

DEPARTMENT OF THE INTERIOR
APPROPRIATIONS, 1996

The Senate continued with the consideration of the bill.

Mr. CRAIG. Mr. President, I also ask unanimous consent the underlying committee amendment be set aside.

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

AMENDMENT NO. 2303

(Purpose: To amend section 1864 of title 18, United States Code, relating to tree spiking, to add avoidance costs as a punishable result)

Mr. CRAIG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 2303.

The amendment is as follows:

At the appropriate place, insert the following:

SEC.

Section 1864 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking "twenty" and inserting "40";

(B) in paragraph (3), by striking "ten" and inserting "20";

(C) in paragraph (4), by striking "if damage exceeding \$10,000 to the property of any individual results," and inserting "if damage to the property of any individual results or if avoidance costs have been incurred exceeding \$10,000, in the aggregate,"; and

(D) in paragraph (4), by striking "ten" and inserting "20";

(2) in subsection (c) by striking "ten" and inserting "20";

(3) in subsection (d), by—

(A) striking "and" at the end of paragraph (2);

(B) striking the period at the end of paragraph (3) and inserting "; and"; and

(C) adding at the end the following:

"(4) the term 'avoidance costs' means costs incurred by any individual for the purpose of—

"(A) detecting a hazardous or injurious device; or

"(B) preventing death, serious bodily injury, bodily injury, or property damage likely to result from the use of a hazardous or injurious device in violation of subsection (a)."; and

(4) by adding at the end thereof the following:

"(e) Any person injured as the result of a violation of subsection (a) may commence a civil action on his own behalf against any person who is alleged to be in violation of subsection (a). The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, in such civil actions. The court may award, in addition to monetary damages for any injury resulting from an alleged violation of subsection (a), costs of litigation, including reasonable attorney and expert witness fees, to any prevailing or substantially prevailing party, whenever the court determines such award is appropriate."

Mr. CRAIG. Mr. President, the amendment I send to the desk today for the Senate's consideration is one that is the result of what I think can best be known as ecoterrorism and the reaction that this Congress and this Senate some years ago had to that very

problem. The issue is known as tree spiking.

Mr. President, for some years individuals and interest groups that have opposed the legitimate, lawful timber sales on our public lands have oftentimes actually gone onto the land and into the trees and spiked them, sometimes with metal spikes, hoping that the sawyer who went in to cut the tree would hit it with his saw blade and stop. And in some instances the chains came loose from those saws and killed or maimed the individual sawyer. That happens to be a Federal property, a Federal tree.

Now they are using porcelain spikes because, of course, metal spikes could be detected by a metal detector. They use porcelain spikes. They cannot be detected. Either the sawyer hits the spike or as the tree got to the mill and as the tree went through the process of being cut, oftentimes the saw blade at the mill, the large band saw hit this porcelain spike and shattered and sent flying metal shrapnel all over the mill and has killed or maimed additional workers.

So, some years ago, the Congress said that is every bit as much an act of terrorism as it would be to put a bomb in front of a Federal building. So, therefore, we passed laws requiring certain penalties as a result of that. That occurred in 1988. My predecessor, Jim McClure, had passed Public Law 100-690.

What I do today is to close a loophole in that law that the courts argued existed as it related to the cumulative damages and the ability of the courts to prosecute an individual who was found guilty of tree spiking. The closure of the loophole in the current law, which caused the courts to throw it out, needs to happen. I am provoked into doing this because of recent reports in my State, again, by unnamed groups calling themselves fictitious names, announcing that they have spiked certain timber sales. Of course, their desire is to keep those timber sales from being sold by the U.S. Forest Service or it to be bid. As a result of that, that causes tremendous difficulty.

In the last 10 years, there have been 44 incidents of tree spiking. There have been 21 cases of major machinery damage, and there has been the loss of a life. That is why we acted in 1988 as we did, and why I am asking the Senate today to close the loophole by including the threshold of \$10,000 of preventive costs required to prosecute a case in Federal court. The difference is between actual cost and preventive cost, because the court said it was the costs of the loss of a piece of equipment or, in the case of the loss of a life, of course, that was a different issue.

