his notebook.

''He was like one of those comets hurtling past,'' said Les Payne, a News Day assistant managing editor and a long-time friend of Kempton.'' We will not likely see his kind again.''

In addition to the admiration of fans and co-workers, Kempton earned the esteem of the publishing establishment. He won a Pulitzer Prize for commentary in 1985 and twice took the respected George Polk Award. His book ''The Briar Patch'' won the National Book Award for contemporary affairs in 1974, as well as a number of other honors. Among his most cherished was a 1987 Grammy from the National Academy of Recording Arts for liner notes accompanying the album, ''Sinatra—Standards.''

Though he wrote regularly for News Day, Kempton contributed to a wide range of publications. Over the years, his work appeared in Esquire, Playboy, Commonweal, Life, Harper's, and Atlantic Monthly.

He published four books. The last ''Rebellions, Perversities, and Main Events,'' released in 1994, was dedicated to his old pal, William F. Buckley Jr. The conservative stance of Buckley, editor of the National Review, did nothing to discourage Kempton, whose politics strayed in another direction.

Kempton enjoyed persons who held contrary views and, in turn, was revered by Americans of many persuasions. ''Murray set a high journalistic standard,'' Sen. Alfonse

D'Amato (R–N.Y.) said, ''He was tough, but fair.''

Since a young man, James Murray Kempton prepared himself to move easily among the American throng—as attentive to the struggles of the ordinary citizen as the maneuverings of the rich and powerful.

He was born in Baltimore on Dec. 16, 1917, and, as a young man, became a devoted reader of the Baltimore Evening Sun—and particularly of the Sun's iconoclastic essayist H.L. Mencken. Drawn to newspaper work, Kempton found a job at the Sun, attending his first national convention as a copy boy for Mencken, his hero.

After graduation from Johns Hopkins University, Kempton followed his leftist political instincts. He worked as a labor organizer, wrote for the Young People's Socialist League and the American Labor Party. Even in later years as a reporter, Kempton played off his lefty background by greeting colleagues as ''fellow workers.''

In 1942, Kempton joined the New York Post as a reporter but with World War II intensifying, soon enlisted in the Air Force.

During a three year hitch, Kempton served in New Guinea and the Philippines. He once noted that he was assigned to a unit called the Cyclone Division. ''They call it the Cyclone Division because all its tents got blown down on maneuvers,'' said Kempton. ''That's how it is with my team every time.''

After the war, Kempton returned to New York and began his writing career in earnest. He worked again for the Post and then a succession of other publications—New Republic magazine, New York World Telegram, New York Review of Books. He taught journalism at Hunter College and ''political journalism'' at the Eagleton Institute at Rutgers University.

While covering the civil rights movement for the Post in 1961, Kempton showed his wily instincts. Freedom Riders were traveling by bus through the South to illustrate how blacks were denied access to public accommodations. There had been violence along the way, and likely, there would be more. In Montgomery, Ala., journalists were told a busload of Freedom Riders were heading out at 7 a.m. Other reporters piled into cars to follow the bus. Kempton went them one better—he bought himself a ticket that allowed him on the bus.

''He wrote a helluva story,'' said Michael Dorman, who covered the Freedom Rides. ''It was a master stroke to buy that ticket—and just the sort of thing Murray would do.''

At Newsday, Kempton's reputation preceded him but the new man—a star by any measure—proved affable and without the aura of celebrity.

Working out of the now defunct New York Newsday, Kempton looked like an aging Ivy Leaguer—shirt and tie, natty suit well-pressed—but had a gift for gab and generous nature that neatly undercut his formal bearing. He loved jazz and the blues and, as if that weren't enough to cement his man-of-the-people reputation, Kempton traveled to the office by bicycle. Murray Kempton couldn't drive.

On his 75th birthday, Kempton got a plant from a fan—the wife of alleged mobster Carmine Persico, about whom Kempton had written. Kempton said he had no talent for horticulture and gave the plant, an amaryllis, to staff member Anthony Destefano. The amaryllis thrived, but never flowered until this spring, Destefano said, when it bloomed red, and bright.

By then, Kempton was seriously ill and his own brilliant season almost through. But even feeling poorly, Kempton kept his edge. Spencer Rumsey, a Newsday editor who checked Kempton's columns, said that Kempton told him he likely got sick because New York Mayor Rudolph Giuliani kicked the Mafia out of the Fulton Fish Market. ''When the mob was in charge, you could always count on safe fish,'' Kempton said.

It was Kempton as Kempton would want to be remembered—sassy, sardonic and unexpected. ''He represented the very best that there is in this business,'' said Newsday Editor Tony Marro. ''It was our great good fortune to have him as a colleague and mentor, and we'll miss him terribly.''