What happens is oftentimes the Forest Service—but especially private companies who have brought these sales—spend a lot of money trying to detect if these sales of trees have been spiked. And that costs considerably

more than \$10,000, but it could never be used as an accumulative cost in the court's deliberation.

So my amendment allows these cumulative or preventive costs to be included in the threshold, and, of course, it also allows for the judge in his penalties greater flexibility in bringing the penalties down on the individual if the individuals are found guilty.

I hope the Senate will join with me in agreeing that this is a Federal law that not only deserves to be preserved but deserves to be strengthened because those kinds of incidents still go on today, and they are every bit an act of terrorism whether they are the spike in the trees or the bomb in front of the Federal building. They are Federal properties and they can, and have, cost life.

With that, Mr. President, I yield the floor.

Mr. GORTON. Mr. President, I would like to say the Senator from Idaho brings up an important point and one with a great deal of merit. If it was simply up to me, I would accept the amendment and go on. But I believe that we should recognize that it is clearly possible that this might be a contentious amendment and that there may be Members who disagree with the points made by the Senator from Idaho.

So at this point, I would really like to put the Senate on notice that the amendment has been presented and ask that, if there are any objections to the amendment, they be communicated to either me or to the distinguished Senator from West Virginia.

I hope that we can lay this amendment aside also and go on to something else until we find out whether or not anyone wants to debate against this amendment or to have a rollcall on it.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I do not want to impede progress here. I simply rise to give a thank you to our distinguished chairman, the manager of the bill. I want to thank the distinguished Senator for the approach he has taken to resolving a very, very complicated issue regarding Federal fish hatcheries.

The State of Arkansas has developed the Federal fish hatchery system to the extent that trout fishing now in our State is one of the major businesses that we have. It brings hundreds of thousands of tourists, fisherpersons, into our State.

We also have the unique situation of mitigation that arose when the Federal Government dammed up some very beautiful rivers and streams some time back. And the mitigation aspect is that, if the Government dams up those streams and basically makes unavailable other types of fish, they will make available a substitute—in this case, trout.

It has worked out very well for the Federal Government. It has worked out exceptionally well for our State system. And we collect millions of dollars

in taxes and revenues from this. It is a win-win for everyone.

In recent months the Federal Government, the Department of the Interior, Fish and Wildlife, in an attempt to cut some costs have thought about closing some of these fish hatcheries. I know the distinguished occupant of the chair probably has some of the same problems that we have in the State of Arkansas.

My colleague, Senator BUMPERS, and I held a town meeting near one of these hatcheries. In fact, it was on April Fool's Day, April 1. Truly, we had an overflow crowd. I must say that 99 percent of the people who attended this town meeting on the possibility of closing these hatcheries were extremely bewildered that it was even under consideration to close these fish hatcheries. They are money-making operations for our State. They certainly create revenues for the Federal Government.

Once again, Mr. President, I want to thank my friends for working out what we think is a temporary solution to the closing of the fish hatcheries by making available in this legislation what I consider to be a moratorium, at least until next March, on the closing of any fish hatcheries in our country.

During that time, we will work with the distinguished chairman. We will do everything possible to negotiate and with our ultimate bottom line of convincing those in authority, Fish and Wildlife Service, Members of the House and Senate on committees that appropriate the money for these fish hatcheries, to show them what a win-win situation this Federal fish hatchery program has been.

I thank the distinguished Senator and look forward to working with him over the next several months.

Mr. GORTON. Mr. President, the Senator from Arkansas is most gracious and is the kind of Senator with whom it is a pleasure to work. He makes me want to agree with him.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. 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. FRIST. Mr. President, I ask unanimous consent to speak for about 7 minutes as if in morning business.

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

MEDICARE

Mr. FRIST. Mr. President, I rise today to return to a topic which has been talked about and discussed on the floor this morning but which even more intensely will be talked about a lot over the next 3 weeks; that is, our Medicare system.

It is a system, a program that, as a physician, I have been involved in in a very intimate way—as a physician with patients—every day for the last 15 years of my life. I have taken care of and worked, in a doctor-patient relationship, with individuals who rely on Medicare, who expect to have Medicare help them, be with them for the remainder of their lives and for that next generation. But shortly after coming to Washington, just 8 months ago now, there became very clear to me a message which most Americans do not understand—my patients did not understand, Tennesseans do not understand, and Americans do not understand, but it is something about which people in Washington say, “Well, it is not that big a deal,” but it is a big deal for the American people. And that is that Medicare is going broke and will be bankrupt in 7 years unless we act and act now and not just tinker with the system and make some little fine-tuning.

That is not going to do it. We will be in the same situation next year. And what is different this year and the next short-term 2 years is that within 18 months we are going to be spending more in the Medicare trust fund than is coming in, and in 7 years that trust fund will be bankrupt.

We are not going to be talking about less Medicare; we are going to be talking about no Medicare for our senior citizens.

The story is told so clearly, and it is in this little booklet. This little booklet I want every American, all of our Senators, all of our Congressmen and Congresswomen to read. It is the report of the Medicare trustees, the Medicare board of trustees which consists of three members of the President's Cabinet. It says in very clear terms—and let me quote from it—“The Medicare program is clearly unsustainable in its present form.”

It says, and I quote, “We strongly”—the Medicare trustees, bipartisan, including three members of the President's Cabinet—“recommend that the crisis presented by the financial condition of the Medicare trust funds be urgently addressed on a comprehensive basis, including a review of the program's financing methods, benefit provisions and delivery mechanisms.” It is said right here in this book Medicare is going to be bankrupt unless we do something.

Based on these facts, the Medicare trustees urged that the program be addressed and addressed immediately, and the gravest danger to this program and to the Nation's seniors who depend on it is continuation of the status quo and doing nothing.

My second point is that Republicans are responding to this urgent call. It is being addressed straight up front, in very direct fashion. No longer can the trust fund tolerate growth of 10.5 percent. The plan that we have put on the table is to allow it to still grow but allow it to grow at 6.4 percent. Thus, we are not cutting Medicare. It is not

a cut in Tennessee when you are going to spend more next year and the year after that and the year after that, yet we see propaganda coming out from across the aisle and from the White House saying each county is being cut.

Each county is going to receive more in Medicare next year and not less. In 1995, Medicare will spend \$178 billion. In 2002, under the Republican plan, that spending will exceed \$273 billion—a 54-percent increase.

What does it boil down to on an individual basis? It means that this year in Medicare we are spending about \$4,800 per individual; 7 years from now we are going to be spending \$6,700. That is an increase of 40 percent between now and the year 2002.

So let us get our terminology straight. Let us shoot straight with the American people so that we can engage in a dialog that will truly be beneficial to the current generation to preserve Medicare, to protect Medicare and to strengthen the program so that it will be there not just for this generation but that next generation.

I think the message really needs to be made very clear to the American people that, No. 1, Medicare is going bankrupt, and No. 2, that there is something we can do but it has to be a dialog.

Over the next several weeks, we as Republicans are going to continue to listen—to listen to the providers, to listen to the senior citizens, to listen to all Americans, bring everybody to the table so that we together in a bipartisan way can work to solve what is a significant challenge, but it is a challenge we must face because without that the Medicare Program will be bankrupt.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1996

The Senate continued with the consideration of the bill.

Mr. LEAHY. Mr. President, I know that the distinguished manager of the bill is waiting for other matters to be brought up. I am just going to speak very briefly on a matter that will be coming up this morning.

There will be a debate on what level of funding we have for the National Endowment for the Arts and the National Endowment for the Humanities. There is no question in my mind that some would like to eliminate both of them. Some have said this will be a trophy on their wall if this new Congress were to eliminate the National Endowment for