Kempton is survived by three sons, Arthur, of Massachusetts; David, of Fallsburg, N.Y. and Christopher, of New York; and a daughter, Durgananda, also of Fallsburg. His first wife, Mina, lives in Princeton, M.J. His second wife, Beverly, died last year. A son, Murray Jr., died in an auto accident in 1971. Kempton also leaves a companion, Barbara Epstein.

A funeral is set for 11 a.m. Thursday at St. Ignatius Episcopal Church, 552 West End Avenue, New York.

[From the New York Post, Tuesday, May 6, 1997]

MURRAY KEMPTON (1917–1997)

Murray Kempton, who died yesterday at 79, was one of the mainstays of New York journalism. For more than half a century—most of that time here at The Post—he brought to his craft a unique perspective that made him a legend.

Though his famously wordy style could be dizzying, Kempton had a reputation as a master phrasemaker. A congressman once said that ''Sometimes I can't understand what he's saying, but the end effect is enormous.''

Kemption never thought of himself as an oracle, but rather as an observer. He was attracted to society's rogues and underdogs and made an art form out of covering criminal trials.

He described himself as a Normal Thomas Socialist—but he avoided political orthodoxies of any stripe and believed journalists should not wear labels.

''The trouble with thinking of yourself as a liberal or a conservative,'' Kempton once wrote, ''is the danger that you might unwittingly die to preserve an unconscious image. It's not the reporter's responsibility to lie for a political party, no matter what it is.''

Such attitudes might explain the esteem in which Kempton was held by ideological friends and foes alike. When Kempton won a Pulitzer Prize in 1985, George Will proclaimed him ''the class of our class.'' William F. Buckley, Jr., even while chiding his good friend's political naivete added: ''As a columnist, Murray Kempton is the noblest of us all.''

[FROM THE DAILY NEWS, MAY 6, 1997]

ONE OF A KIND

The death of columnist Murray Kempton will provide over the coming days an outpouring of praise and affection from the journalistic community. And not a few anecdotes aiming to capture Kempton's huge talent and equal heart.

What is remarkable is that all the best eulogies will have the distinct advantage of being true. Kempton was a giant, a man whose contributions to his craft, his city and his country were unique to his generation. To say he will be missed doesn't begin to capture the void he leaves.●

NATIONAL ARSON AWARENESS WEEK

● Mr. ROCKEFELLER. Mr. President, today I rise to recognize the end of a significant week in our Nation. May 4 through May 10 was National Arson Awareness Week around the country. This year's theme was ''Target Arson.'' The Federal Emergency Management Agency [FEMA], along with local law enforcement officers, firefighters, and teachers chose a tremendously important and vulnerable group close to my heart for special emphasis in their crusade to promote safety and crime prevention—children. Their mission was and is to educate children on the dangers of fire by asking parents to control their children's access to matches and cigarette lights, and asking all adults to set a good example for our Nation's youth.

Arson affects all Americans. It accounts for more than 700,000 deaths nationwide and causes more than $2 billion worth of property damage. The cost to the community as a whole is great when we consider that the taxpayer must foot the expenses for the fire, police, and medical personnel who are needed when a fire occurs, and not to mention the losses to a community when a church, business, or home is destroyed. That is why it is imperative that we work together to prevent arson from destroying another community, and most important, another life.

Today I commend FEMA and communities across the country for their laudable efforts in raising awareness about the tragic consequences of arson and its devastating effect on our communities.●

ORDERS FOR MONDAY, MAY 12, 1997

Mr. DEWINE. Mr. President, on behalf of the leader, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m. on Monday, May 12. I further ask unanimous consent that on Monday, immediately following the prayer, the routine requests through the morning hour be granted and that there then be a period of morning business until 11 a.m., with Senators to speak for up to 5 minutes each with the following exceptions: Senator SNOWE for up to 10 minutes, Senator DORGAN for up to 30 minutes, and Senator BUMPERS for up to 20 minutes.

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

PROGRAM

Mr. DEWINE. Mr. President, further, on behalf of the majority leader, for the information of all Senators, Monday the Senate will, hopefully, begin consideration of the CFE treaty. However, no rollcall votes will occur during Monday's session of the Senate. Any votes ordered with respect to the treaty will be stacked to occur at a later date. As always, all Senators will be notified when any votes are ordered.

It is the hope of the majority leader that the Senate could also consider the IDEA bill, possibly under a time agreement. Again, any votes ordered with respect to that bill will also be postponed to occur at a later date.

I thank my colleagues for their cooperation on both of these matters.

ADJOURNMENT UNTIL 10 A.M., MONDAY, MAY 12, 1997

Mr. DEWINE. Mr. President, if there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 1:52 p.m., adjourned until Monday, May 12, 1997, at 10 a.m.